

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1872/2022

Mian Farooq Iqbal

versus

Chief Secretary & Others

**REJOINDER**

**I N D E X**

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Applicant

Through



(Arbab Saiful Kamal)  
Advocate

21-A Nasir Mension,  
Shoba Bazar, Peshawar.  
Ph: 0345-9047738

Dated: 26-04-2024

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S.A No. 1872/2022

Mian Farooq Iqbal

versus

Chief Secretary & Others

**REJOINDER**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTION**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12485

Dated 30-04-2024

All the Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action, not entitled to any relief, this hon'ble court lacks jurisdiction, concealment of facts and time barred.

**ON FACTS**

1. Not commented upon by the respondents.
2. The relevant record confirms the stance of appellant attached with the appeal.
3. Incorrect. Mumtaz Khan the then Director General Mines & Mineral from service on 07-05-2012 was the employee of Mineral Development Department so was related to the respondents being Provincial Civil Servant.
4. In response to para No. 04 of the reply the Working Paper for promotion to the post of Director General Mines & Mineral was timely submitted before R. No. 02 vide letter No. 6021/1/166 dated 21-05-2012 "**R/1**" in time but as it is evident from the reply that R. No. 02 submitted the same to Provincial Selection Board (PSB) on 25-11-2013 annex "C" thereby purposely delayed the submission for a period of 1 year and 06 months for the reason best known to him and to deceive this hon'ble Service Tribunal Judgment dated 29-01-2013 "**R/2**". Moreover the Apex Supreme Court of Pakistan while disposing the appellant CMA in a very clear terms ordered the redressal of the grievance of the

petitioner regarding his promotion within one month vide order / judgment dated 24-10-2013 in CPLA No. 1246 / 2013 annex "D" but was not paid any heed and as claimed by the respondents that no clear direction was given to them.

5. As is evident from para No. 04 above, the submission of the promotion Working Papers of the appellant after the lapse of one year and six months is the abuse and misuse of powers despite the completion of all the codal formalities and requirements of the first two officers in the panel of three, the R. No. 02 mala fide wrote letter vide No. SO-Admn (MD) 1-12/2009/468 dated 28-08-2013 "**R/3**" to R. No. 03 for interfering in completion of ACR for the year 2009 in respect of the third officer in the panel who was at seniority No. 03.
6. That respondents nefariously involved the appellant in biased enquiries which never proved and hence filed but resultantly deprived the appellant from his promotion which became due after the retirement of Mumtaz Khan Khalil on 07-05-2012.
7. That respondents are misleading the hon'ble Tribunal as the judgment on the CMA of the appellant was never challenged by the respondents and it has clear direction for the respondents as stated in Para No. 04 above.
8. Incorrect. Respondents are misleading this hon'ble Tribunal as record is evident. The appellant was promoted to B-20 vide Notification dated 29-07-2022 instead of 07-05-2012. The record will reveal that the post of Director General was never a scheduled post in the year 2012. At the time of falling vacant of clear vacancy the promotion to the post of Director General B-20 the appellant Working Papers were first submitted on 25-11-2013 and then second time on 01-04-2014 but the fate of these working papers is not known till date. At both times Senior Management Course (SMC) was not mandatory for promotion in the notified Service Rules of the department. The Establishment Department vide letter No. SO(HRD-1)/ED/3-8/2017/SMC dated 07-02-2019 nominated the appellant for participation in the 25<sup>th</sup> SMC conducted from 25-02-2019 to 14-06-2019 at National Institute of

Management (NIM), Peshawar annex "D", meanwhile in sheer disregard to appellant seniority and fulfillment of qualification and decisions of the hon'ble Service Tribunal and Apex Supreme Court of Pakistan dated 25-10-2013, one Mr. Fazal Hussain has been promoted to B-20. It is worth mentioning that he is not SMC and was at No. 03 of the notified Seniority List in the new setup of three separate departments as stated in para No. 02 above which evolved in total violation of this hon'ble Tribunal judgment dated 29-01-2012 annex "E".

9. As stated in para No9. 04 above, if the appellant was timely promoted to B-20, he would have been promoted to B-21 also. The pay statement slip of the appellant confirms the ceiling of B-20 and much more.
10. Incorrect. B-21 on notional basis can be created and for the purpose of pensionery benefits the Provincial Government can grant such.

Note:- In order to deprive the appellant from the fruits of judgment dated 29-01-2013 Appeal No. 251/2011 the respondents made amendment and thereby order trifurcation on 28-11-2013 **"R/4"** in Mineral Development Department into three organ (i) Directorate General of Mines & Minerals (ii) Commissionerate of Mines Labour welfare (iii) Inspectrate of Mines, therefore blocking the way of appellant to be promoted to the post of DG according to his right under the old rules.

The hon'ble Tribunal on application in the Execution Petition ordered not to comply with order dated 28-11-2013 vide order dated 13-11-2014 **"R/5"** which was later on vacated by the Tribunal vide order dated 30-10-2014 **"R/6"** with directions to the respondents not to make any arrangements / provisions thereby jeopardizing / adversely affecting the prospects / right of petitioner under the judgment of the Tribunal dated 29-01-2013 of course subject to the final judgment / order of the Supreme Court of Pakistan. The CPLA of the Govt. was later on withdrawn **"R/7"**.

That in order to deprive the appellant from promotion to the post of Director General, the appellant was with malafide intention removed from service on 19-08-2014 "R/8" which was challenged before the hon'ble Service Tribunal in A. No. 1273/2014 which was allowed on 16-10-2017 "R/9" and thereafter appellant was reinstated into service on 30-05-2018 "R/10". The respondents were legally bound to promote the appellant to B-20 as DG Mines according to his right occurred on the retirement of one Mr Mumtaz but they failed to perform their duty, besides one Obaid Ullah Director Licensing B-19 who was at S. No. 02 of the combine seniority list for the year 2010 (annexure "A" of appeal) and whose name figured at S. No. 02 of the Working Paper for promotion to the post of Director General B-20 dated 22-11-2013 (annexure "C" of appeal) was illegally promoted on 20-11-2015, while the appellant was malafidely dragged into departmental proceedings **(promotion order of Obaid Ullah annex "R/11")** and moreover, one Fazal Hssain was illegally promoted to B-20 as admitted in para No. 08 of the reply of the respondents. The said Fazal Hussain is at S. No. 03 of the seniority list dated 27-09-2018 "R/12" whereas appellant is at S. No. 01 of the same seniority list.

### **GROUND S:**

- a. As the respondents fail to attach any adverse documents against the appellant so it confirms the neat and clean record.
- b. As stated in Para No. 04 of the facts, the respondents are giving misstatement as the appellant become due for promotion on the retirement of Mr. Mumtaz Khan Khalil on 07-05-2012.
- c. As stated in Para No. 04 above, the appellant was un necessarily dragged into frivolous enquiries just to deprive him from getting promotion to the post of Director General B-20 after retirement of Mr. Mumtaz Khan Khalil which ultimately decided in the appellant favor.

- d. The respondents are admitting the fact that the appellant was made victim time and again by depriving him from his due right of promotion by promoting an officer who was at seniority list at serial number 03 and who was 11 years junior to the appellant and who was recently promoted to B-19 in the year 2018 whereas the appellant was promoted to B-19 in the year 2004 annex "F". the respondents are admitting their misuse of powers and favoritism.
- e. The respondents again submitting misstatement, it was the respondents who involved the appellant in un-ending frivolous enquiries and litigations which at last ended into appellant favor.
- f. The respondents failed to submit any reply to this ground as the promotion of the appellant is due from 07-05-2012 is crystal clear.
- g. The reply of the respondents are not to the point, in the year 2012 as per the Standing Service Rules Senior Management Course was not mandatory. The then Govt. of KP Industries, Labor & Mineral Development Department vide Notification No. SOI (IND) 1-6/88/Vol. III dated 10 December 2003 have notified service rules for the Directorate General Mines & Mineral. In the said rules, the criteria for appointment to the post of Director General was laid down as under this part (b) of this rules was upheld by the hon'ble Service Tribunal in its judgment dated 29-01-2013.
  - a. By promotion on the basis of selection on merit, from amongst the holder of the posts of Director Mineral Exploration / Licensing and Chief Inspector of Mines Labour Welfare, having at least 17 years' service in B-17 and above, provided that in case of persons appointed in B-18, the length of service for promotion shall be 12 years in B-18 and above.
  - b. By transfer from persons having Bachelor's Degree in Mining Engineering or Master Degree in Geology.

Even in the amended Service Rules notified by the Govt. of KP vide Notification No. SO-Admn (MD) 1-6/88 Vol-V dated 17-10-2010, rules for promotion of Director General Mines and Mineral

at (a) was same and there was change only in (b) which was replaced by (b) by transfer from the Provincial Govt. department annex "K". since the appellant was holding the post of Chief Inspector of Mines B-19 was also at Serial No. 01 of the notified seniority list and was also not involved in any disciplinary action / proceeding. The respondents were duty bound to submit the working papers of the appellant for promotion to the post of Director General B-20 as a right and to uphold the judgment of this hon'ble Tribunal dated 29-01-2013 but they did not do so.

h. The above explanations and submissions confirm that the appellant was not treated in accordance with law and justice and the respondents have even violated the directions of the apex Supreme Court.

It is, therefore, most humbly prayed that on acceptance of the appeal the appellant be given proforma / notional promotion with effect from 07-05-2012, when the vacancy of Director General B-20 became available or at least from 20-11-2015, when junior to appellant was promoted as Director General with all consequential benefits.

*Alpi*

Appellant

Through

*Arbab Saiful Kamal*

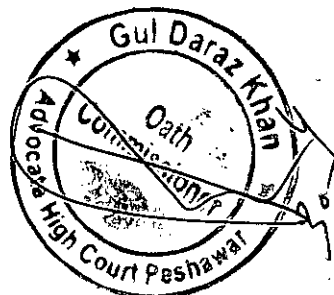
Arbab Saiful Kamal

Advocate,

Dated: 26-04-2024

### AFFIDAVIT

I, the undersigned for appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.



*Alpi*

DEPONENT  
(Attorney)



R/1 (7)

DIRECTORATE GENERAL MINES & MINERALS  
KHYBER PAKHTUNKHWA  
ATTACHED DEPARTMENT NEAR JUDICIAL COMPLEX,  
KHYBER ROAD, PESHAWAR CANTT.

NO. 6021/1/166

Dated: 21/05/2012

To

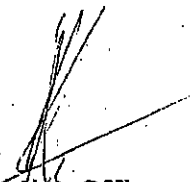
The Section Officer (Establishment),  
Mineral Development Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject:

WORKING PAPER FOR PROMOTION TO THE POST OF  
DIRECTOR GENERAL, MINES & MINERALS, KHYBER  
PAKHTUNKHWA (BPS-20).

I am directed to refer to the subject noted above and to  
enclose herewith working paper alongwith relevant documents for  
promotion to the post of Director General, Mines & Minerals, Khyber  
Pakhtunkhwa (BPS-20) for further necessary action.

Encl: As above.

  
Administrative Officer  
Director General Mines & Minerals,  
Khyber Pakhtunkhwa, Peshawar.

*Atx*



R/2

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 251/2011-

Date of Institution. ... 08.2.2011  
Date of Decision ... 29.1.2013

Mian Farooq Iqbal, Chief Inspector of Mines, Peshawar ... (Appellant)

VERSUS

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa Mineral Dev: Department Peshawar with addl. charge of DG Mines & Mineral, Peshawar
4. Mr. Obaidullah, Director Licensing, D.G Mines & Mineral, Peshawar
5. Mr. Mustafa Kamal, Director Licensing, D.G Mines and Minerals, Peshawar ..... (Respondents)

MIAN FAZAL WAHAB,  
Advocate ... For appellant

MR. SHERAFGAN KHATTAK,  
Addl. Advocate General ... For official respondents.

SYED MANZOOR ALI SHAH, ... MEMBER  
MR. NOOR ALI KHAN, ... MEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed by Mian Farooq Iqbal, the appellant initially against the (i) notification No. SO(L-I)E&AD/9465/2010, dated 2.12.2010 authorizing Mr. Usman Ali Marwat Secretary Mineral Development Department to look after the work of Director General Mines & Minerals in addition to his own duties; (ii) Service Rules notified by the Government of Khyber Pakhtunkhwa vide notification No. SO-Admn(MD)/1-6/88/Vol-V dated 17.10.2010 for appointment of Director General Mines and Mineral in the Directorate General Mines and Minerals; (iii) To replace words "selection on merit" in clause (a) of Service Rules notified vide notification No. SO-Admn(MD)1-6/88/Vol-V dated 17.10.2010 towards "seniority-cum-fitness"; and non notification of seniority list of the officers in BPS-19 of the Directorate General Mines and Minerals for the last two years. During the proceedings in the case, the learned counsel for the appellant submitted an application for allowing him to delete prayers at S.No.i, ii, and iv. His application was allowed on 5.12.2012 and the case was considered only for prayer No. iii, wherein it has been prayed that on acceptance of the appeal, restore the previous clause (b) of notification No. SOI(IND)1-6/88-Vol-V dated 10.12.2003 for

*Adm*

9/12

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2. Facts of the case briefly stated are that the appellant is serving in Mines and Mineral Department as Chief Inspector of Mines in BPS-19 since 18.11.2004 having degree in Masters in Mining Engineering from University of Engineering & Technology Peshawar and is the senior most officer in BPS-19. His name is in the top of seniority list as it stood on 31.12.2008. Vide notification dated 10.12.2003, in pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, and in supersession of all notifications on the subject, the Industries, Commerce, Mineral Development, Labour and Technical Education Department in consultation with the Establishment and Administration Department and the Finance Department laid down the method of recruitment, qualifications and other conditions in the Director General Mines and Minerals Department. The criteria for appointment of Director General laid down as under:-

- "(a) by promotion on the basis of selection on merit, from amongst the holders of the posts of Director Mineral Exploration/Licensing and Chief Inspector of Mines Labour Welfare, having at least 17 years service in BPS-17 and above, provided that in case of persons initially appointed in BPS-18, the length of service for promotion shall be 12 years in BPS-18 and above; or
- (b) by transfer from persons having Bachelor's Degree in Mining Engineering or Master Degree in Geology."

These rules remained in force till 16.10/2010, when all of a sudden vide impugned notification dated 17.10.2010, the Government of Khyber Pakhtunkhwa notified new Rules vide notification dated 17.10.2010 wherein clause (b) of the rules was replaced on malafide intentions. According to which the criteria for appointment for the said post was laid down as under:-

- "(a) by promotion, on the basis of selection on merit, from amongst the Director Exploration (Minerals), Director Licensing, Chief Inspector of Mines and Commissioner Mines Labour Welfare, having at least 17 years service in BPS-17 and above, and in case of persons initially appointed in BPS-18, the length of service for promotion to the post shall be 12 years in BPS-18 and above; or
- (b) by transfer from the provincial government department."

The appellant has been deprived from promotion to the next higher post. Feeling aggrieved the appellant filed departmental appeal and after exhausting departmental

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BC 35

3. The appeal was admitted to regular hearing on 10.2.2011 and notices were issued to the respondents. The official respondents have filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Counsel for the appellant stated that Directorate of Mineral and Mines was created subsequent to detail study by Aus AID (Australian Consultation) in view of National Mineral Policy (NMP) in 1995. The post of Director General Mines and Mineral was designated to be a technical post. This has also been confirmed vide Para 7 of Reply of the respondents. Rules of appointment, promotion etc. of D.G Mines and Mineral were notified on 10.12.2003. Method of recruitment for Director General in Service Rules is as follows:-

- (a) By promotion, on the basis of selection on merit, from amongst the holders of the posts of Director Mineral Exploration, Director Mineral Licensing and Chief Inspector of Mines Labour Welfare, having at least 17 years service in BPS-17 and above, provided that in case of persons initially appointed in BPS-18, the length of service for promotion shall be 12 years in BPS-18 and above; or
- (b) by transfer, from persons having Bachelor's Degree in Mining Engineering or Master Degree in Geology."

The above rules were abruptly modified on 17.10.2010 where in Clause (b) was malafidely modified to defeat decision of the Tribunal dated 23.4.2010 in Service Appeal No. 18/6/2009 (not to give charge to junior person on transfer of the then Director General Mines & Mineral), to appoint its own blue eyed person and not to allow qualified and professional officers of the department to get promotion. Clause (b) was replaced "by transfer from provincial Government Department". Furthermore in clause (a) the words "Selection on merit" be changed to selection on "Seniority-cum-fitness" as was the case in Punjab Government Service Rules.

5. The procedure for making rules or by-laws as specified in Section 23 of General Clauses Act 1897 as given below were not followed:-

Section 23

- (1) the authority having power to make the rules or bye laws shall, before making them publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to

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previous publication so requires, in such manner as the (government concerned) prescribes;

- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration."

2012 PLC (CS) 1330 was relied upon wherein it has been stated that rules cannot be changed to disadvantage of employees. Regarding jurisdiction of Tribunal in the matter and filling of appeal against notification issued by the Government. Reliance was placed on 2011-SCMR-698 and 2012 PLC (C.S)142.

6. The learned AAG argued that rules have been modified in accordance with Section 21 of the General Clauses Act. It provides for posting of officers of the department as well as from outside and as such no discrimination has been made.

7. Arguments heard and record perused.

8. The Tribunal observes that the change in rules have not been made in accordance with Section 23 of the General Clauses Act 1897. No reason or rational has been stated for the modification, from which malafide on part of respondents can be seen. The appellant has also pleaded for replacing the words "selection on merit" by "selection on seniority-cum-fitness in clause (a) of the Rules. The Khyber Pakhtunkhwa Civil Servants Act 1973 has clearly elaborated the same vide Section 9 Promotion which is reproduced as below:

"9. Promotion:-(1) A civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rule for departmental promotion in the service cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotion shall be made as may be prescribed-

- (a) in the case of a selection post, on the basis of selection on merit; and
- (b) in the case of non-selection post, on the basis of seniority-cum-fitness

Furthermore, the matter has also been explained in the Esta Code (Establishment Code) Khyber Pakhtunkhwa- Promotion Policy-Section 6 S.No. 4 as below:-

AAG

(12) BC (HZA)

"After careful consideration and in super session of all previous orders and instructions on the subject, the Government of West Pakistan have decided that the principle for promotion from one post to another should be "by selection on merit with due regard to seniority" and that this principle should be applied uniformly all along the line from the lowest to the highest posts and from one class of service to another.

2. For this purpose, "merit" does not mean good service record only, but also includes experience, qualification and suitability for the post or service to which promotion is being made. The value of all these different factors has to be assessed in rating the officer's fitness for promotion. The words "with due regard to seniority" imply that, while emphasis is to be placed on good service record qualifications and aptitude for the higher post, the officer's relative seniority in the cadre, from which promotion is being made, should be given due weight, the greater the disparity in seniority the greater should be the junior officer's superiority in point of merit."

9. In view of the above, the Tribunal concluded to set aside modification in rules notified on 17.10.2010 and clause (b) of notification No. SOI(IND)1-688-Vol-V dated 10.12.2003 is restored and further more that promotions should be made strictly keeping in view Section 9(2) (a)(b) of Civil Servants Act 1973 and Esta Code directions stated above. This appeal alongwith connected appeal No. 456/2011 titled "Obaidullah Versus Chief Secretary Khyber Pakhtunkhwa" having common question of law are disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record.

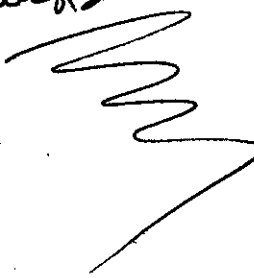
ANNOUNCED

29.1.2013

Sd/- Syed Manzoor Ali Shah  
Member

Sd/- Noor Ali Khan  
Member

Accepts



R/3

(13)



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
MINERALS DEVELOPMENT DEPARTMENT

No.SO-Admn(MD)1- 12/2009 4058  
Dated Peshawar, the 28<sup>th</sup> August, 2013.

To  
The Section Officer (Secret),  
Govt. of Khyber Pakhtunkhwa,  
Establishment Department.

Subject:- DEPARTMENTAL APPEAL FOR PROMOTION TO THE POST OF  
DIRECTOR GENERAL, MINES & MINERALS (BPS-20) IN KHYBER  
PAKHTUNKHWA

I am directed to refer to the subject noted above and to say that one Mian Farooq Iqbal, Chief Inspector of Mines (BPS-19) (presently posted as OSD) requested for promotion to the post of Director General, Mines & Minerals (BPS-20), Khyber Pakhtunkhwa. As per Service Recruitment Rules the following method of recruitment has been prescribed for promotion to the said post: -

- a. By promotion, on the basis of selection on merit, from amongst the Director Exploration (Mineral), Director Licensing, Chief Inspector of Mines and Commissioner Mines Labour Welfare having atleast 17 years services in BS-17 & above, and in case of person initially appointed in BS-18 the length of service for promotion to the post shall be 12 years in BS-18 & above: or
- b. By transfer form Provincial Government Department.

2. As per existing promotion policy, for promotion against the selection post the panel of senior most three officers will be placed before the Provincial Selection Board for consideration and the officer on the panel securing maximum marks will be recommended for promotion.

3. it will be in place to mention here that the panel of Mian Farooq Iqbal, Chief Inspector of Mines (BPS-19) (presently OSD), Mr. Obaidullah, Director Licensing (BPS-19) and Mr. Shakirullah, Director Exploration (BPS-19) will be placed before the Provincial Selection Board for consideration but it is pointed out that the ACRs Mr. Shakirullah, Director Exploration for the year 2009 is pending with Mr. Usman Ali Marwat, the then Secretary Minerals Development for completion for which several reminders have been issued but in vain.

4. It is, therefore, requested to kindly contact the above named Reporting Officer to complete the ACRs of Mr. Shakirullah, Director Exploration to finalize the issue.

*Attest*

(SYED WALI KHAN)  
Section Officer (Establishment)



P/4 (18) (14)

GOVT. OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN: DEPARTMENT  
(REGULATION WING)

Dated Peshawar, the 28<sup>th</sup> November, 2013

NOTIFICATION

No. SO (O&M)/E&AD/10-1/2010: In exercise of the powers conferred by Article 139 of the Constitution of the Islamic Republic of Pakistan, the Government of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Government Rules of Business, 1985, the following further amendments shall be made, namely: -

AMENDMENTS

1. In Schedule-I, for the existing entries against Sr. No. 17(A), the following entries shall be substituted in the respective columns, namely: -

Sr. No	2	3	4
"17(A).	Mineral Development Department.	a. Directorate General of Mines & Mineral b. Commissionerate of Mines Labour Welfare c. Inspectorate of Mines	a. Director General b. Commissioner of Mines c. Chief Inspector of Mines."

CHIEF SECRETARY,  
GOVT. OF KHYBER PAKHTUNKHWA

Endst: No. & Date Even

Copy to:-

1. Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
2. Additional Chief Secretary, FATA.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. The Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments, Khyber Pakhtunkhwa.
8. Director Information, Khyber Pakhtunkhwa.
9. Accountant General, Khyber Pakhtunkhwa.
10. Registrar Peshawar High Court, Peshawar.
11. Registrar Service Tribunal, Khyber Pakhtunkhwa Peshawar.
12. Secretary Public Service Commission, Khyber Pakhtunkhwa Peshawar.
13. Private Secretary to Governor, Khyber Pakhtunkhwa.
14. Private Secretary to Chief Minister, Khyber Pakhtunkhwa.
15. All PSs to Provincial Ministers in Khyber Pakhtunkhwa.
16. PS to Chief Secretary, Khyber Pakhtunkhwa.
17. Controller, Government Printing Press Peshawar.

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29-11-13

se Jangir  
29/11/13

ADA

(SHAISTA)

28/11/13

SECTION OFFICER (O&M)

EA/III

29-11-13

ADA

29/11



DIRECTORATE GENERAL OF MINES AND MINERALS  
KHYBER PAKHTUNKHWA  
Attached Departments Complex Khyber Road Peshawar

No. 545 / DGMM/6/15/Admn

Dated 12 / 01 / 2014

To: The Section Officer (Establishment)  
Minerals Development Department  
Government of Khyber Pakhtunkhwa  
Peshawar

*attest*  
*JH*

Subject: WORKING PAPER FOR PROMOTION TO THE POST OF DIRECTOR GENERAL, MINES & MINERALS (BPS-20), KHYBER PAKHTUNKHWA

In continuation of this Directorate letter No. 20341/DGMM/6/15/Admn. dated 26.12.2013 on the subject noted above, I am directed to enclose herewith nine copies of amendments in the existing Service Recruitment Rules for the post of Director General, Mines and Minerals, Khyber Pakhtunkhwa for further necessary action please.

ENCL: As above

Assistant Director (Administration)  
For Director General

*Attests*  
*[Signature]*



(16) (16)

**DRAFT AMENDMENT IN THE EXISTING SERVICE RECRUITMENT RULES OF THE  
DIRECTORATE GENERAL, MINES AND MINERALS KHYBER PAKHTUNKHWA**

I No.	Nomenclature of post		Minimum qualification prescribed for apptt: by initial recruitment		Minimum qualification prescribed for appointment by promotion.		Age Limit for initial recruitment		Method of appointment		Justification
			Existing	Proposed	Existing	Proposed	Exist	Prop	Existing	Proposed	
	Existing	Prop.	Existing	Proposed	Existing	Proposed	Exist	Prop	Existing	Proposed	

Director General  
Mines & Minerals  
(BPS-20)

(a) By promotion, on the basis of selection on merit, from amongst the Director Exploration (Minerals), Director Licensing, Chief Inspector of Mines and Commissioner Mines Labour Welfare having at least seventeen years service in BPS-17 and above, and in case of persons initially appointed in BS-18 the length of service for promotion to the post shall be twelve years in BPS-18 and above; c.

By promotion, on the basis of selection on merit, from amongst Directors Licensing & Director Exploration having at least seventeen years service in BPS-17 and above, and in case of persons initially appointed in BS-18 the length of service for promotion to the post shall be twelve years in BPS-18, and above.

Due to bifurcation of the Directorate General, Mines and Minerals vide Notification dt: 28/11/2013 (copy attached) the Commissionerate of Mines and Inspectorate of Mines have been separated & the Commissionerate will be headed by Commissioner Mines, while Inspectorate will be headed by Chief inspector of Mines, therefore amendment in existing Service Rectt. Rules is necessary which are proposed please

(b) by transfer from the Provincial Government Department.

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Director General  
Mines and Minerals  
Khyber Pakhtunkhwa

*[Signature]*

*[Signature]*

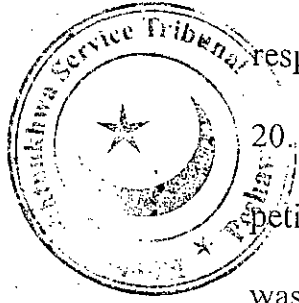
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13.1.2014



Petitioner with counsel and Mr. Muhammad Jan, GP with Muhammad Arshad, Administrative Officer for the respondents present. This petition was initially fixed for 20.1.2014, however; on 10.1.2014, the learned counsel for the petitioner submitted an application for early hearing and the case was fixed for to-day and notices were issued to the respondents. Arguments on application for suspension of operation of notification dated 28.11.2013 and subsequent notification dated 10.12.2013 heard and file perused.

2. The learned counsel for the petitioner argued before the court that the respondent department intentionally wants to frustrate the judgment of this Tribunal dated 29.1.2013 vide which the Tribunal had set aside the modification in rules notified on 17.10.2010 and clause (b) of notification No.SOI(IND)1-6/88-Vol-V, dated 10.12.2003 was restored with further direction to the respondents that promotions should be made strictly in view of Section 9(2) (a) (b) of Civil Servants Act, 1973 as well as judgment of the august Supreme Court of Pakistan in C.P No. 1246/2013 wherein while disposing of CMA filed by the present petitioner (Mian Farooq Iqbal) the learned Advocate General made a categorically statement that the case of regular promotion to the post of Director General (Mines & Mineral) BS-20 is being undertaken by the government of Khyber Pakhtunkhwa and the Petitioner's (Mian Farooq Iqbal) grievance in this respect would be redressed as soon as possible. The learned counsel for the petitioner further argued before the court that in order to

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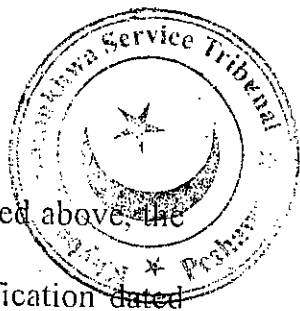
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Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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deprive the petitioner from the fruits of judgments cited above. The respondent department has malafidely issued a notification dated 28.11.2013. wheremin Mines and Mineral Development Department has been bifurcated into three sub departments, thus deminishing the chances of promotion of the petitioner. The learned counsel requested that the impugned notification being based on malafide is liable to be set aside and the respondents be directed to comply with the judgments of this Tribunal as well as august Supreme Court of Pakistan.

3. The learned Government Pleader on the other hand argued before the court that the impugned notification dated 28.11.2013 has been issued by the respondent department in the best interest of the department in order to streamline the work; that the respondent department in any case will comply with the judgments of this Tribunal and august Supreme Court of Pakistan. The learned G.P requested for adjournment to consult the department in this respect. Request is accepted and case is adjourned to 16.1.2014 with the direction to the respondents not to comply with the impugned notification dated 28.11.2013 till the disposal of the application.

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MEMBER

Counsel for the petitioner and Mr. Muhammad Adeel Butt, AAG with Muhammad Arshad, Admn. Officer for the respondents present. Due to shortage of time, case is adjourned to 17.1.2014 for further arguments on application.

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16-1-2014

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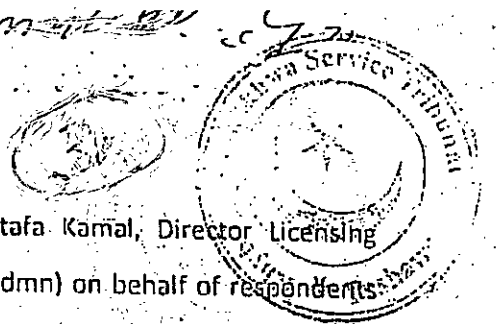
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

MEMBER

MEMBER

R/6

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31.10.2014

Petitioner with counsel and Mr. Mustafa Kamal, Director Licensing

alongwith Mr. Mir Zaman, Assistant Director (Admn) on behalf of respondents

with Mr. Muhammad Adeel Butt, AAG present: Further arguments heard on two

applications of the respondent-department, moved by the learned Additional

Advocate General on behalf of the respondent-department, one for vacation of

order dated 13.1.2014, whereby the respondents were directed not to comply

with the impugned notification dated 28.11.2013 till the disposal of the

application for suspension of operation of notification dated 28.11.2013 and

subsequent notification dated 10.12.2013, and the second for disposal of

execution proceedings having become infructuous.

In respect of proposal contained in the order sheet dated 28.10.2014,

the learned counsel for the petitioner stated that compliance with the

notification in-question dated 28.11.2013 is going to jeopardize the right of

promotion already accrued to the petitioner vide judgment of the Tribunal

dated 29.1.2013, as through bifurcation/restructuring of the respondent-

department, the petitioner will no more be in the line of promotion as further

promotion will be confined to the remaining two categories of Directorate

General of Mines and Mineral and Commissionerate of Mines and Labour

Welfare, while excluding the Inspectorate of Mines, to which the petitioner

belonged. In other words, the petitioner is entertaining an apprehension that

the bifurcation or restructuring of the respondent-department is malafidely

aimed at depriving him from the prospect of promotion in accordance with the

judgment of the Tribunal dated 29.1.2013. Needless to say that on mere

apprehensions the restructuring/bifurcation of the department should not be

put on hold for indefinite period, when apprehension can be dispelled by

protecting rights of the petitioner accrued to him vide judgment of the Tribunal

dated 29.1.2013. It may also be added here that CPLA/appeal of the

respondent-department is still pending before the august Supreme Court of

Pakistan; and, in any case, the rights, if any, statedly accrued to the petitioner

are subject to final adjudication of the august Supreme Court of Pakistan.

Having said that, one can also not lose sight of notification of the

Provincial Government dated 19.8.2014 whereby the petitioner has been

removed from service. The learned AAG stated that a day before the petition for

initiation of contempt of court proceedings was disposed of/dismissed by the

august Supreme Court of Pakistan on this very ground that the petitioner is no

longer a civil servant. The learned AAG was not in a position to furnish the

judgment/order of the august Supreme Court of Pakistan, however, the learned

counsel for the petitioner admitted the factum of disposal/dismissal of the

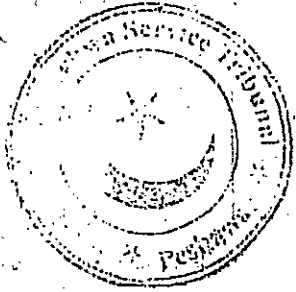
application for initiation of contempt of court proceedings by the august

Supreme Court of Pakistan.

INTERESTED

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Anyhow, the fact remains that all the above stated developments have taken place after judgment of the Tribunal in favour of the petitioner dated 29.1.2013 and during pendency of CPLA/appeal by the respondent-department in the august Supreme Court of Pakistan, therefore, it is yet to be seen that how for the subsequent developments will have a bearing on the judgment of the Tribunal and instant implementation/execution proceedings. Therefore, the application of the respondent-department for disposal of execution proceedings having become infructuous, is rejected being premature.

As regards application for vacation of order dated 13.1.2014, the learned AAG vehemently argued, and also relied upon judgment of the august Supreme Court of Pakistan in the case titled Muhammad Farid Khattak and others-appellants-vs-Chief Secretary, Govt. of NWFP and others-respondents, reported as 2009 SCMR 980, that not only a civil servant has no vested right in policy decision of the Government but the Service Tribunal is also divested of power to indirectly set-aside the public policy decision in exercise of its power under Service Tribunal Act or Rules framed there-under. The learned counsel for the petitioner, on the other hand, referred to the National Mineral Policy, 2013 containing provision for restructuring the respondent-department and contended that the restructuring should be aimed at bringing the functions of all the three organs i.e Directorate General of Mines and Mineral, Inspectorate of Mines and Mineral Welfare Organization under one umbrella and not through bifurcation by depriving a potential candidate from the right of his promotion accrued to him under the judgment of the Tribunal.

It may be observed here that the issue of restructuring or bifurcation is not being adjudicated upon in these implementation/execution proceedings, nor it is the proper forum for the purpose. Moreover, the rights, if any, accrued to the petitioner under the judgment of the Tribunal are still sub-judice and are subject to final adjudication of august Supreme Court of Pakistan. Therefore, at the moment, while confining ourselves to the issue of implementation/execution of the judgment of the Tribunal dated 29.1.2013, the respondent-department is directed not to make any arrangement/provision thereby jeopardizing/ adversely affecting the prospects/right of the petitioner under the judgment of the Tribunal dated 29.1.2013, of course subject to the final judgment/order of the august Supreme Court of Pakistan; and the order of the Tribunal dated 13.1.2014 thereby directing the respondents not to comply with the impugned notification dated 28.11.2013 till the disposal of the application, is hereby vacated; and application of the respondent-department for vacation of the order dated 13.1.2014 is accepted with the above directions. Order announced. To come up for further proceedings before learned Bench on 21.11.2014.

ATTESTED

SEKAWAN  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Adviser

Chairman

Annuise O

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IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE FAISAL ARAB  
MR. JUSTICE IJAZ UL AHSAN

**CIVIL PETITION NO.533-P OF 2013**

(Against the judgment dated 29.01.2013  
of the Khyber Pakhtunkhwa Service  
Tribunal, Peshawar passed in Appeal  
No.251/2011)

Chief Secretary, Government of KPK etc.

...Petitioner(s)

**VERSUS**

Mian Farooq Iqbal

...Respondent(s)

For the Petitioner(s): Barrister Qasim Wadood, Addl.A.G. KPK  
Mian Saadullah Jandoli, AOR

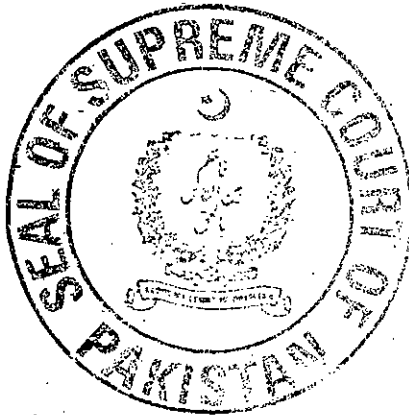
For the Respondents: Not represented

Date of hearing: 06.10.2020

**ORDER**

**GULZAR AHMED, CJ.-** The learned Additional Advocate General, KPK states that the present petition has become, infructuous for the reason that in the year 2017 new rules have already been framed by the Government. Dismissed as infructuous.

Sd- Gulzar Ahmed, HCJ  
Sd- Faisal Arab, J  
Sd- Ijaz ul Ahsan, J



Certified to be true copy

Assistant Registrar  
Supreme Court of Pakistan  
Peshawar.

15/10/2020

Peshawar, the  
6<sup>th</sup> of October, 2020  
Not Approved For Reporting  
Waqas Naseer/\*

7/10/2020

Aad

R/S

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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

22

RB

Dated Peshawar the August 19, 2014

NOTIFICATION

NO. SO(E-I)E&AD/9-365/2013. WHEREAS, the following officers were proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, on account of their involvement in charges leveled against them as per the Charge Sheet and the Statement of Allegations:-

SR. #	NAME OF OFFICERS
1.	Mian Farooq Iqbal (BS-19 Officer) the then Director General, Mines & Minerals (now OSD E&A Department).
2.	Mr. Yaqub Nawaz Deputy Director (Tech.) BS-18, Directorate General, Mines & Minerals, Khyber Pakhtunkhwa.
3.	Mr. Roz Amin (PMS BS-17) Section Officer, Finance Department.

AND WHEREAS, Mr. Asmatullah Khan (PC & EG BS-20) DG, Prosecution was appointed as enquiry officer to conduct inquiry against the accused officers

AND WHEREAS, the Inquiry officer after having examined the charges contained on record and explanation of the accused officers submitted his report

AND WHEREAS, the competent authority also accorded the opportunity of personal hearing to the accused officer,

NOW THEREFORE, the Competent authority, after having considered the charges, evidence on record, the explanation of the accused officers, defense offered by the accused officers during personal hearing and exercising his power under Rule 14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose major/minor penalties on the following officers, as mentioned against each with immediate effect -

SR. #	NAME OF OFFICERS	PENALTY
1.	Mian Farooq Iqbal (BS-19) the then Director General, Mines & Minerals (now OSD E&A Department).	Removal from Service.
2.	Mr. Yaqub Nawaz Deputy Director (Tech.) BS-18, Directorate General, Mines & Minerals, Khyber Pakhtunkhwa.	Stopping his three successive annual increments with immediate effect.
3.	Mr. Roz Amin, (PMS BS-17) Finance Department.	Stoppage of one annual increment as and when falling due.

CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA

Forst No. & date even

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department
4. Secretary to Government of Khyber Pakhtunkhwa, Minerals Development Department
5. Accountant General, Khyber Pakhtunkhwa.
6. Director General, Mines & Minerals, Khyber Pakhtunkhwa.
7. PSO to Chief Secretary, Khyber Pakhtunkhwa
8. PS to Secretary Establishment/PS to SS(E)-SS (Reg)/PA AS(HRD)/DS(E)/SO(E.II) Establishment Department.
9. PS to Secretary (Admn)/D.S(A)/SO(Secret)/State Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department, Khyber Pakhtunkhwa
10. Officers concerned.
11. Manager, Government Printing Press, Peshawar.

(MUMTIAZ JAVED SIDDIQI)  
SECTION OFFICER (ESTT. D)

*Adams*

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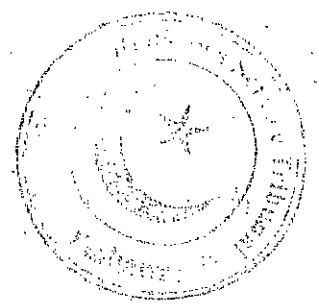
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Annexure - 9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.1273/2014

Date of Institution ... 23.10.2014  
Date of Decision ... 16.10.2017



Mian Farooq Iqbal, Ex-Director General Mines & Minerals,  
E-3/19, Street 2, Phase-1, Peshawar.

(Appellant)

VERSUS

The Chief Secretary Khyber Pakhtunkhwa and 2 others

(Respondents)

Mr. Muhammad Asif Yousafzai,  
Advocate

--- For appellant.

Mr. Ziaullah,  
Deputy District Attorney

... For respondents.

MR. GUL ZEB KHAN  
MR. MUHAMMAD HAMID MUGHAL

... MEMBER  
... MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER.

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Service Tribunal,  
Peshawar

1. Our this judgment will also dispose of the service appeal No. 1065/2015 titled "Irfanullah vs Chief Secretary and others" wherein the appellant has been awarded major penalty of reduction to a lower post for a maximum period of five years and wherein similar question of law/rules is involved.

2. The aforesaid appeal dated 23/10/2014 has been lodged by Mian Farooq Iqbal, hereinafter referred to as appellant, under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein he has impugned the office order dated 19/8/2014 under which he was removed from service and against which he preferred departmental appeal on 22/8/2014, which was not disposed of within the statutory period of ninety days.

3. Brief facts of the case giving rise to the instant appeal are that the appellant while serving as Director General, Mines & Mineral Development Department Khyber Pakhtunkhwa, was charged with the allegation that he illegally renewed the Prospeating License for Phosphate on area spreading over about 500 acres in District Abbottabad in respect of Mst. Rukhsana S. Javed and converted into

Adopted



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Mining Lease for a period of 30 years instead of 10 years period as against the recommendation put forth by of the Inspection Committee. He was removed from service on the basis of the recommendations as contained in the departmental Enquiry Report.

4. Learned counsel for the appellant argued before the court that the appellant was removed from service on the recommendations of an inquiry officer, who himself had remained posted as Additional Secretary in the department and had acted as one of the members of an arbitration committee in the instant case which was earlier constituted on the directions of the worthy Peshawar High Court for "Amicable Settlement" of the dispute. That in order to ensure upholding the principles of fairness, impartiality, and good governance as well implementing the provisions laid down in the recently enacted Khyber Pakhtunkhwa Conflict of Interest Act, 2013, the said officer could not have been appointed as enquiry officer, being an arbiter and having direct conflict of interest with the appellant and for which the appellant had himself raised an objection at the relevant time, but was not accepted by the authority. That the appellant has not committed the said act/irregularity as he has neither renewed nor converted the said lease for 30 years, rather it was the ultimate departmental authority i.e the administrative secretary who has finally approved/granted the renewal of the said lease for 30 years on the unanimous recommendations of the Mines Committee under the chairmanship of the appellant, and that the role of that ultimate departmental authority has neither been mentioned in the Provincial Inspection Team (PIT) report nor in the departmental enquiry report. That even the renewal of the lease for the period upto 30 years by the administrative secretary is duly covered under Rule 137/MCR 2005. That the aforementioned unanimous recommendations of the Mines Committee also contained several other items relating to renewals/extension for approval of the administrative secretary, wherein partial/altered recommendations

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of the committee were approved, but the same are not being touched/questioned in either of the enquiry reports which tantamount to malafide on the part of the respondents. That the recommendations of the Mines Committee are/were never ever binding on the competent authority, rather its recommendations are always open to any sort of additions/alterations/overrulings /differing/subsequent discussions or straightaway disagreement/regrettal of the proposals/recommendations. That none of the enquiry reports has ever mentioned either the quantum of financial loss (purportedly incurred to the government exchequer as a result of the said concession for 30 years) nor pointed out any specific law/rules governing the conversion of PL into ML on extension of lease by 30 years that was violated at that time or at the time when the said lease was restored by the Peshawar High Court vide judgment dated 12/7/2012. That the departmental enquiry officer had devised a questionnaire, which was duly filled in/replied by the appellant on 10/12/2013, but, to the astonishment of all, the said enquiry officer finalized/submitted his enquiry report to the then administrative secretary, on the very day i.e 10/12/2013 and that too by hand, and that this very fact is sufficient for the enquiry report being concocted, dubious, unfair and malafide in the eyes of law. That this is also due to the reason that the enquiry officer had himself remained attached/acquainted to this case, prior to conducting the instant enquiry. That other co-accused-officers (i.e members of the Mines Committee) have already been exonerated except the two appellants. Learned counsel for the appellant further argued that the appellant was wrongly removed from service on the charge which he never committed and hence the impugned order dated 19/8/2014 may be set-aside and the appellant may be allowed all consequential back benefits.

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ATTESTED

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 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal

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5. On the other side learned District Attorney argued before the court that appellant was properly charged sheeted for illegally converting PL of Phosphate into 30 (thirty) years ML of an areas spreading over about 500 acres as against the original recommendations of 10 years by the Divisional Mines Inspection Team/filed staff. Further argued that the Inquiry Officer has conducted regular inquiry in accordance with the provisions of law/rules and has also provided reasonable opportunity of personal hearing to the appellants. That the appellant was proved guilty and was removed from service under the E & D Rules 2011 after fulfillment of all codal formalities, hence the instant appeal may be dismissed.

6. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

7. It is an admitted fact that the officer who has been appointed for the departmental enquiry in the instant case earlier remained posted in the said department. It is the cardinal principle of natural justice that an inquiry officer should be a person who has no bias or got no involvement in the case which is being inquired into. Appointment of impartial tribunals/arbiters/inquiry officers is a pillar of procedural due process and propriety. Engagement of the very enquiry officer, in the instant case, , due to his official capacity at the stage of amicable settlement of the dispute, as a result of the Peshawar High Court judgment has made him dis-entitled to be the inquiry officer because once he has given his opinion in the said case, then he is/ was commitment bias to defend his that very opinion. Any report by any such person is no report in the eyes of law and any penalty on the basis of such report is bound to collapse. Besides, there is also no proof available on record regarding providing the opportunity of self-defense or

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cross examination of the witnesses to the appellant during the course of the said departmental proceedings, which is mandatory under the law.

8. As a sequence to the above discussion, the appeal is accepted, the impugned order is set-aside and the appellant is reinstated in service. Intervening period shall be treated as leave of the kind due. Respondents departments are at liberty to conduct de-novo enquiry in the matter if deemed appropriate. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
16.10.2017

*SD/-*  
(Gul Zeb Khan)  
MEMBER

*SD/-*  
(Muhammad Hamid Mughal)  
MEMBER

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**IN THE SUPREME COURT OF PAKISTAN**  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE EJAZ AFZAL KHAN.  
MR. JUSTICE MUSHIR ALAM.  
MR. JUSTICE SAJJAD ALI SHAH.

**CIVIL PETITIONS NO. 581-P AND 582-P OF 2017.**  
(Against the judgment dated 16.10.2017 of the KPK  
Service Tribunal, Peshawar passed in Appeal No.1273 of  
2014) and 1065/15)

Govt. of KPK thr. Chief Secretary,  
Peshawar and others.

...Petitioner(s)

Versus

Mian Farooq Iqbal.  
Irfanullah.

...Respondent(s)

For the petitioner(s): Barrister Qasim Wadood, Addl. A.G. KPK

For the respondent(s): N. R.

Date of Hearing: 16.04.2018.

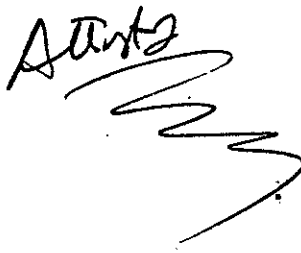
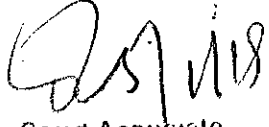
**ORDER**

**EJAZ AFZAL KHAN, J.-** These petitions for leave to appeal have arisen out of the judgment dated 16.10.2017 of the KPK Service Tribunal, Peshawar whereby it allowed the appeal filed by the respondents by holding as under :-

"8. As a sequence to the above discussion, the appeal is accepted, the impugned order is set-aside and the appellant is reinstated in service. Intervening period shall be treated as leave of the kind due. Respondents departments are at liberty to conduct de-novo enquiry in the matter if deemed appropriate."

2. The learned Addl. A. G. KPK appearing on behalf of the petitioners contended that the bias alleged against the Inquiry Officer was not of a type as could influence the course of inquiry or finding thereof, therefore, such bias so called could not be made a basis for reversing the order of the Authority. The learned Addl. A. G. next contended that reinstatement of the respondents against the posts they held before the initiation of the departmental proceedings would neither be in the interest of the department nor in the fitness of things.

**ATTESTED**

  
  
Court Associate  
Supreme Court of Pakistan

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3. We have carefully gone through the record and considered the submissions of the learned Addl. A. G. KPK.

4. The record reveals that the Inquiry Officer holding the inquiry in this case was not only posted with the facts and circumstances of the case but was also biased as he being a member of the Arbitration Committee had already expressed his opinion against the respondents regarding the same episode before holding inquiry in this case. When this being the case his inquiry and finding pursuant thereto cannot be said to be independent and unbiased. Such inquiry in any case, was to be set at naught. In the circumstances, the view taken by the Tribunal appears to be correct.

5. For the reasons discussed above, these petitions being without merit are dismissed. However, if the Authority has any reservation to the reinstatement of the respondents against the post they held at the time of initiation of the departmental proceedings against them, it may if so advised post them elsewhere.

*Sd/-J*

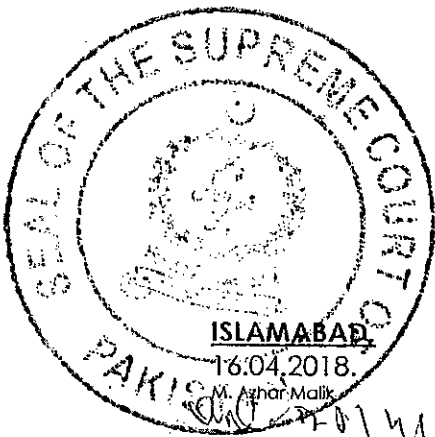
*Sd/-J*

*Sd/-J*

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Court Associate  
Supreme Court of Pakistan  
Islamabad



ISLAMABAD  
16.04.2018  
M. Aghar Malik

*(Handwritten number 633/19)*

GR No:	<u>633/19</u>	Civil/Criminal
Date of Presentation:	<u>05-01-19</u>	
No of Words:	<u>600</u>	
No of Pages:	<u>6</u>	
Requisition Fee Rs:	<u>5-00</u>	
Copy Fee In:	<u>3-72</u>	
Court Fee Stamp:	<u>8-00</u>	
Date of Completion of Copy:	<u>05-01-19</u>	
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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

Dated Peshawar the May 30, 2018

**NOTIFICATION**

**NO. SO(E-I)/E&AD/9-365/2018.** In pursuance of Khyber Pakhtunkhwa Services Tribunal Judgment in Service Appeal No. 1273/2014 announced on 16.10.2017 and Supreme Court of Pakistan Judgment in C.P No. 581-P/2017 dated 16.4.2018, the Government of Khyber Pakhtunkhwa is pleased to withdraw its earlier notification bearing No. SO(E.I)/9-365/2013 dated 19.8.2014, wherein penalty of "Removal from Service" was imposed upon Mian Farooq Iqbal (BS-19) the then OSD Establishment Department and re-instate him in service.

2. Consequent upon above, Mian Farooq Iqbal (BS-19 Officer of Inspectorate of Mines) is transferred and posted as Deputy Chief Inspector of Mines (BS-19) in the Inspectorate of Mines, Khyber Pakhtunkhwa.

CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. No. Of even no. & date

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Minerals Development Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. Director General, Mines & Minerals Development Department.
6. Section Officer (Litigation) E&A Department.
7. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA,AS(HRD)/AS(E),E&AD
8. PS to Secretary (Admn.)/D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/D Director (IT) and Director Protocol Administration Department.
9. Officer concerned.
10. Manager, Govt Printing Press Peshawar.

(ISHTIAQ AHMAD) *no*  
SECTION OFFICER (ESTT-I)  
PH: & FAX # 091-9210529

*Amir*

R/H 31



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

Dated Peshawar, the November 20, 2015

NOTIFICATION

NO.SO(E-I)/E&AD/9-365/2015. The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote Mr. Obaidullah, Director Licensing (BS-19) office of Directorate of Mines & Minerals to post of Director General (BS-20) Mines & Minerals, Khyber Pakhtunkhwa on regular basis, with effect from 7.10.2015, in terms of Para-VII of the Promotion Policy-2009, circulated by the Establishment Department vide letter No. SOE-III(E&AD)/1-3/2008 dated 28.1.2009.

2. His promotion as well as assumption of charge in BPS-20 shall be on notional basis, against the post as mentioned above.

CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA

Enclst. OF EVEN NO. & DATE.

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. Secretary to Government of Khyber Pakhtunkhwa, Minerals Development Department.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Director General, Mines & Minerals Development, Khyber Pakhtunkhwa
6. Director Licensing, office of Directorate of Mines & Minerals, Peshawar
7. PS to Chief Secretary, Khyber Pakhtunkhwa.
8. PS to Secretary Establishment/S.O.:(Secret)/S O.(PSB) E&AD.
9. Officer Concerned.
10. Manager, Govt Printing Press, Peshawar

(KASHIF IQBAL JILANI)  
SECTION OFFICER (ESTT.I)

Attest





Government of  
Khyber Pakhtunkhwa  
Minerals Development Department

Dated Peshawar, 27-09-2018

153  
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**NOTIFICATION**

No. SO (E)/MDD/2-3/2018: In pursuance of Section 8(1) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rules-17 Civil Servant (Appointment, Promotion and Transfer) Rules, 1989, the Competent Authority is pleased to notify/circulate final seniority list of Deputy Chief Inspector of Mines/ Director Planning & Mines Development Cell/ Director Training (BS-19), of the Inspectorate of Mines Labour Welfare, Khyber Pakhtunkhwa, (as it stood on 31-07-2018) for general information.

S.No.	Name of officer	Qualification	Date of Birth and Domicile	Date of 1 <sup>st</sup> entry into Government service	Regular appointment/ promotion to the present post			Present posting
					Date	BPS	Method of Recruitment	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Mian Farooq Iqbal	M.Sc (Mining Engineering) (L.L.B)	20-01-1963 Euner	10-07-1989	08-11-2004	19	By promotion	Deputy Chief Inspector of Mines
2	Mr. Fazli Raziq	B.Sc (Mining Engineering)	10-09-1964 Bajaur Agency	01-02-1995	05-01-2018	19	-do-	Deputy Chief Inspector of Mines
3	Mr. Fazal Hussain	B.Sc (Mining Engineering)	02-03-1960 Charsadda	16-10-1996	08-01-2018	19	-do-	Director Planning & Mines Development Cell

No. SO (E)/MDD/2-3/2018:

9120-32

Copy forwarded to:

1. Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Commissioner of Mine Labour Welfare, Khyber Pakhtunkhwa, Peshawar.
3. The Chief Inspector, Inspectorate of Mines, Khyber Pakhtunkhwa, Peshawar.
4. P.S to Secretary, Minerals Development Department, Khyber Pakhtunkhwa Peshawar.
5. The Manager, Government Printing & Stationary Department, Khyber Pakhtunkhwa, Peshawar.
6. Officers Concerned.

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA  
Dated Peshawar 27-09-2018

APR 2018  
Admn. Officer  
Inspectorate of Mines  
K.P.K. Peshawar

(Muhammad Javed)  
Section Officer (Estt.)

A/O  
27/9/18

Diary No 2238  
Date 28/09/2018

Inspectorate of Mines  
Peshawar  
Khyber Pakhtunkhwa

Asst

27/9/18  
27/10/18

Asst