

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

Rejoinder

IN

Service Appeal No. 7881/2021

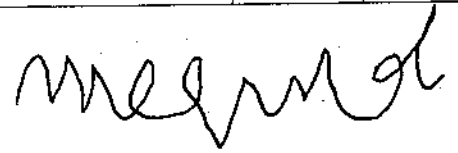
Maqsood Ur Rahman

*Versus*

Government of Khyber Pakhtunkhwa and others

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APPELLANT

Through



Muhammad Salim Naz,

(Advocate)

Contact No: 03339501196

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal. No. 7881/ 2021

Case No. 13079

Date 30/5/21

Maqsood Ur Rahman ..... Appellant

**Versus**

Government of KPK & Others ..... Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO REPLY FILED BY RESPONDENT NO: 1, 2 and 3**

Respectfully Sheweth,

Preliminary Objections:

1. Preliminary objections raised by answering respondent are erroneous and frivolous.
2. The appellant has strong cause of action and for that matter locus standi to file the service appeal.
3. The appeal is very much maintainable in its present form.
4. The appellant has approached the Hon'ble Tribunal with clean hands and nothing has been concealed from the Hon'ble Tribunal.
5. All the essential facts have been incorporated in the service appeal and all the necessary parties have been arrayed.
6. The present appeal is based upon bonafide intention. The appeal is well within time. The Hon'ble Tribunal has exclusive jurisdiction to entertain the instant appeal.
7. That no estoppel operates against the appellant in the circumstances.
8. The appellant has timely raised the issue at appropriate forum.
9. The judgment in Service Appeal No: 567/ 2018 and 339/2017 dictate that the Appellants in Service Appeal No: 1831/2009 who have already been availed an upgradation from BS-16 (Statistical Investigator) to BS-17 from 01.5.1977 vide Notification dated: 17.02.2010 are not Statistical Officers and their Seniority shall be maintained separately (Annex:-D in main appeal).

Facts:

1. Correct.
2. Correct as the Respondent has verified the claim of the Appellant.
3. Reply under Para-2 above is re-iterated.

- 4. Correct as the Respondent has verified the claim of the Appellant. However, the Department is hesitant to reply objectively as they have no plausible justification for denial of the fact.
- 5. Incorrect. The Appellant had challenged the re-designation of the post of Statistical Investigator BS-16 as Statistical Officer after its upgradation to BS-17 and resultantly the re-construction/amalgamation of the seniority wherein the Statistical Officers Supervisory (BS-17 + Rs; 150/= P.M) were placed junior to their subordinates (erstwhile Statistical Investigator BS-16) in the Department through Service Appeal No: 339/ 2017 & 567/2018. The Hon'ble Tribunal accepted both the appeals. Para-16 of the judgment placed at annexure-D in the main appeal reads;

16- .....The appellant along with his other batch-mates stands senior to their erstwhile juniors and shall be considered first for promotion to the next grade,.....

- ii) The Appellant was promoted to BS-18 vide notification dated 29.01.2021 whereas the colleagues of the Appellant who benefitted from the Up-gradation to **BS-18** (Personal) w.e.f 27.7.2010 were promoted to **BS-18** in 2018 & 2019, **BS-19** in 2019 and **BS-20** in 2021 (Annex:-I).
- iii) The judgment dated 26.7.2010 in Service Appeals No: 1831 to 1843/ 2009 and 1856 to 1862/ 2009 (Annex:-B in main appeal) is not specifically in favor of the Appellants therein but in general with respect to the Statistical Officers in the Department. The operative Para-10 of the judgment reads,

10- ..... The Department may submit a summary for re-designation/ restructuring of the post of Statistical Officer at par with District Soil Conservation Officer, Crops Reporting Services, which has been upgraded by the Government of Punjab.

Therefore, deprivation of the Appellant from the benefits of up-gradation to **BS-18** (Personal) w.e.f 27.7.2010 is against the wording and spirit of the judgment dated 26.7.2010.

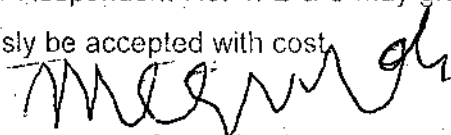
- 6. Incorrect, hence denied. The Respondent Department on one hand admits in Para-5 of their reply that "the colleagues of the appellant were granted personal up-gradation to BS-18 on the basis of having no chance of promotion, whereas the appellant has recently become entitled for promotion to BS-18....." But in contrary to the said statement, the Respondents take another plea in Para-13 of the "Facts" and Para-A & F of the "Grounds" that the officer is not "Similarly placed Person". This is blowing hot and cold in one breath on part of the Department. If the Appellant is not similarly placed person then how they placed his seniority with them (Statistical Officers). The same point has also been elaborated in Para-5 above that some of these colleagues were promoted to BS-20 whereas the Appellant being recruited in BS-17 who remained their senior and was allowed a single promotion to BS-18 in April 2021, just before his retirement on 23.10.2021.

7. Incorrect hence denied. Facts quoted in Para- 5 & 6 above are vehemently reiterated.
8. Incorrect. Mere denial without any grounds or reasons is no denial.
9. Facts already admitted hence no comments.
10. Reply in Para-5 (iii) above is re-iterated.
11. Reply in Para-6 above is re-iterated.
12. No comments as the facts have been admitted by the Department.
13. Reply in Para-6 above is re-iterated.
14. No comments as the facts have been admitted in clear terms by the Department.

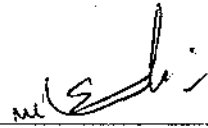
### Grounds

- A. Incorrect. The Respondent Department has already admitted in Para-1 & 5 of their reply that the Appellant is a Statistical Officer serving in the Department since 03.5.1987. Furthermore, the Seniority list issued from time to time since induction of the Appellant in the Department also verifies and confirms the fact that the Appellant is a similarly placed person.
- B. Incorrect, the judgment of Supreme Court cannot be over ruled by the statement that the Appellant is not similarly placed person without any justifications.
- C. Incorrect as the Appellant has been evidently and unambiguously discriminated as some of his similarly placed officers have been promoted even to BS-20 on regular basis. The Department cannot deny their own documents placed at annexure-II above.
- D. The reply of the Department is irrelevant to the claim of the Appellant. Hence denied.
- E. Incorrect. Reply in Para-D above is re-iterated.
- F. Incorrect. Reply in Para-C above is re-iterated.
- G. No comments.

It is therefore, humbly prayed that the reply of Respondent No: 1, 2 & 3 may graciously be rejected and the appeal as prayed for may graciously be accepted with cost.

  
Appellant

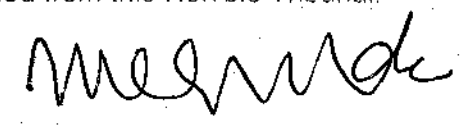
Through,

  
M. SALIM NAZ, Advocate,  
High Court of Pakistan

Dated: \_\_\_\_\_ / \_\_\_\_\_ /2023

### Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Appellant



M-10

(4)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the September 29, 2017

**NOTIFICATION**

NO. SOE (AD) V-7/2017/CRS.- Upon the recommendations of the Provincial Selection Board (PSB), the competent authority is pleased to promote Mr. Sameeullah, Statistician (BS-17) to the post of Statistician (BS-18) on regular basis with immediate effect.

2. He will be on probation for a period of one year extendable for another year in terms of Rule-15 of APT Rule, 1989. His posting order will follow subsequently.

SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA  
AGRICULTURE, LIVESTOCK AND COOPERATIVE DEPARTMENT

Endst. of even No. & Date.

Copy forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
  2. Director, CRS, Khyber Pakhtunkhwa, Peshawar with request to furnish adjustment in respect of the above named officer for approval.
  3. PSO to Chief Minister, Khyber Pakhtunkhwa.
  4. PSO to Chief Secretary, Khyber Pakhtunkhwa.
  5. Chief Planning Officer, Agriculture Department with the request to upload the instant notification on the official website of the department.
  6. District Accounts Officer, concerned.
  7. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
  8. PS to Secretary Agriculture, Khyber Pakhtunkhwa.
  9. PA to DS (Admn), Agriculture Department
  10. Officer concerned
- Personal file

(DR. MIR AHMAD KHAN)  
SELECTION OFFICER

(5)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the January 04, 2019

**NOTIFICATION**

**NO. SOE (AD) V-7/2018/CRS.-**

On recommendations of the Provincial Selection Board (PSB), the competent authority is pleased to promote the following BS-18 Officer of Crop Reporting Services to BS-19 on regular basis with immediate effect:-

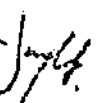
SR. NO.	NAME OF OFFICER
1.	Mr. Samiullah

2. They will be on probation for a period of one year in terms of Rule-15 of A/P Rule, 1989. Their posting order will follow subsequently.

SD/-  
SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA  
AGRICULTURE, LIVESTOCK AND COOP. DEPT.

Endst. of even No. & Date.

- Copy forwarded for information and necessary action to the:-
1. The Director, Crop Reporting Service, Khyber Pakhtunkhwa, Peshawar with request to furnish adjustment proposal in respect of the above named officers for approval.
  2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
  3. District Accounts Officers concerned.
  4. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
  5. PS to Chief Secretary, Khyber Pakhtunkhwa.
  6. PS to Secretary Agriculture, Khyber Pakhtunkhwa.
  7. Officers concerned.
  8. Personal file.

  
(JAVED MAQBOOL AHMAD)  
SECTION OFFICER-ESTT



TO BE SUBSTITUTED WITH THIS DEPARTMENT NOTIFICATION OF EVEN NUMBER DATED 21.05.2019



GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the May 27, 2019

**NOTIFICATION.**

**NO. SOE (AD) V-7/2019/CRS. -**

On the recommendations of the Provincial Selection Board (PSB), the competent authority is pleased to promote the following BS-17 Officers of Crop Reporting Services to the post of Statistician BS-18 on regular basis with immediate effect: -

Sr.No.	Name of Officer
1.	Mr. Haji Muhammad
2.	Mr. Nadir Khan
3.	Mr. Tariq Usman
4.	Mr. Noor Islam

2. The promoted officers will be on probation for a period of one year in terms of Rule-15 of APT Rule, 1989.

Note: - Their Posting order will follow subsequently.

SD/-  
SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA  
AGRICULTURE, LIVESTOCK AND COOP. DEPTT.

Indst. of even No. & Date.

Copy forwarded for information and necessary action to the: -

1. The Director, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar with request to furnish adjustment proposal in respect of the above named officers for approval.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
6. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
7. PA to Deputy Secretary (Admin) Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
8. Officers concerned.
9. Personal file.

(SHAMS-U-DEEN)  
SECTION OFFICER-ESTT



(7)

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK FISHERIES &  
COOPERATIVE DEPARTMENT**

Dated Peshawar, the 3<sup>rd</sup> June, 2021

**NOTIFICATION**

**No. SOE(AD)V-7/PSB Promotion/CRS/21/706** The Competent Authority, on the recommendations of the Provincial Selection Board, in its meeting held on 29.04.2021 (by circulation), is pleased to promote Mr. Sami Ullah, Director (BS-19) to the post of Director General (BS-20) in the Directorate of Crop Reporting Services wing of Agriculture Department, on regular basis w.e.f 29-04-2021 i-e (date of PSB) as the officer proceeded on retirement w.e.f 30-04-2021 on attaining the age of superannuation.

Sd/-  
Secretary Agriculture

**Endst. Of Even No. & Date.**

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.
3. The Director Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.
4. The Section Officer (PSB) w/r to his letter No.SO(PSB)/ED/1-6/2021/P-301, dated 28-05-2021
5. PS to Minister Agriculture, Khyber Pakhtunkhwa.
6. PS to Chief Secretary, Government of Khyber Pakhtunkhwa.
7. PS to Secretary Establishment, Khyber Pakhtunkhwa.
8. P.S to Secretary Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
9. P.A to Deputy Secretary (Admn), Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
10. Officer concerned.
11. Master File.

Section Officer  
Agriculture Department

Attested to be True  
Copy





GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK FISHERIES & COOPERATIVE  
DEPARTMENT

8

Dated Peshawar, the 08<sup>th</sup> June, 2021

**NOTIFICATION**

**NO. SOE (AD)14-31/87/Sameeullah/CRS:750** In terms of Rule-20 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 and instructions issued from time to time, sanction is hereby accorded to encashment of leave preparatory to retirement, equal to 365 days in favour of Mr. Sameeullah, Ex-Director General (BS-20) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar w.e.f 01-05-2020 to 30-04-2021.

02 In pursuance of Section-13 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, Mr. Sameeullah, Ex-Director General (BS-20) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar, stands retired from Government Service w.e.f 30-04-2021 (A.N) on attaining sixtieth (60<sup>th</sup>) year of age, as his date of birth is 01-05-1961.

Sd/-  
SECRETARY AGRICULTURE

**Endst. of Even No. & Date.**

Copy forwarded for information and necessary action to the: -

- 1) The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2) The Director General, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.
- 3) The Director Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar
- 4) Officer Concerned.
- 5) P.S to Secretary, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
- 6) P.A to Deputy Secretary (Admn.), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
- 7) Master file.

SECTION OFFICER ESTT.  
AGRICULTURE DEPARTMENT

*[Handwritten signature]*