

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

AMENDED SERVICE APPEAL No. _____/2024

IN

SERVICE APPEAL No. 395/2024

MR. SYED MUHAMMAD KHAN

V/S

HEALTH DEPTT:

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APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

NOTE:-

Wakalat Nama has already been placed on main file.

Advocate

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

AMENDED SERVICE APPEAL NO. _____ /2024

IN
SERVICE APPEAL NO. 395/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12790

Dated 15-05-2024

Mr. Syed Muhammad Khan, Senior Clerk (BPS-14)
DHO Office, Miran Shah, district North Waziristan

..... APPELLANT

VERSUS

- 1- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2- Zahid Ali Office Assistant BPS-16, Director General Health Services Office, Peshawar
- 3- Abdul Hadi S/o Abdul Qayum, Senior Clerk BPS-14, DHO Office Swabi
- 4- Fida Muhammad S/o Taj Malook Khan, Senior Clerk BPS-14, DHQ Hospital Battagram
- 5- Nasir Ahmad S/o Abdul Wahid, Senior Clerk BPS-14, DHQ Hospital Chitral.
- 6- Abdur Rehman S/o Mubarak Jan Senior Clerk BPS-14, DHO Office Dir Upper.

.....RESPONDENTS

AMENDED SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, 1974 AGAINST IMPUGNED NOTIFICATION 16/08/2023, WHEREBY THE APPELLANT HAS PROMOTED TO THE POST OF SENIOR CLERK WITH IMMEDIATE EFFECT INSTEAD WITH EFFECT FROM 17/03/2008, WHEN HIS OTHER COLLEAGUES WERE PROMOTED AS SENIOR CLERK AND AGAINST THE NOTIFICATION DATED 26/05/2023, WHEREBY COLLOGUES AND JUNIOR COLLOGUES WERE PROMOTED TO THE POST OF ASSISTANT (BPS-16) AND IGNORED THE APPELLANT WITHOUT ANY REASON AND AGAINST THE INACTION OF THE APPELLATE AUTHORITY, BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF 90 DAYS.

Prayer:-

That on acceptance of the instant amended service appeal, the impugned notification dated 16/08/2023 may kindly be rectified/modified to the extent of appellant by

considering the appellant for promotion to the post of Senior Clerk (BPS-14) w.e.f. 17/03/2008 i.e. when other colleagues of the appellant were promoted as Senior Clerks, further the impugned notification dated 26/05/2023 may kindly be set aside/modified by considering the appellant for promotion to the post of Assistant (BPS-16) w.e.f 26/05/2023 with all back benefits including seniority. Any other remedy which this august Tribunal deem fit may also be awarded in favour of the appellant.

R/SHEWETH:
ON FACTS:

- 1) That the appellant was initially appointed in the respondent department as Junior Clerk and after appointment, the appellant submitted his arrival report and started performing his duty with zeal and zest and with the satisfaction of his superiors. Copy of appointment order, arrival report and medical certificate are attached as annexure.....**A, B & C are already annexed**
- 2) That it is important to mention here that other colleagues of the appellant were promoted vide dated 17/03/2008 to the post of Senior Clerk, but astonishingly the appellant was ignored.
- 3) That since his appointment till year, 2022 the appellant was serving the respondent department as Junior Clerk, where-after the respondent department issued final seniority list for the year, 2023, whereby junior colleagues of the appellant were placed at the top of the seniority list, but the appellant has been ignored. Copy of seniority list is attached as annexure.....**D are already annexed**
- 4) That the respondent department issued Final Seniority List of the Senior Clerks of the year, 2023, whereby the junior colleagues were placed in the said seniority list, but the appellant has been ignored. Copy of seniority list is attached as annexure.....**D/A are already annexed**
- 5) That the respondent through impugned notification dated 16/08/2023 promoted the appellant to the post of Senior Clerk with immediate effect instead with effect from 17/03/2008, when his other colleagues were promoted. Copy of impugned notification dated 16/08/2023 is attached as annexure.....**E are already annexed**
- 6) That the respondents on the basis of aforementioned seniority list for year, 2023, issued the impugned notification dated 26/05/2023, whereby colleagues and junior colleagues of the

appellant have been promoted to the post of Assistant (BPS-16) and astonishingly the appellant has been ignored despite the fact that the appellant is senior employee of the respondent. Copy of the impugned notification dated 26/05/2023 is attached as annexure.....**F are already annexed**

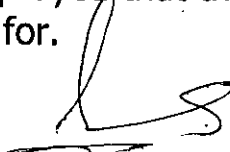
- 7) That feeling aggrieved from the impugned notifications, the appellant preferred departmental appeal through proper channel, but the same has not been decided till date. Copy of departmental appeal is attached as annexure.....**G are already annexed**
- 8) That now feeling aggrieved from the impugned notifications, the appellant preferring the instant Service Appeal before this Honourable Tribunal inter alia on the following grounds:-

GROUND:

- A- That both the impugned notifications are illegal, against the law, fact and circumstances of case.
- B- That it is important to mention here that the respondent department issued final seniority list of the Office Assistant (BPS-16) of the year, 2022, in which it is clear that junior colleagues have been promoted to the post of Senior Clerk and then Office Assistant in the year, 2009 and 2020 respectively.
- C- That the respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 04 & 25 of the Constitution of Islamic Republic of Pakistan 1973, which act is unjust, unfair and hence not sustainable in the eye of law.
- D- That non issuance of the ante-dated promotion to the appellant, which is the due right of the appellant is the violative of the Civil Servant Act, 1973 as well as of the Appointment, Promotion & Transfer Rules, 1989.
- E- That by not deciding the departmental appeal of the appellant by the appellate authority is violative of the precedents of the superior courts and the appellant is entitled for ante-dated promotion from the due date.
- F- That the Appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

- G- That, the treatment meted out to the Appellant is clear violation of the Fundamental Rights of the Appellants as enshrined in the Constitution of Pakistan, 1973.
- H- That, the Appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- I- That the acts of the respondents through impugned notifications are also violative of Article 38 (e) of Constitution of Pakistan, 1973.
- J- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the amended appeal may kindly be accepted as prayed for.


APPELLANT

THROUGH:

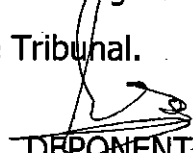

**NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

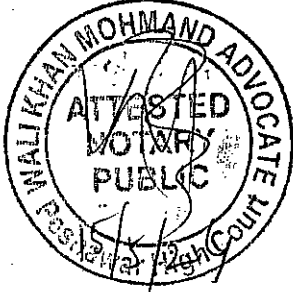
&


**UMAR FAROOQ MOHMAND
ADVOCATE HIGH COURT**

AFFIDAVIT

I, Mr. Syed Muhammad Khan, Senior Clerk (BPS-14) DHQ Miran Shah, do hereby solemnly affirm on oath that the contents of the above amended appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT



- 5 - "A" B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPLICATION No. _____ /2024

IN
SERVICE APPEAL No. 395/2024

D. No: 12218

Dated: 16-4-24

MR. SYED MUHAMMAD KHAN

V/S


HEALTH DEPTT:

APPLICATION FOR PERMISSION TO FILE AMENDED
APPEAL

Respectfully Submitted:-

1. That the above titled Service Appeal is pending adjudication before this honorable Tribunal and is fixed for 06/05/2024.
2. That in the instant service appeal some clerical mistakes have been taken place at the time of drafting of the instant service appeal, hence this application.
3. That if the applicant is not allowed to amend his appeal, the very purpose of his appeal would be lost resulting in multiplicity of litigation.

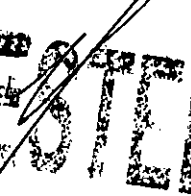
It is therefore prayed, that on acceptance of this application, the applicant may kindly be allowed to file amended appeal.

APPELLANT
THROUGH: 
NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, Mr. Syed Muhammad Khan, Senior Clerk (BPS-14) DHQ Miran Shah, do hereby solemnly affirm on oath that the contents of the above **application** are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT

ATTESTED 

"B" -6-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.



SERVICE APPEAL No. 395 /2024

Mr. Syed Muhammad Khan, Senior Clerk (BPS-14)
DHQ Hospital, Miran Shah, district North Waziristan

..... APPELLANT

VERSUS

- 1- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2- Rooh Ul Amin S/o Miskeen Khan, Assistant (BPS-16) BKMC Mardan.
- 3- Ihsan Ullah S/o Fazal Mabood, Assistant (BPS-16) SGTH Swat
- 4- Umar Saddique S/o Madan Shah, Assistant (BPS-16) DHQ Hospital Batkhela.
- 5- Ihsan Ullah S/o Saleh Jan, Assistant (BPS-16), DHQ Bunir.
- 6- Jameel Ur Rehman, Assistant (BPS-16) DHQ Hospital Mohmand.

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ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

15/5/24



Appal No. 395/2024
Eyed Muhammad Khan vs Govt

06.05.2024

Learned counsel for the appellat present and submitted application for permission to file amended appeal. Application is allowed. He may do so within three days. To come up on 11.06.2024 before S.B. P.P given to learned counsel for the appellat.

(Muhammad Akbar Khan)
Member (E)

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ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
15/5/24

Date of Presentation of Application 15/5/24
Number of word page 2
Copying Fee 10/-
Urgent 5/-
Total 25/-
Name of Copyist Shahzad
Date of Completion of Copy 15/5/24
Date of Delivery of Copy 15/5/24