BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 296/2024

Muhammad Asif

VERSUS

Senior Member Board of Revenue and Others

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Respondents

Through

Muhammad Azim Khan Afridi
Advocate High Court(s)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal
Diary No. 1259
Dated 07-05-24

SERVICE APPEAL NO. 296/2024

Muhammad Asif..... APPELLANT

VERSUS

Senior Member Board of Revenue and Others .....RESPONDENTS

REPLY/COMMENTS ON BEHALF OF RESPONDENTS NO. 5, 14, 16, 17, 31,33,35, 43, 63, 65, 68, 79, 80, 320.

PRELIMINARY OBJECTIONS

1. That since no ***departmental appeal*** has ever been preferred against the final seniority list dated 15.01.2024 as such the Service appeal **(the appeal)**is not maintainable within the meaning of Section 4 (a) of the Act.

2. That since an appeal against the Tentative Seniority List is provided to departmental authority under Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 **(the Civil Servant Act)** and rules made there under as such the appeal in hand is barred under the provisions of law including S. 4(a) of the Khyber Pakhtunkhwa Service Tribunals Act, 1974**(the Service Tribunals Act).**

3. That since the Computer Operators are not impleaded as a party to the appeal as such the appeal is bad for nonjoinder of necessary party.

4. That the appeal in hand is not preferred within a period of 30 days, and after lapse of time period of 90 days so prescribed for departmental appeal, as such the appeal in hand is not preferred within the time limits prescribed in Section 4 read with proviso (a) of **the Service Tribunals Act.**

ON FACTS:

1. That Para No. 1 of the appeal is incorrect. The appellant is a civil servant of District Cadre.

2. That Para No. 2 of the appeal is superfluous and needs no detail reply/comments.

3. That in response to narrations made in Para No.3 of the appeal it is respectfully submitted that under the garb of the esteemed order of Peshawar High Court, followed by the order of Service Tribunal, appellant and others are making successive attempts to fraudulently, illegally and unlawfully capture the status of Senior Scale Stenographers without undergoing the criteria prescribed by the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989**(APT Rules).**According to the judgment and order of the High Court dated 16.03.2022, SMBR was directed *to look into the petitioners' applications and decide the same in accordance with law and rules on the subject within a period of two months positively.* That in compliance with the same and while acting in accordance with law and rules on the subject, SMBR has rejected the said applications vide judgment and order dated 13.05.2022.

That the appellant and others (i) concealed the above judgment and order of SMBR and(ii) arranged a manipulated notification dated 01.07.2022,for (iii) portraying the same to have been issued contrary to the spirit of the Judgment and order of the High Court. That (iv) the same was connivingly challenged before the High Court in COC application bearing No. 474-P of 2002 in WP No. 3087-P of 2019.That Vide Judgment and order dated 08.12.2022, and while disposing the said COC application, the High Court has directed *that if the petitioners are still aggrieved, they can approach the proper forum.*

That thereafter, an appeal was preferred before the Service Tribunal *wherein none amongst the private respondents were impleaded* as a party, and by twisting the facts and through misrepresentation and by exercising fraud, order dated 5th October 2023 was secured from the Service Tribunal. That since the private respondents were not impleaded as a party in the said appeal as such the same is neither binding nor enforceable against the private respondents.

That despite the fact that the said order of the Service Tribunal was implemented by the authority, though illegally, and the appellant and others were adjusted by inserting their names at the margin of joint Seniority List of Regular Assistants &Senior Scale Stenographers, however and for protection of the rights of private respondents the appellant and others were placed on the bottom of the seniority list.

(Copies of the order of SMBR dated 13.05.2022, Notification dated 01.07.2022, COC application dated 12.11.2022, Judgment and order of the

High Court dated 08.12.2022 and that of Service Tribunal dated 5th October 2023 are respectively attached as annexure "RA to RE").

4. That in response to narrations made in para 4 of the appeal it is respectfully submitted that appellant was initially appointed as Computer Assistant in BPS-11 and was finally appointed/upgraded as Computer Operator BS-16 and was placed in the Technical Cadre of the said group of Civil Servants.

That the right place of the appellant is suitably provided in the Seniority list of Computer Operators of the office of Deputy Commission of the concerned district. According to entries at S. No. 2 of Notification dated 23/01/2015 issued in pursuance of sub rule (2) of Rule 3 of APT Rules, 1989 a Computer Operator becomes eligible to promotion as Senior Scale stenographer on the basis of Seniority Cum fitness from amongst the Computer Operators with 5 years experience as such in the office of respective Deputy Commissioner of the District.

That the inclusion of name of the appellant in the Joint Seniority list of Assistants and Senior Scale Stenographers is not the result of any promotion of the appellant under **APT Rules** but inserted by the department and placed at the margin of the Seniority list of the Assistants and Senior Scale Stenographer to comply with the orders of the Service Tribunal without affecting the vested rights of private respondents, joining the combined Seniority list after attaining appointment/promotion under **APT Rules.**

It is respectfully added that despite inserting his name in the seniority list of Assistants & Senior Scale Stenographers on the premise of judicial orders, the appellant has not applied for removal of his name from the seniority list of Computer Operators meant for their promotion to the post of Senior Scale Stenographers, Private Secretary etc.

That existence of name of appellant placed in the said list under the directions of the Service Tribunal is to remain peripheral and on the margin of the list till the appellant qualifies for his regular enlistment by*(i) securing recommendation for promotion as Senior Scale Stenographer from Departmental*

Promotion Committee, (ii) followed by approval of such recommendations by the Authority, and (iii) then notification of his such promotion in the official gazette.

(Copy of seniority list of Computer Operators, alluding the name of appellant and Notification no. 2074/Estt:I/II/135/SSRC Peshawar dated 23.01.2015 respectively attached as annexure "RF" &"RG" relied).

5. That in response to Para 5 of the appeal it is submitted that against the said final seniority list and after rejection of the objections vide the said order of SMBR dated 15.01.2024, *no departmental appeal as envisaged in the law has been preferred by the appellant and hence the appeal in hand is not maintainable.*

6. That Para 6 of the appeal is irrelevant and superfluous and, therefore, answered accordingly.

7. That the appellant has admitted in Para 7 of the appeal that he has received the order of departmental authority regretting his request on next day, i.e. on 16.01.2024. That against the said order, the appellant has failed to prefer any ***departmental appeal*** and as such the ***service appeal*** is not maintainable and, moreover, by the efflux of time limitation, the impugned seniority list has attained finality and the relief claimed has become incognizant and time barred.

8. In response to Para 8 of the Service appeal it is submitted that *the appellant is not entitled to promotion to the post of Tehsildar on mere insertion of his name in the list, and without promotion under APT Rules as a Senior Scale Stenographer.*

GROUNDS:

a. No detail reply/comments warranted. The name of the appellant is to remain on the margin of seniority list and is to be given appropriate position after attaining his promotion as Senior Scale Stenographer. Moreover, by portraying his conduct in the above manner, the appellant has opted for his career progression by joining civil administration as Tehsildar via the pathway meant for Senior Scale Stenographers as such, he cannot seek promotion to other positions such as Private Secretary etc. and his name is liable to be struck of from the Seniority list of Computer Operators.

b. That official respondents are bound to follow the provisions of law including Section 8 of the Civil Servant Act, 1973 and Rule 17 of Appointment, Promotion

& Transfer Rules, 1989.In view of exercise of his option, the name of appellant is liable to deletion from the Seniority list and is to be placed at the appropriate place after his promotion to the post of Senior Scale Stenographer.

c. Incorrect. The note given in the Seniority list of the Cadre of Assistants and Senior Scale Stenographers is meant for clarification of the complex situation emerging as because of the implementation of the Judgment of the Service Tribunal vis-a-vis extending protection and treatment in accordance with law to all including the private respondents who were condemned unheard and against whom proceedings were initiated and conducted unfairly, illegally, unlawfully and in negation to the notion of right of fair trial so vested in the private respondents by Art. 10-A of the Constitution of Islamic Republic of Pakistan.

d. The story mentioned in ground "D" finds no support from any provision of law and rules. The appellant may certainly be finding a right place when he qualifies the prescribed criteria, undergoes the assessmentsmeant for his evaluation and promotion as a Senior Scale Stenographer, followed by a notification of his promotion in the official gazette. Answered accordingly.

e. Incorrect. The appellant is pursuing illegal gains in the name of treatment in accordance with law. He is seeking advancement of his career without undergoing and without submitting himself to the assessment criteria of promotion meant and prescribed for becoming a Tehsildar. That for enabling the Authority to place his name in an ascending position of the joint seniority list, he is to acquire promotion *at the first instance*, as Senior Scale stenographer.

f. Incorrect. A detailed reply has been given in the above paras.

g. Needs no reply.

h. The appeal is not maintainable, barred by law including time limitation prescribed for such appeals.

PRAYER:

It is respectfully prayed that while dismissing the appeal, orders for deletion of name of the appellant either from the Joint Seniority List or Seniority list of Computer Operators may graciously be passed.

PRIVATE RESPONDENTS NO. 5, 14, 16, 17, 31,33,35, 43, 63, 65, 68, 79, 80, 320.

Through

Muhammad Azim Khan Afridi Advocate

Jahan Zeb Masud Advocate.

Waqar Khalil Advocate

Sajid Mahsud Advocate

Mian Junaid Sardar Advocate
Advocate

Saddam Hussain

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 296/2024

Muhammad Asif

VERSUS

Senior Member Board of Revenue and Others

REPLY FOR AND ON BEHALF OF RESPONDENTS TO AN APPLICATION FOR TEMPORARY INJUNCTION.

RESPECTFULLY SHEWETH:

1- **Para No** 1 needs no reply.

2- **Para** No 2 & 3 is incorrect.
Appellant has got no prima facie case. An appeal against the Tentative Seniority List is provided to departmental authority under Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made there under as such the appeal in hand is barred under the provisions of law including S. 4(a) of the Khyber Pakhtunkhwa Service Tribunals Act, 1974. Besides, appellant is making successive attempts to fraudulently, illegally and unlawfully capture the status of Senior Scale Stenographers without undergoing the criteria prescribed by the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989

3- **That** Para No. 4 is incorrect.
Balance of inconvenience will tilts towards Answering Respondents if an interim order is granted to the Appellant and adversely affect their vested rights secured to them under the Civil Servants Act, 1973.

It is, therefore, respectfully prayed that the application of the Appellant be dismissed.

Respondents

Through

Muhammad Azeem Khan Afridi
Advocate High Court(s)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 296/2024

Muhammad Asif

VERSUS

Senior Member Board of Revenue and Others

AFFIDAVIT:

I, Waseemullah S/o Hayatullah,

do hereby solemnly affirm on oath that the contents of the attached reply are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Court.

Deponent

12101-9925685-9
CNIC No.

ATTESTED
Khan Advocate
Commissioner

RA

9

BEFORE THE SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA

M/S. Azhar Iqbal Mughal and Usman Akhtar, Computer Operators (BPS-16) and ohters, office of the Deputy Commissioner, Haripur.

(Appellants)

Versus

Government of Khyber Pakhtunkhwa and others

(Respondents)

ORDER.

1. Facts of the case are that the Peshawar High Court has disposed off Writ Petition No. 3087-P/2019 with I.R with CM No. 277-P/2020 with Chief Minister No. 532-P/2021 with CM No. 2331-P/2021 with the direction to look into the Petitioner's application and decide the same in accordance with law and rules on the subject within a period of two months positively.

2. In compliance with the order of hon;ble Peshawar High Court the petitioners Azhar Iqbal Mughal etc. Computer Operator s were called for personal hearing on 18.04.2022 before the Senior Member, Board of Revenue.

3. The applicants contended that they were appointed as Computer Assistants and lateron were merged together with the post of Key Punch Operator (BPS-08), Date Entry Operator (BPS-09) and Computer Operators (BPS-10) vide Finance Department Notification dated 12.07.2010. That all these different categories were illegally merged and were given the nomenclature of Computer Operator and were upgraded with a unified BPS-12. Further contended that again the post of Computer Operator (BS-12) were merged with the post of Data Processing Supervisor (BPS-14) and were upgraded to (BPS-16) with the nomenclature of Computer Operator vide Finance Department Notification dated 29.07.2016. That the applicants were initially appointed as Computer Assistants and the nature of job was the same as that of office Assistants. That by having illegal and imprudently been merged with the distinctly line cadres in a unified scale and similar nomenclature, the petitioners have been envisaged with formidable consequences as having no further prospects of any further promotion as against Office Assistants who got tremendously bright future as having service structure of getting further promotion as Superintendents/Tehsildars under 15% quota in Tehsildari Rules, 2015. As the nature of job of the applicants is same as that of Assistants therefore, the applicants may be merged with the seniority of Assistants in the office of concerned Deputy Commissioners to get benefits of legal promotions.

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4. Applicants heard and record of the case perused which revealed that the applicants initially were appointed against the post of Computer Assistants. Lateron they were merged together with the post of Key Punch Operator (BPS-08), Date Entry Operator (BPS-09) and Computer Operators (BPS-10) vide the Finance Department Notification dated 12.07.2010. The post of Computer Operators (BS-12) were again merged with the post of Data Processing Supervisor (BPS-14) and were upgraded to (BPS-16) with the nomenclature of Computer Operator vide Finance Department Notification dated 29.07.2016. The Finance Department merged the posts as these were fall in the category of technical posts. The District Cadre Ministerial Service Rules revealed that the Computer Operators have 40% quota for promotion to the post of Senior Scale Stenographer. Once they promoted to the post of Senior Scale Stenographer BS-16, they will get further promotion to the post of Private Secretary as well as Tehsildar. Therefore, the question of no further promotion, raised by the applicants is not justified.

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5. Furthermore, the merger Notifications were issued by Finance Department which were not challenged by the petitioners till 2018. Likewise, inclusion of Computer Assistant in the seniority of the Assistants of the District is not the mandate of Board of Revenue as all these technical posts were merged by the Finance Department. The applicants have no locus standi to agitate the merger notification issued by the Finance Department before this Department, therefore the applications of the applicants having no merit are rejected/filed.

Zakir Hussain Afridi
Senior Member

Announced
13-/05/2022

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To,

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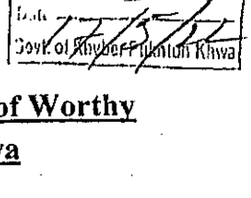
The Honorable Senior Member Board of Revenue,
Khyber Pakhtunkhwa, Peshawar.



Subject: **Review application Against the Order dated 13.05.2022 of Worthy Senior Member Board of Revenue, Khyber Pakhtunkhwa**

Benign Sir,

It is very graciously submitted:-

1. That the petitioners had initially moved applications / appeals on 22.10.2010 through proper channel **(copies annexed as Annexure "A"** and on 20.12.2018 **(copy annexed as Annexure "B)** to this worthy office with respect to bringing inline the cadre of the Petitioners with that of their brothers i.e Office Assistants.

2. That as those applications / appeal has not seen the gracious sight of your goodself office for considerable long period which constrained the petitioners to approach the Honorable Peshawar High Court Peshawar for redressal of their grievances and bring them at par with their brother cadre Office Assistant and soliciting for a joint seniority list with them a good omen for their future prospective promotion in the next cadre of Superintendent / Tehsildar.

Secty BOR II
I look into and
17/5/2022

3. That the Peshawar High Court Peshawar was gracious enough by holding the petitioners as intact in their right and sent the case to your goodself office for deciding pending list before your goodself office being the relevant and the only competent forum.

4. That when the case was fixed for hearing before your goodself office in the light of the directions of the Honorable Peshawar High Court Peshawar, instated of giving a benigene consideration, the same have simply been turned down by your goodself order dated 1305.2022 **(copy annexed as Annexure "C".**

5. That feeling aggrieved and being occupying the parental Chair, your goodself is once again being approached by the petitioners for reviewing the order dated 13.05.2022 (Annexure "C) upon the following grounds.

a. That the Local Government System was introduced in the Year 2001 with the inception of the Local Government System, District Coordination

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Officers came into being. In the DCO's Establishment, posts of Computer Assistants (BPS-11) were created under the title of Computer Assistant, which were equivalent to Office Assistant BPS-11 of that time.

b. That the appointment criteria, qualification and other eligibilities for both posts ie Computer Assistant and Office Assistant. Subsequently the posts of Computer Assistants and Assistant were simultaneously upgraded.

c. that initially, the title of the post under which the petitioners were appointed was Computer Assistant, but later on by virtue of Notification bearing No. KC/FD/SO(FR)/7-3/2001 dated 12.07.2010 issued by Government of Khyber Pakhtunkhwa Finance Department Peshawar, the nomenclature of the post was changed as Computer Operator, whereby the Computer Assistant who were initially appointed effected due to this introduction of new title as the merger of the post under new title as Computer Operator instated of Computer Assistant effected the promotion prospect of the Computer Assistant, who were primarily appointed as Computer Assistant with the intent to equate them vis-à-vis Assistant, As no structure was framed meaning by they shall be treated under the prevalent appointment promotion and transfer rules-1989 by providing them equal opportunities for promotion parallel to Assistant of Board of Revenue working either in Provincial Offices, Divisional Offices or District Offices of worthy SMBR, Commissioners and Deputy Commissioners respectively.

d. That it is pertinent to mention here that the Computer Assistant BPS-11, KPOs, DEOs, Cos (BPS-8,9,10) were merged and titled as Computer Operator (BPS-12) vide Notification bearing No. KC/FD/SO(FR)/7-3/2001 dated 12.07.2010 issued by Government of Khyber Pakhtunkhwa Finance Department, which is amounting to injustice by thwarting the promotion prospect of the petitioners.

e. That the irony of fate is that initially when the posts of Computer Assistant were crated it was meant as step brother of Office Assistant and for the same purpose not only the nomenclature was assigned the same, but rather was given and placed in the same BPS-11. This brotherhood was devastated when up-gradation of the KPO, DEO and Computer Operator were upgraded. Now when this cadre of KPO, DEO and CO were upgraded, the cadre of the petitioners was separated from Office Assistant and was brought and clubbed together with these newly upgraded positions in a gleamingly illegal and void manner.

f. That the nature of job for which the Computer Assistant had been recreated remains the same in-spite of being clubbed together with distinctly lying cadre under the common title of Computer Operator as that of Office Assistant for all intents and purposes including but not limited to Office

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Assistant training, Office Assistant Jobs description and Office Assistant Job responsibilities whether it be nota noty or any other responsibility assigned to Office Assistant.

g. That inspite of all these facts and circumstances the case of the petitioners was turned down for no good reason.

h. That your goodself office is the only competent forum of the instant issue and as per law only the concurrence of Finance and Establishment Department are required otherwise the proposal for subject matter, its justification, requirements and essentialities as well as approval all within the competency of your goodself office whose examples are lying in the office of your very goodself office whether it is the creation / reservation of the 20% quota for the Post of Tehsildar for Office Assistant or its further bifurcation between Office Assistant of Board of Revenue and Commissioner / Deputy Commissioner Offices or whether its the creation / reservation of 5% quota of the Post of Tehsildar for Office Assistant working in the office of Senior Member Board of Revenue. In all these cases this is your goodself office which is competent forum in principle.

In the light of submission mentioned above, your goodslef is pleased to gracious enough to review and revisit order dated 13.05.2022 and got it set-aside and by doing so the petitioners be bring at par with Office Assistant by separating them from Computer Operator and bring them in the joint seniority list of Office Assistant and Senior Scale Stenographer in the office of Commissioners / Deputy Commissioners with further prayers of paving ways for further promotion to the post of Superintendent / Tehsildar with same ways as that of Office Assistant with all back benefit since from the date of initial appointment.

Petitioners

17.05.2022

Mr. Azhar Iqbal Mughal & Others
Computer Assistant/CO (BPS-16)
DC office , Haripur

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

091-9213989 | Peshawar Dated the 01/07/2022 | 091-9214208

NOTIFICATION:

No. Estt:II/WP/3087-P/19/Azhar Iqbal Mughal/ 18628-35 Consequent upon the acceptance of Review Petition in connection with the order of the Peshawar High Court Peshawar issued on 16.03.2022 in Writ Petition No. 3087-P/2019 titled Azhar Iqbal Mughal and Usman Akhtar, Computer Assistants Versus Government of Khyber Pakhtunkhwa and others, the Competent Authority is pleased to adjust names of the petitioners (Thirteen 13 in numbers) in the joint seniority list of Assistants and Senior Scale Stenographers offices of the Commissioners and Deputy Commissioners at Provincial level with immediate effect.

With the approval of
Competent Authority

No. & Date Even.

Copy forwarded to the:-

1. Commissioners of the respective Division.
2. Deputy Commissioners of the respective Districts.
3. PS to Senior Member Board of Revenue.
4. PS to Member-III Board of Revenue.
5. PS to Secretary-I Board of Revenue.
6. Officials concerned.
7. Office order file.

(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue

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BEFORE THE HON'BLE PESHAWAR HIGHCOURT, PESHAWAR.

COC No. _____/2022
In
Writ Petition No. 3087-P/2019

1. Azhar Iqbal Mughal, Computer Assistant.
2. Usman Akhtar, Computer Assistant.

..... *Petitioners*

VERSUS

Mr. Zakir Hussain Afridi, Senior Member Board of Revenue (Revenue & Estate Department) Khyber Pakhtunkhwa.

..... *Respondents*

APPLICATION UNDER ARTICLE 3 & 4 OF THE CONTEMPT OF COURT ORDINANCE, 2003 READ WITH ARTICLE 204 OF THE CONSTITUTION OF ISLAMIC RPEUBLIC OF PAKITAN, 1973

Respectfully Sheweth,

1. That the Petitioners had earlier filed a Writ Petition No. 3087-P/2019 which was disposed *off* by this August Court vide the order & judgment dated 16-03-2022. **(Copies of Writ Petition No. 3087-P/2019 & Order & Judgment Dated: 16-03-2022 is annexed here as Annexure "A & B")**

2. That the Petitioners had filed their Petition titled as **"Azhar Iqbal versus Govt. of KPK"** in order to derive the attention of this August Court towards the fact that the Petitioners had been appointed as Computer Assistants in BPS-11 (initially at the time of devolution of offices of DCOs/DCs) be equated to the Assistants and to struck down the thwarted/halted prospects of promotions of the Petitioner and to include the Petitioners in the joint seniority list of Office Assistants and Senior Scale Stenographers for purposes for promotions and relevant service structures and rules.

3. That the Petitioners submitted at the bar that if the Hon'ble Court issue directions to the Board of Revenue, Khyber Pakhtunkhwa, to decide the Petitioner's application pending before the Respondent, so the Petitioner would not press this writ petition. Hence, on that note, this August Court was gracious enough to direct the Respondents to look into the

ATTESTED

(2)

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4. That thereafter the Respondent vide Notification no. EsttII/WP/3087-P/19/AZHARIQBALMUGHAL/18628-35 Dated: 01-07-2022 pronounced the adjustment of the Petitioners in joint seniority lists of the Assistants and Senior Scale Stenographers offices of the Commissioners and Deputy Commissioners at provincial level with immediate effect. but up-till now after the issuance of above notification at Annexure "C", the SMBR has not issue Revised Joint Seniority List under the Appointment Promotion & Transfer Rule 17(3). **(Copy of the Impugned Notification no. EsttII/WP/3087-P/19/AZHARIQBALMUGHAL/18628-35 Dated: 01-07-2022 & Rules is annexed here as Annexure "C & D")**

5. That in-spite of clear cut directions from this August Court, the time has lapsed, but the adamant Respondent has not issued the seniority lists, not only this but the requisite time to decide the matter was encompassed and restricted to two months and the matter in hand should have been dug and decided back in the second quarter of the year 2022, but actions on part of the Respondent has rendered himself liable to initiation of the contempt of court proceedings against him.

It is therefore most humbly prayed, on acceptance of the instant application, the contempt of Court proceedings may very graciously be initiated against the Respondent, and be punished accordingly.

It is further prayed, that the respondent be directed to implement the reverend judgement / order of this August Court in letter and spirit.

Dated: November 12th, 2022

Petitioner

Through

Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan.

ADMITTED

17

IN THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

CoC No:_____/2022
In
W.P No. 3087-P/2019

Azhar Iqbal Mughal & Other

VERSUS

Zakir Hussain & Others

AFFIDAVIT

I, **Azhar Iqbal Mughal S/o Muhammad Zardad Khan R/o Muhalla, P/o Mankray, Tehsil & District Haripur,** do hereby solemnly affirm & declare on oath that all contents of instant petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Court.

DEPONENT
CNIC: 13302-6836424-5
Cell No: 0332-5482015

Identified by

Javed Iqbal Gulbela
Advocate, Supreme Court of Pakistan

13225

Certified that the above was verified on solemnly affirmation before me in office, this 11 day of Nov 2022 by Azhar Iqbal s/o M. Zardad Khan Haripur who was identified by Javed Iqbal Who is personally known to me.

ATTSTED

"RD"

18

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of the Judge
08.12.2022	**COC No.474-P of 2022 in W.P.No.3087-P of 2019.** **Present:** Mr.Javed Iqbal Gulbela, advocate for the petitioners. Mr.Asad Jan Durrani, AAG alongwith Mr.Sadullah Khan, Assistant Secretary on behalf of the respondent. --- **LAL JAN KHATTAK, J.-** As the order of this court dated 16.03.2022 has been complied with by the respondent by issuing the desired Notification dated 01.07.2022 whereby names of the petitioners in the joint seniority list of Assistants and Senior Scale Stenographers working in the offices of the Commissioners and Deputy Commissioners at provincial level have been included, therefore, this petition has achieved its goal and is dismissed as such. However, if the petitioners are still aggrieved, they can approach the proper forum for the redressal of their grievance, if so advised. JUDGE JUDGE

Sadiq Shah, CS (DB) (Hon'ble Mr.Justice Lal Jan Khattak & Hon'ble Mr.Justice Shakeel Ahmad)

ATTESTED

Service Appeal No. 1798/2022, Nyaz Tahir Mughal

RE 4

19

ORDER
5th Oct 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr Ghulam Shabir, Assistant Secretary for official respondents No 1 and 2 and counsel for impleaded respondents No. 3 to 17 present

2. At the very outset, learned counsel for the appellant referred to notification dated 01.07.2022, issued by the Board of Revenue, Revenue and Estate Department, Government of Khyber Pakhtunkhwa, wherein the competent authority had statedly adjusted the names of the appellants and others in the joint seniority list of Assistants and Senior Scale Stenographers at the offices of the Commissioners and Deputy Commissioners at the provincial level w.e.f the date of issuance of the notification but there was no such seniority list prepared, circulated or handed over to the persons listed in the list. Nor any such list is produced before this Tribunal. Learned counsel for the appellant says that appellant would be satisfied if a direction is given to the respondents to issue seniority list, in compliance of notification dated 01.07.2022, within fifteen days. It is, however, further requested by the learned counsel for the appellant that unless issuance of the seniority list further promotion may not be made. In this respect it is observed that the department shall make promotion from the seniority list which is prepared in the light of

(To be true copy)

ATTESTED

Notification dated 01.07.2022 and ultimately finalized. Copy of the same be handed over to all the persons so listed in the list.

Disposed of in the above terms. Consign.

Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5th day of October, 2023

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Certified to be true copy

Peshawar

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TENTATIVE - SENIORITY LIST OF COMPUTER OPERATORS WORKING AT THE ESTABLISHMENT OF DEPUTY COMMISSIONER, HARIPUR AS IT STOOD ON 31.12.2023

S. No.	Name & Designation.	Date of Birth.	Qualification.	Date of Ist entry into Govt: Service.	Date of Regular Appointment/ Promotion As Computer Operator.	Method of Recruitment.	Department
1.	Mr. Saad Khan	15-11-1976	M. Sc	21-05-2003	21-05-2003	Direct	F&P. Haripur
2.	Mr. Mohammad Afzaal	12-11-1982	MBA	21-05-2003	21-05-2003	Direct	P&D. Haripur
3.	Mr. Azhar Iqbal Mughal	15-03-1973	M.A	21-02-2004	21-02-2004	Direct	D.C. Haripur
4.	Mr. Nasir Mehmood Khan	23-03-1983	B. Sc.	19-06-2006	19-06-2006	Direct	F&P Haripur
5.	Mr. Muhammad Muneer	06-03-1981	B.Com	30-06-2006	30-06-2006	Direct	F&P. Haripur
6.	Mr. Usman Akhtar	23-05-1985	M.A (IR)	25-09-2006	25-09-2006	Direct	D.C. Haripur
7.	Mr. Imran Khan	19-07-1983	M.A	01-07-2013	01-07-2013	Direct	F&P. Haripur
8.	Mr. Aatif Ibrar	15-02-1988	M.Com	24-02-2016	24-02-2016	Direct	SDC. Haripur
9.	Mr. Zanub Sultan	06-03-1991	MSc (CS)	24-02-2016	24-02-2016	Direct	SDC. Haripur
10.	Mr. Adnan Bashir	29-10-1987	BS (CS)	25-02-2016	25-02-2016	Direct	SDC. Haripur
11.	Mr. Faheem Ilyas	13-02-1991	BS (CS)	26-02-2016	26-02-2016	Direct	SDC. Haripur
12.	Mr. Kamil Ahmed	19-01-1992	BS (Hons)	26-02-2016	26-02-2016	Direct	SDC. Haripur
13.	Mr. Muhammad Bilal	28-03-1993	B.Com	26-02-2016	26-02-2016	Direct	SDC. Haripur
14.	Mr. Abdul Basit	16-01-1992	B.Com	29-02-2016	29-02-2016	Direct	SDC. Haripur
15.	Mr. Faizan Romail	28-08-1995	B.Com	28-09-2015	29-02-2016	Direct	SDC. Haripur
16.	Mr. Muhammad Ijaz	04-01-1990	BSc	25-07-2016	05-09-2019	Direct	SDC. Haripur
17.	Mr. Hilal Tariq	21-11-1993	BS (CS)	05-09-2019	05-09-2019	Direct	SDC. Haripur
18.	Mr. Hamid Tanoli	02-02-1995	BS (CS)	05-09-2019	05-09-2019	Direct	D.C. Haripur

Deputy Commissioner,
Haripur.

No. AE/Seniority/ 68-98 /DC(H) Dated: 8-1-2024

Deputy Commissioner,
Haripur.

Copy to the:

1. Additional Deputy Commissioner (F&P), Haripur.
2. Officials concerned.

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SENIORITY LIST IN RESPECT OF "COMPUTER OPERATORS" (BPS-16) OFFICE OF THE DEPUTY COMMISSIONER KARAK AS STOOD ON 31-12-2021

S#	Names	D.O.B	Qualification	Domicile	Date of 1st entry into Govt: Service	Date of regular appointment/ promotion to the present post	Method of appointment (Selection/ Promotion)	Remarks
1	Abdus Samad	12/02/1981	BA	Karak	10/03/2003	10/03/2003	Direct	
2	Munir Hassan	02/02/1970	MA	Karak	15/09/1991	17/07/2004	Direct	
3	Jamshid Ali Shah	03/03/1978	BA	Karak	28/12/2002	04/11/2004	Direct	
4	Fateh Ullah	22/01/1981	MCS/MBA	Karak	15/09/2005	15/09/2005	Direct	
5	Zahid Ullah	07/03/1981	MCS	Karak	15/09/2005	15/09/2005	Direct	
6	Zahid Kamal Akhtar	01/04/1988	BCS(Hons)	Karak	25/03/2016	25/03/2016	Direct	
7	Nasrullah Khan	30/12/1988	MSc	Karak	25/03/2016	25/03/2016	Direct	
8	Khalil-ur-Rehman	25/02/1988	BBA(Hons)	Karak	25/03/2016	25/03/2016	Direct	
9	Muhammad Aatef	01/04/1989	BCS(Hons)	Karak	25/03/2016	25/03/2016	Direct	
10	Tariq Ullah	01/04/1986	M.A	Karak	25/03/2016	25/03/2016	Direct	
11	Naseeb Ullah Khan	14/09/1991	BE(IT)	Karak	25/03/2016	25/03/2016	Direct	
12.	Tahir Mehmood	07/02/1985	M.A (Alamia)	Karak	25/03/2016	25/03/2016	Direct	
13	Ijaz Ahmed	30/08/1988	M.A	Karak	25/03/2016	25/03/2016	Direct	
14	Zia Ullah Khan	15/03/1979	M.A	Karak	25/03/2016	25/03/2016	Direct	
15	Zahid Iqbal	06/04/1991	BS(CS)	Karak	25/03/2016	25/03/2016	Direct	
16	Amir Mehmood	02/04/1990	MCS	Karak	20/04/2016	20/04/2016	Direct	

Deputy Commissioner
Karak
Dated: 18-3 /2022

Endst: No. 1374 /EA/DC-Karak/Seniority

Copy forwarded to the:-

1. Commissioner Kohat Division Kohat.
2. Assistant Secretary (Admn), Board of Revenue, Revenue & Estate Deptt: Khyber Pakhtunkhwa, Peshawar.
3. All the Computer Operators' DC's Office Karak.

Deputy Commissioner
Karak

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE /REVENUE AND ESTATE DEPARTMENT.

NOTIFICATION
Peshawar, dated 23- 01-2015

No. 1942/Estt:I/135/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO. 457(1)/2001 dated 28th June, 2001 and in supersession of all previous rules issued in this behalf, the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the cadre strength of Revenue and Estate Department specified in column 2 of the said appendix:-

APPENDIX

1	2	3	4	5	6	7
S.No	Nomenclature of the post	Appointing Authority	Minimum Qualification for appointment by initial recruitment or by transfer	Minimum Qualification for appointment by promotion	Age limit	Method of recruitment
1.	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 – 30 years For initial recruitment	(a) Twenty percent by initial recruitment: and (b) Sixty percent by promotion, on the basis of joint seniority-cum-fitness from amongst Naib Tehsildars, District Revenue Accountants, District Kanungos and Sub-Registrar with at least five years service. (c) Twenty percent by promotion on the basis of joint seniority-cum-fitness from amongst Assistants of the office of Board of Revenue, offices of Commissioners, Deputy Commissioners and Political Agents having five years service as such.

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JAVED IQBAL Gul Bala
Dawoodzai Law Chambers
Advocate High Court Peshawar
Mob: 0345-9405101

1	2	3	4	5	6	7
"1-A	Reader to Senior Member / Members Board of Revenue	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
"1-B	Inspector of Stamps	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
2.	Naib Tehsildar (BPS 14)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 – 30 years For initial recruitment	(a) Fifty percent by initial recruitment, through NWFP Public Service Commission based on the result of a Competitive Examination conducted by it in accordance with syllabus, and (b) twenty five percent by promotion on the basis of Seniority – cum – fitness from amongst Kanungos with at least Five Years Service as such, who have passed the Departmental Examination of Naib Tehsildar. (c) fifteen percent by promotion, on the basis of joint Seniority – cum – fitness from amongst Senior Clerks of the office of Board of Revenue, Commissioners and Deputy Commissioners Offices in the Division concerned; and (d) Ten percent by promotion on the basis of seniority cum fitness from amongst Junior Clerks as Political Muharrirs of the offices of Political Agents with atleast ten years service.";
3.	District Kanungo (Saddar Kanungo) (BPS 14)	Administrative Secretary (SMBR)	-	-	-	By promotion on the basis of seniority-cum-fitness, from amongst the Kanungo of the concerned District with at-least three years service as such
4.	Head Clerk Revenue (BPS – 14)		-	-	-	By transfer from amongst Naib Tehsildar (Deleted) (Post has been abolished)

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Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

		(ii) a speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and (iii) knowledge of computer in using MS Word, MS Excel.		
6.	Senior Clerk (BPS-14)	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the district concerned with atleast two years service as such.
7.	Computer Operator (BPS-12)	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology(BCS/BIT four years), from a recognized university; (ii) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education	18-to 28 years	By initial recruitment from amongst the candidates of the district concerned.
8.	Pesh Imam (BPS-12)	Sanad in Dars-e- Nizami or a Sanad of Fazail-e-Arabi Note: Preference will be given Hafiz-e-Quran.	18-to 32 years	By initial recruitment from amongst the candidates of the district concerned.
9.	Sub Engineer (BPS-11)	Diploma in Associate Engineering in Civil Technology from Board of Technical Education with certificate in Computer Aided Design (CAD) from recognized Institution.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
10.	Junior Clerk (BPS-11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing.	18 to 30 years	(a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the district concerned with two years service as such, who have passed Secondary School Certificate Examination; and (b) sixty seven percent by initial recruitment from

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Advocate High Court Peshawar
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				the candidates of the district concerned. Note: For the purpose of promotion there shall be maintain a common seniority list of Qasid and Naib Qasid etc with reference to the date of their appointment: Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment: Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possession the requisite qualification shall be promoted in preference to the senior official or officials.
11.	Reader/Record Keeper (BPS-7)	At least second division in Secondary School Certificate or equivalent qualification from a recognized Board.	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.
12.	Alhamad (BPS-5)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
13.	Driver (BPS-4)	Literate having LTV driving license issued by the competent authority. Preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
14.	Khadim (BPS-4)	Literate. Note: Preference will be given to Hafiz-e-Quran	18-32 years	By initial recruitment from amongst the candidates of the district concerned.

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Advocate High Court Peshawar
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15.	Process Server (BPS-2)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
16.	Qasid (BPS-2)	---	---	By promotion on the basis of Seniority-cum-fitness, from amongst the Naib Qasids with two years as such.
17.	Naib Qasid/ Chowkidar/Sweeper/ Mali (BPS-1)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.".

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Sd/-
SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

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

Peshawar Dated the 23/01/2015

JAVED IQBAL Gill Bela
Daudzai Law Chambers
Advocate High Court Peshawar
Mob: 0345-9405501

ATTESTED

NOTIFICATION

No. 2074/Estt:I/II/135/SSRC. 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 Establishment Department and the Finance Department, hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

APPENDIX

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Superintendent (BPS-17)	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioner and Political Agents.

2.	Senior Scale Stenographer (BPS-16)	(i) At least Second Class Bachelor's Degree, from a recognized university; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and (iii) Knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; and (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents: Provided that if no suitable person is available for promotion then by initial recruitment.
3.	Assistant (BPS-16)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 years	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with atleast five years service as Junior and Senior Clerk in the Offices of Deputy Commissioners and Political Agents of district concerned; and (b) twenty five percent by initial recruitment from amongst the candidates of the district concerned.
4.	Head Clerk (BPS-14)	....	...	By transfer from amongst Senior Clerks (BPS-14) of the district concerned.
5.	Stenographer (BPS-14)	(i) At least Second Class Intermediate or equivalent qualification from a recognized Board;	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.

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JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHAWA SERVICES TRIBUNALS, PESHAWAR.
Case No. 296/2024
"Muhammad Asif Computer Asstt: O/O Deputy Commissioner Mardan"
.... Versus ....
Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar

I, Wasim Ullah (Resp:# 43) do hereby appoint **Muhammad Azim Khan Afridi, Jahanzeb Mahsud, Waqar Khalil, Mian Junaid Sardar, Sajid Mahsud & Saddam Hussain** Advocates, in the above-mentioned case, to do all or any of the following acts, deeds and things:-

1. **To** appear, act and plead for me/us in the above-mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. **To** sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.

And hereby agree:

(e) **That** the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 30th day of April, 2024.

Signatures of Executant

Wasim Ullah (Resp: # 43)

Attested & accepted by:

Muhammad Azim Khan Afridi

Jahanzeb Mahsud

Waqar Khalil

Sajid Mahsud

Mian Junaid Sardar

Saddam Hussain

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHAWA SERVICES TRIBUNALS, PESHAWAR.

Case No. 296/2024

Muhammad Arif Computer Asstt: O/O Deputy Commissioner Mardan

.... Versus ....

Senior Member Board of Revenue Khyber Pakhtunkhwa and others

We, Muhammad Khalid Azmat (R.No.5), Jalil Ahmad (R.No.14), Shakil Ahmad (R.No.16), Zardad Khan (R.No.17), Inam Ullah (R.No.31), Abdul Raziq (R.No.33), Naeem Ullah (R.No.35), Abdurehman (R.No.63), Imran Khan (R.No.65), Muhammad Zahid (R.No.68), Saadat Hussain (R.No.79), Tariq Ahmad (R.No.80), Mustamir Shah (R.No.320), do hereby appoint **Muhammad Azim Khan Afridi, Jahanzeb Mahsud, Waqar Khalil, Mian Junaid Sardar, Sajid Mahsud & Saddam Hussain** Advocates, in the above-mentioned case, to do all or any of the following acts, deeds and things:-

1- **To** appear, act and plead for me/us in the above-mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.

2- **To** sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.

And hereby agree:

(a) **That** the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 30th day of April, 2024.

Signatures of Executant

Muhammad Khalid Azmat (R.No.5)
Shakil Ahmad (R.No.16)
Inam Ullah (R.No.31)
Naeem Ullah (R.No.35)
Imran Khan (R.No.65)
Saadat Hussain (R.No.79)
Mustamir Shah (R.No.320)

Jalil Ahmad (R.No.14),
Zardad Khan (R.No.17),
Abdul Raziq (R.No.33),
Abdurehman (R.No.63),
Muhammad Zahid (R.No.68),
Tariq Ahmad (R.No.80),

Attested & Accepted by:

Muhammad Azim Khan Afridi

Jahanzeb Mahsud

Waqar Khalil

Sajid Mahsud

Mian Junaid Sardar

Saddam Hussain

Muhammad Salman