

Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 257 /2024

S.No.

Date of order
proceedings

Order or other proceedings with signature of judge


2

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21.03.2024

The implementation petition of Miss. Faiza Abbasi refiled today by registered post through Sajjad Anmed Abbasi Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on 23/4/2024 Original file be requisitioned. AAG has noted the next date. The counsel for the Petitioner has been informed telephonically.

By the order of Chairman



REGISTRAR

... appeal no. 712/2016 received today i.e. on ...
... returned to the counsel for the petitioner with ...
... remarks.

... copy of application moved by the petitioner to competent authority ...
... implementation of judgment is not attached with the petition.
... approach has already been preferred and reasonable period of ...
... has been expired be placed on file. If not, the same process be ...
... and then after approach to this Tribunal for the ...
... implementation of Judgment.

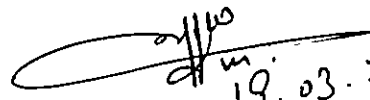
... attached with the petition are unattested.

56°
13-3-2024


REGISTRAR
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Sajjad Ahmed Abbasi Adv.
Peshawar

Sir,
After Removal of Objections this
Application is re-submitted, please.


19.03.2024

Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan

Coast File

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA PESHAWAR

E. P. No. 257/2024

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony,
Mandian Tehsil and District Abbottabad, presently working in the office of
Commissioner Hazara Division Abbottabad.

...PETITIONER.

VERSUS

Government of KPK through Secretary Board of Revenue, KPK, Peshawar and others.

...RESPONDENTS.

APPLICATION FOR EXECUTION/ IMPLEMENTATION

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3	Copy of minutes of meeting.	21 to 25	"B"
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Faiza Abbasi

MISS FAIZA ABBASI

DATED: 04-03-2024

Through

Sajjad Ahmed Abbasi

SAJJAD AHMED ABBASI ADVOCATE
SUPREME COURT OF PAKISTAN
AT ABBOTTABAD

①

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA PESHAWAR

E. P. No. 257/2024

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony,
Mandian Tehsil and District Abbottabad, presently working in the office of
Commissioner Hazara Division Abbottabad.

...PETITIONER.

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11716

Dated 12-03-2024

1. Government of KPK through Secretary Board of Revenue, KPK, Peshawar.
2. Senior Member Board of Revenue, Peshawar.
3. Awais Ahmed Qureshi Employee of Commissioner Office, Hazara Division Abbottabad.
4. Farah Naz, Employee of Commissioner Office, Hazara Division Abbottabad.
5. Commissioner Hazara Division, Abbottabad.
6. Assistant to Commissioner, (Rev/GA), Hazara Division, Abbottabad.

...RESPONDENTS.

APPLICATION UNDER SECTION 7 OF KP SERVICE TRIBUNAL
ACT 1974 FOR ISSUANCE OF DIRECTIONS TO THE
RESPONDENTS NO. 1 AND 2 TO EXECUTE/ IMPLEMENT THE
JUDGMENT AND ORDER DATED 27-09-2023 OF THIS
HONOURABLE TRIBUNAL PASSED IN APPEAL NO. 712/2016
TITLED AS "MISS FAIZA ABBASI VERSUS GOVERNMENT OF KPK
ETC."

RESPECTFULLY SHEWETH:

1. That the Petitioner filed a Service Appeal before this Honourable Tribunal wherein she challenged the merit list of computer operators.

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2. That the Respondents were put on notice and after procuring replies from the Respondents arguments of counsels for the parties were heard by the Honourable Tribunal.
3. That on 27-09-2023 the Appeal No. 712 of 2016 filed by the Appellant and connected Appeal No. 7313 of 2021 filed by the one Abdul Wahab was disposed of wherein this Honourable Tribunal issued directions to the Respondents to fix/ determine the seniority of the parties and then issue final seniority list and properly notify the same in official gazette. It was also held by this Honourable Tribunal in the Judgment and Order dated 27-09-2023 that the promotions or further career progression of any of the parties secured on the basis of disputed/ individual/ unauthentic seniority list has to raze to the ground. Copy of Judgment and Order dated 27-09-2023 is annexed as annexure "A".
4. That the August office of Commissioner Hazara Division Abbottabad/ Respondent No. 5 has implemented the Judgment of this Honourable Tribunal after affording an opportunity of hearing to the concerned parties, prepared a merit list and issued a merit list on the basis of merit list by placing the Petitioner/ Appellant at the top. Copies of minutes of meeting is annexed as annexure "B", copy of merit list is annexed as annexure "C" whereas copy of seniority list is annexed as annexure "D".
5. That office of Commissioner Hazara Division Abbottabad/ Respondent No. 5 sent a letter to the Senior Member Board of Revenue / Respondent No. 2 for publishing the Seniority List in the official gazette and for reviewing the promotions in the light of Judgment of this Honourable Tribunal. Copy of letter is annexed as annexure "E".

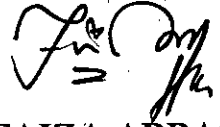
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6. That the Assistant Secretary to Respondent No. 2 issued a letter dated 12-02-2024 addresses to the Secretary Commissioner Hazara Division for re-examination of case. Copy of letter is annexed as annexure "F".
7. The office of Commissioner Hazara Division vide letter No. 2535 dated 21-02-2024 Addressed to the Assistant Secretary to Respondent No. 2 conveyed to the Respondent No. 2 that merit/ seniority list has been prepared in accordance with the Judgment of Tribunal. Copy of letter is annexed as annexure "G".
8. That despite lapse of almost five months, Respondent No. 2 is reluctant to execute/ implement the Judgment and Order of this Honourable Tribunal, therefore, as a last resort the Petitioner is approaching this Honourable Tribunal for implementation of the Judgment and Order of this Honourable Tribunal dated 27-09-2023.
9. That as per the information of Petitioner the Judgment and Order date 27-09-2023 passed by this Honourable Tribunal has not been challenged before Supreme Court of Pakistan, therefore, the Judgment and Order dated 27-09-2023 has attained finality.
10. That valuable rights of the Petitioner are involved.
11. That this Honourable Tribunal has Jurisdiction.

IT IS THEREFORE HUMBLY PRAYED THAT THE TITLED APPLICATION MAY KINDLY BE ALLOWED AND THE RESPONDENTS NO. 1 & 2 BE DIRECTED TO EXECUTE/ IMPLEMENT THE JUDGMENT AND ORDER DATED 27-09-2023

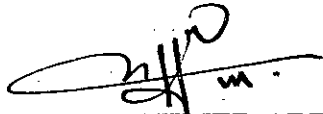
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PASSED IN SERVICE APPEAL NO. 712 OF 2016 IN LETTER IN
SPIRIT.



MISS FAIZA ABBASI

DATED: 4-03-2024

Through 

SAJJAD AHMED ABBASI ADVOCATE
SUPREME COURT OF PAKISTAN
AT ABBOTTABAD

AFFIDAVIT:

I do hereby solemnly affirm and declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal. No such like application has earlier been filed nor decided.


DEPONENT.

ATTESTED
Sajjad Ahmed Abbasi
Advocate Abbottabad Pakistan
04/03



Service Appeal No. 712/2016 filed "Miss Faiza Abbasi & others vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others" declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP COURT, ABBOTTABAD

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
SALAH-UD-DIN ... MEMBER(Judicial)

Service Appeal No.712/2016

Date of presentation of Appeal.....20.06.2016
Date of Hearing.....26.09.2023
Date of Decision.....27.09.2023

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony, Mandian, Tehsil & District Abbottabad, presently working as Computer Operator (BPS-12) in the office of Commissioner, Hazara Division, Abbottabad.....Appellant

Versus

1. **Government of Khyber Pakhtunkhwa, through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.**
2. **Senior Member Board of Revenue, Peshawar.**
3. **Commissioner Hazara Division, Abbottabad.**
4. **Assistant to Commissioner, (Rev;/GA), Hazra Division, Abbottabad.**
5. **Awais Ahmad Qureshi, Computer Operator, Commissioner Office, Hazara Division, Abbottabad.**
6. **Farah Naz, Computer Operator, Commissioner Office, Hazara Division, Abbottabad.(Respondents)**

Present:

Mr. Sajjad Ahmad Abbasi, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate GeneralFor official respondents
Mr. Arshad Khan Tanoli, Advocate.....For private respondent No.5
Syed Raza Shah, Advocate.....For private respondent No.6

Service Appeal No.7313/2021

Date of presentation of Appeal.....24.08.2021
Date of Hearing.....26.09.2023
Date of Decision.....27.09.2023

Abdul Wahab, Junior Scale Stenographer, Office of Commissioner Hazara Division, Abbottabad.....Appellant

Versus

1. **Senior Member Board of Revenue, Government of Khyber Pakhtunkhwa, Peshawar.**
2. **Commissioner, Hazara Division**
3. **Awais Ahmad Qureshi, Computer Operator, Commissioner Office, Hazara Division, Abbottabad..... (Respondents)**

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar



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Service appeal No.712/2016 titled: "Miss Faiza Abbasi Vs. & other vs- Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.

Present:

Sardar Muhammad Irshad, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate GeneralFor official respondents
Mr. Arshad Khan Tanoli, Advocate..... For private respondent No.3

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment the above two appeals are going to be decided as decision of the both is interdependent, therefore, can be conveniently taken up and decided together.

2. Brief facts of the appeals are as under:

i. SA No.712/2016 Miss Faiza Abbasi:

The appellant was appointed as Junior Clerk in BPS-07 in the office of Commissioner, Hazara Division Abbottabad; that vide advertisement dated 07.07.2010 in the Urdu daily "AAJ", applications were invited for the vacant posts of Computer Operators in the office of Commissioner, Hazara Division. The appellant applied for the same and vide order dated 16.12.2011 she was appointed as Computer Operator in BPS-12 in the office of Commissioner Hazara Division, Abbottabad; that on 16.12.2015 the official respondents issued tentative seniority list of Computer Operators working in BPS-12 but service of two and half years of the appellant as Junior Clerk was not included and she was placed at Serial No.3; that the appellant filed objection petition against the said tentative seniority list on 29.12.2015; that despite her objection, she was placed at the same serial i.e. Serial No.3 in the impugned seniority list dated 08.01.2016. Feeling aggrieved, she filed

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departmental appeal on 08.01.2016 which was dismissed on 19.05.2016, hence the instant service appeal.

ii. S.A No.7313/2021 Abdul Wahab:

Appellant joined the respondent department as Junior Scale Stenographer (BPS-14) w.e.f 27.02.2018 on regular basis. While serving there, two sanctioned posts of Senior Scale Stenographer became vacant and for filling of post, criteria set was that 60% by promotion on the basis of seniority-cum-fitness from amongst the Junior Scale Stenographers with at least five years service and 40% by promotion on the basis of seniority-cum-fitness from amongst the Computer Operators with at least five years service. That the seats were filled by Mr. Aminul Haq Junior Scale Stenographer on the basis of 60% promotion quota and Mr. Awais Ahmad Qureshi, Computer Operator (private respondent) on the basis of 40% quota, on 21.09.2016; that at the relevant time, the quota reserved for Junior Scale Stenographer was 1.2 while the 0.8 for Computer Operators; later on, Mr. Aminul Haq was promoted as Private Secretary (BPS-17) and the post of Senior Scale Stenographer (BPS-16) became vacant against which, Mr. Muhammad Faisal, Junior Scale Stenographer was promoted; that on reversion of Mr. Awais Ahmad Qureshi from Senior Scale Stenographer to the post of Computer Operator, the Senior Scale Stenographer seat became vacant; that against the said post, Miss Farah Naz Computer Operator was promoted and upon her further promotion to the post of Private Secretary (BPS-17), the post of Senior Scale Stenographer again fell

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vacant and a DPC was convened for filling of the said post; that the case of the appellant was also placed before the Committee, but instead of the appellant, Mr. Awais Ahmad Qureshi (private respondent) was promoted on Acting Charge Basis vide impugned order dated 29.12.2020. Feeling aggrieved, the appellant filed departmental appeal which was rejected vide order dated 27.07.2021, hence, the instant service appeal.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellant, learned Assistant Advocate General for the official respondents and learned counsel for private respondent(s), on different dates and also sought assistance of the Commissioner, Hazara Division.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General assisted by learned counsel for private respondent(s), controverted the same by supporting the impugned order(s).

6. Before proceeding ahead, we would like to give certain facts brought on record by the parties. After the advertisement, receipt of applications of the candidates for appointment against the post of Computer Operator, written tests & Computer Practical Test etc., two

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meetings of the Departmental Selection Committee were held. One meeting was held on 03.10.2011, which was attended by Mr. Muhammad Khalid Khan Umarzai, the then Commissioner Hazara Division, Syed Imtiaz Hussain, the then District Coordination Officer, Abbottabad and Mr. Abdul Haleem Khan, the then Assistant to Commissioner (Rev/GA), Hazara Division, Abbottabad and the minutes were recorded in the following manner:

"The vacancies of Computer Operators were advertised by this office in the Dail (Aaj) on 7th July, 2010. Total 43 candidates were called for the screening test held on 20.05.2011 while 33 appeared for the test. Out of 33, 19 qualified the test. For the Practical Computer typing test, 19 candidates attended which was held on 08.06.2011. Out of the 19 candidates, only 5 qualified who were called for interview today.

The committee interviewed all the 5 candidates, and at the end concluded that out of the 5 candidates, the 2 at the top of the final merit list i.e. Ms. Farah Naz D/O Muhammad Ismail and r. Awais Qureshi S/O Wali Muhammad may be appointed on the posts of Computer Operator keeping in view the emergent need of this office while the remaining vacancy will be considered for filling later on either from the candidates on the present merit list or otherwise. The committee unanimously agreed with this decision and approved accordingly."

ATTESTED

[Signature]
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While the second meeting was held 16.12.2011², which was attended by Mr. Muhammad Khalid Khan Umarzai, Commissioner Hazara Division, Syed Imtiaz Hussain, District Coordination Officer, Abbottabad and Miss. Adeela Hafeez, Assistant to Commissioner (Rev/GA) Hazra Division, Abbottabad and the minutes were recorded in the following manner:

"APPOINTMENT AGAINST THE POST OF COMPUTER

OPERATOR (BPS-12)

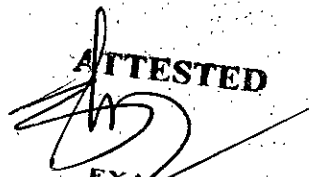
The vacancies of Computer Operators were advertised by this office in the Daily (Aaj) on 7th July, 2010. Total 43 candidates were called for the screening test held on 20.05.2011 while 33 appeared for the test. For the Practical Computer typing test, 19 candidates attended which was held on 08.06.2011.

The committee gone through the qualification and merit of all the candidates thoroughly and recommended that one Miss. Faiza Abbasi D/O Jana-e-Alam whose performance and fitness for the required duties seems appropriate. The committee unanimously decided to appoint Miss. Faiza Abbasi as Computer Operator (BPS-12) against the vacant post.

APPOINTMENT AGAINST THE POST OF JUNIOR

CLERK (BPS-07)

Consequent upon the appointment of Miss. Faiza Abbasi Junior Clerk as Computer Operator (BPS-12) one

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vacancy of Junior Clerk occurred which was to be filled in by fresh recruitment. The case of one Mr. Muhammad Imran who had also applied for the post of KPO has placed before the committee. The candidate though had good knowledge of computer and found competent but his qualification was F.Sc and not legible for appointment as KPO, hence the committee unanimously decided to appoint the candidate against the above occurring vacancy of Junior Clerk (BPS-07)."

7. From the record placed before the Tribunal, it seems undisputed that the appellant and private respondent No.6 were candidates and were selected and appointed as Computer Operator (BPS-16) in the same selection process, initiated in response to the same advertisement published in Urdu Daily "Aaj" dated 07.07.2010. On 27.04.2023, learned counsel for the appellant submitted a detailed application alongwith list of 43 shortlisted candidates for the post of Computer Operator, call letters for written test bearing No.CHD/1/2-Estab:4966 dated 03.06.2011, issued to the appellant for computer practical test, computer practical result sheet dated 08.06.2011, some note parts of the relevant file of the office of the Commissioner, Hazara Division, call letter No.CHD/1/2-Estab:5569-71 dated 21.06.2011, issued to the appellant for her appearance in interview, merit list of only 4 candidates named Faiza Abbasi, Noman Khan, Awaiz Qureshi and Zia Ul Haq signed by the Assistant to Commissioner (Rev-GA) Hazara Division, (it is pertinent to mention here that the list does not contain the name of private respondent,

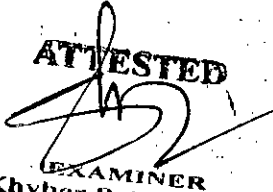
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Miss. Farah Naz), an order No.CHD/Estab/2/3/5027-34 dated 01.08.2017, enquiry proceedings conducted by Tasleem Khan, Deputy Commissioner, Haripur. It was observed by the Tribunal that although the question before ~~the~~ it was the claim of seniority of the appellant, yet undisputedly the appellant and private respondent No.6 were appointed through initial recruitment, the process of which was initiated as a result of the same advertisement. In case of initial recruitment the seniority is to be determined under Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, while the only criterion, for fixation of seniority, of the persons, appointed through initial recruitment, provided in the rules, is the merit order assigned to the candidates, by the Selection Committee. The Tribunal directed the Commissioner, Hazara Division to produce all the record of recruitment process, right from the advertisement, applications, list of eligible candidates, list of candidates, who appeared for tests and interviews etc. till appointment date and in case no such record was found, as was evident from the different documents, produced before the Tribunal, a detailed report, in writing, or an authentic merit list duly certified by the Commissioner, should be submitted, enabling the Tribunal for further proceedings in the matter. The case was adjourned to 08.05.2023.

8. On 08.05.2023, following order sheet was passed:

"1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith

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Syed Asif Iqbal, Assistant to Commissioner for the respondents present.

2. *In compliance with the previous order sheet dated 27.04.2023 Syed Asif Iqbal Assistant Commissioner (Political) Office of Commissioner Hazara Division submitted a report alongwith some documents with some irregularities and malpractice stated in the report regarding misplacement of the record of recruitment process, however, the authentic merit list, of the candidates who had applied, appeared and competed in the selection process, has not been produced before the Tribunal rather the two lists, available on the record of the Commissioner Hazara Office as mentioned in the previous order sheet, were again produced. It is observed in the previous order sheet that the case in the Tribunal is one of the seniority of the persons as to determine the seniority under section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, wherein the sole criteria and the criteria is merit order. There are two merit lists produced before the Tribunal one is containing four names without the name of private respondent No.6, while the other produced by the private respondent No.6, as representative of respondents containing five names. Therefore, we would like to direct Commissioner Hazara*

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Division to produce a certified merit list duly signed by him of all the candidates not from the record available in his office and already produced before the Tribunal as that is not reliable containing two different merit lists but from the record of the selection process on or before 24.05.2023 before D.B at Camp Court, Abbottabad."

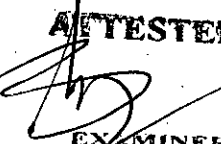
9. On the next date i.e. on 24.05.2023, Syed Asif Iqbal, Assistant to Commissioner submitted written report of the Commissioner, Hazara Division. On 19.06.2023, the Commissioner, Hazara Division sought some time to assist the Tribunal but thereafter, no assistance was given.

10. Written report of the Commissioner Hazara Division was also submitted which is reproduced as under:

"In compliance with the directions of the Honorable Tribunal dated 08.05.2023 in respect of subject case, the following fact/report is submitted:

1. *The relevant record has been checked which transpires that the recruitment process for the appointment of Computer Operators (BPS-12) was completed by the following dealing officers.*

S #	NAME OF OFFICER/DEALING OFFICER	TENURE	DATE OF TEST
1.	Matloob ur Rehman (Then Assistant to Commissioner) Retired	02.04.2011 to 30.09.2011	Date of written test: 20.05.201

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Service Appeal No.712-2016 titled "Miss Faiza Abbasi Vs. & other -vs- Government of Khyber Pakhtunkhwa through Secretary Board of Revenue Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Saksh-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.

			1. Date of practical test: 08.06.201
			1. Date of Interview: 25.06.201
2	Abdul Haleem Khan (Now serving as Deputy Secretary, Chief Minister's Secretariat, Peshawar)	30.09.2011 to 19.10.2011	DPSC meeting held on 03.10.2011 vide which Miss Farah Naz and Awais Qureshi were appointed
3	Adeela Hafeez (Now serving in Punjab)	19.10.2011 to 31.12.2011	DPSC meeting held on 16.12.2011 vide which Miss Faiza Abbasi was appointed

ATTESTED

EX-MEMBER
Khyber Pakhtunkhwa
Service Tribunal
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2. There is contradiction between constituted DPSC as Board of Revenue's Notification reveals that one ~~member~~ ^{member} should be from



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Service Appeal No. 712-2016 titled "Miss Farva Abbasi Vs. & other -vs- Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Sahab-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar or Camp Court, Abbottabad.

Board of Revenue while notification issued by the then Commissioner Hazara Division excluded the Board of Revenue from DPSC and included the DCO Abbottabad as member which is violation of the Board of Revenue's notification.

3. Mr. Matloob ur Rehan has completed the entire process except interview but merit list of written test and computer typing test provided by the petitioner were signed by a single member i.e. Mr. Matloob ur Rehman (ACR) not by all members of the DPSC.

4. Mr. Abdul Haleem then ACR who assumed charge on 30.09.2011 when the process of written test, typing test and interview were completed except meeting of DPSC, prepared all record again during his tenure which is doubtful as it is in contradiction with other merit lists prepared by his predecessor.

5. In present situation, this office cannot ascertain that which merit list is genuine at the entire recruitment process from beginning has procedural lapses and after lapse of 12 years; it is not possible to validate the said process or any part/document of it".

11. It is reflected from the record that vide order dated 01.08.2017, Mr. Tasleem Khan, Deputy Commissioner, Haripur was appointed as Inquiry Officer. The said order stated that a meeting of the Departmental Selection Committee for appointment of Computer Operator was reportedly held on 03.10.2011; that while processing an appeal of the seniority of Computer Operators, it was found that original record of the said DSC was not available in the office, consequently, the subject appeal

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could not be disposed due to non-availability of relevant record. It was further stated that misplacement of record/merit list of subject DSC was extreme negligence/inefficiency on the part of the dealing hand/officials, who remained posted in the Establishment Branch of the Commissioner Office. Following officials were stated to be posted:

1. Mr. Awais Ahmad, Assistant.
 2. Mr. Muhammad Babar, Assistant.
 3. Mr. Awais Qureshi, Computer Operator
 4. Mr. Obaid ur Rehman Senior Clerk.
 5. Mr. Fazal ur Rehman, Assistant.
 6. Mr. Muhammad Shoaib, Junior Clerk.
 7. Miss. Farah Naz, Computer Operator.
12. Mr. Tasleem Khan, DC Haripur conducted detailed inquiry and submitted findings/recommendations which are reproduced as under:

"From the perusal of record produced before the undersigned, written statements and cross examination etc, it recommended that:-

1. *Under the policy/rules/laws, all the officials who remained posted in the Establishment Branch were bound to undertake proper handling/taking of branch record at the time of their transfers/postings but they did not do so as a result they all are liable to be proceeded against the E&D Rules in connection with misplacement of record on the basis of negligence/ignorance of rules/laws and inefficiency as they were totally naïve and casual to their prime responsibility/job description as well.*

2. *Ms. Farah Naz, Computer Operator whose name appeared in the minutes of DPSC dated 03.10.2011 and does not figure in the Attendance Sheet and Call Letter seemed to be interested for*

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Service Tribunal
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Service Appeal No.712 2016 titled "Miss Faiza Abbasi Vs. & other -vs- Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah-Ud-Din, Member Judge of Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad

promotion as Senior Scale Stenographer (BPS-16) instead of Mr. Awais Qureshi might have misplaced the service record while posted in Establishment Branch for declaring herself to be senior in the respective cadre. She may be proceeded against independently for misplacement of relevant record from the main file, since she did not file appeal well in time and to cover the lacuna as the misplacement was in her best interest. She did so after misplacing the record on the basis of her vested interested in the matter, which has been established from the file to get benefit herself from the situation. Moreover, some copies of Note Sheets produced during the course of investigation by Mr. Awais Qureshi would further corroborate the involvement of Ms. Farah Naz, Computer Operator rendering her for disciplinary action under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011."(underlining is own).

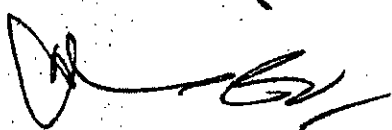
No further proceedings appear to have been done by the Deputy Commissioner, Haripur nor by anybody else, as nothing was produced before the Tribunal in that respect. So it is unknown as to what had happened thereafter.


13. Be that as it may, it is nowhere denied by anybody that the appellant and private respondent, were initially appointed as Computer Operators in the same selection process though for the unknown reasons two meetings of the DSC were held on two different dates i.e. one on 03.10.2011 and the second was on 16.12.2011. That right from initial recruitment, until date, no effort seems to have been done by the

ATTSTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


department to determine the seniority under section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Despite giving a number of opportunities to the Commissioner Hazara Division, the Tribunal was also not provided any authentic and single merit list or one signed or certified by him, to decide the issue in accordance with law & rules nor any seniority list had been shown to have been notified in the official gazette as required by law. The Commissioner, instead, vide his report in writing, also raised doubts on the entire selection ~~the~~ process and could not confirm any of the two merit lists produced by the appellants and private respondent, to be the valid merit list of the candidates, who appeared in the process of selection, against the post of Computer Operators, in the office of Commissioner, Hazara Division advertised on 07.07.2010 in Daily "Aaj". Because of this situation, especially, in absence of authentic/valid or duly signed/certified merit list or missing of the said merit list, the Tribunal could not decide the matter in accordance with law & rules and thus has no other way but to send the matter back to the authorities concerned with the direction to fix/determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law & rules.

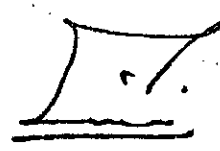


ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

14. As to the connected appeal, since, the private respondent of the above appeal No.712/2016 named Miss Farah Naz was promoted on the basis of the unauthentic/invalid seniority list, as per findings made hereinabove, therefore, this matter is also remitted to the official respondents to decide it in accordance with the final and duly notified seniority list and the relevant rules. Needless to say that the promotions made in the meantime or further career progression of any of the parties, secured on the basis of disputed/invalid/unauthentic seniority list has to raze to the ground, and in the interest of justice, the person(s) who become senior after the above exercise would have right to such career progression subject to their otherwise entitlement under the relevant rules. Copy of this judgment be placed in the connected Service Appeal No.7313/2021 titled "Abdul Wahab Vs. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar & others". Consign.

15. Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27th day of September, 2023.


KALIM ARSHAD KHAN
Chairman


SALAH-UD-DIN
Member (Judicial)

Mutazem Shah
Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 17-10-23
Number of Pages 16
Copying Fee 80/-
Urgent 50/-
Total 130/-
Name of Copyies/
Date of Completion of Copy 17-10-23
Date of Delivery of Copy 17-10-23

(21)

Annexure "B"



OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No: CHD / Estb/ 1/2/26--29
Dated 01/11/2024

**MINUTES OF THE MEETING HELD ON 13/12/2023 AT 12:00 (NOON)
REGARDING CONSOLIDATED JUDGMENT IN SERVICE APPEALS NO.
712/2016 & NO. 7313/2021**

In compliance with the Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad judgment, dated 27/09/2023 in service appeal No.712/2016 titled Miss. Faiza Abbasi Computer Operator VS Government of Khyber Pakhtunkhwa and service appeal No.7313/2021 titled Abdul Wahab, Junior Scale Stenographer V/S Government of Khyber Pakhtunkhwa, a meeting was held on 14/12/2023 under the Chairmanship of the Commissioner, Hazara Division in his office in order to finalize the seniority list of the computer operators of Commissioner Office, Hazara Division.

The following attended the meeting:

1. Commissioner, Hazara Division (in Chair).
2. Secretary to Commissioner, Hazara Division.
3. Assistant to Commissioner(Poll/Dev), Hazara Division,
4. Miss. Faiza Abbasi, Computer Operator (Appellant).
5. Miss. Farah Naz, Private Secretary (ACB), (Respondent).
6. Awais Ahmed Qureshi, (SSS), (Respondent).
7. Abdul Wahab, Junior Scale Stenographer (Appellant).

Sajad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/10/2024

Attested
Office of the Commissioner Hazara Division
Abbottabad
No. 456
Date 5-1-24

Meeting started with the recitation of the few verses from "The Holy Quran" The Secretary to Commissioner along with Assistant to Commissioner (Poll/Dev) presented the matter in light of the following Judgment of the Service Tribunal dated 27/09/23.

B
"The appellant and private respondent, were initially appointed as Computer Operators in the same selection process though for the unknown reasons, two meetings of the DSC were held on two different dates i.e one on 03.10.2011 and the second was on 16.12.2011. That right from initial recruitment, until date, no effort seems to have been done by the department to determine the seniority under section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Despite giving a number of opportunities to the Commissioner Hazara Division, the Tribunal was also not provided any authentic and single merit list or one signed or certified by him, to decide the issue in accordance with law & rules nor any seniority list had been shown to have been notified in the official gazette as required by law. The Commissioner, instead, vide his report in writing, also raised doubts

on the entire selection process and could not confirm any of the two merit lists produced by the appellants and private respondent, to be the valid merit list of the candidates, who appeared in the process of selection, against the post of Computer Operators, in the office of Commissioner, Hazara Division advertised on 07.07.2010 in Daily "Aaj". Because of this situation, especially, in absence of authentic/valid or duly signed/certified merit list or missing of the said merit list, the Tribunal could not decide the matter in accordance with law/rules and thus has no other way but to send the matter back to the authorities concerned with the direction to fix/determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law & rules.

As to the connected appeal, since, the private respondent of the above appeal No.712/2016 named Miss Farah Naz was promoted on the basis of the unauthentic/invalid seniority list, as per findings made here in above, therefore, this matter is also remitted to the official respondents to decide it in accordance with the final and duly notified seniority list and the relevant rules. Needless to say that the promotions made in the meantime or further career progression of any of the parties, secured on the basis of disputed/invalid/unauthentic seniority list has to be set aside to the ground, and in the interest of justice, the person(s) who become senior after the above exercise would have right to such career progression subject to their otherwise entitlement under the relevant rules.

Attested
 Commissioner Hazara Division
 No. 457
 Date 5-1-24
 Abbottabad

The Chair heard the following officials in person regarding the subject case.

Miss. Faiza Abbasi (Computer Operator)

Miss. Faiza Abbasi personally appeared and presented the following stance before the Chair.

"She applied for the post of Computer Operator (BPS-12) in the year, 2011, and appeared in written test, practical test and interview. The then DSC prepared merit list in which she was placed at serial No. 1. Later on a DSC meeting was held on 03/10/2011 in which a candidate namely Miss. Farrah Naz D/O Muhammad Ismail was recommended for appointment as Computer Operator. The documents along with merit list prepared by the DSC wherein her name was placed at serial No.4, was contrary to the facts.

She further informed the Chair that a second DPSC meeting was held on 16/12/2011 vide which she was appointed against the vacant post of Computer

Attested
 14-18-24
 Sajjad Ahmed Abbasi
 Advocate
 Supreme Court of Pakistan

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Operator. Since, she topped the written/practical tests and stood on first position, therefore, seniority list may also be compiled as per actual record based on facts.

She further added that she knocked the door of court with the pray that her seniority may be incorporated from date of appointment as Junior Clerk but later on when the facts pertaining to the merit list and seniority list were disclosed before the Service Tribunal, the same seniority list was quashed by the Service Tribunal with the directions to prepare merit/seniority list in light of Section-8 read with rules 17(a) of Appointment, Promotion and Transfer Rules, 1989.

She pleaded that merit/seniority list may be prepared in light of record provided by her and on the basis of Service Tribunal Judgment. Moreover, as per merit list of written test & typing/practical test, which were prepared and signed by then ACR Mr. Matloob-ur-Rehman, she was on first position but after the first DSC, new lists for written & practical test were compiled by new ACR Mr. Abdul Haleem wherein, she was allegedly demoted and Miss. Farah Naz was elevated to top despite the fact that she neither applied for the job nor appeared in any process of recruitment.

Miss. Farah Naz (Private Secretary) (ACB)

Miss. Farah Naz personally appeared and presented her plea before the Chair that she applied for the post of Computer Operator and personally appeared in the entire process of the recruitment completed by the then DPSC. In the light of recommendations made by the DPSC in meeting held on 03/10/2011, she was appointed as Computer Operator vide order No.4050-54 dated 06/10/2011. Furthermore, on the basis of seniority circulated by the office of Commissioner, Hazara Division she was promoted as Senior Scale Stenographer (BPS-16) on regular basis vide Board of Revenue order No.3935-37 dated 09/01/2018 and later on after two and half year, she was promoted as Private Secretary (BPS-17) on ACB vide Board of Revenue order No. 29203-06 dated 12/11/2020. She further clarified that inquiry was conducted by the Deputy Commissioner, Haripur regarding misplacement of relevant record from Establishment Section of this office. Resultantly, the Board of Revenue vide letter No.Estt:II/Seniority List/24197 dated 06/11/2017 had already disposed of the issue and directed the Commissioner Office that no further action was required to be taken. Since, the matter has already been decided, therefore, the seniority list may be prepared in light of available record provided by her.

Awais Ahmed Qureshi, (Senior Scale Stenographer)

Mr. Awais Qureshi appeared in person and asserted that both the merit lists are prepared fraudulently and relevant record was engineered deliberately in order to adjust Miss. Farah Naz who neither applied for the job nor appeared

Attested
No 187/03
12/24
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan

tested
Commissioner Hazara Division
to 45B
Date 5-1-24
Abbottabad

03

in any process of recruitment. Moreover, first merit list was signed by only one member of DSC while second merit list was prepared by the DSC members in which he was placed at serial No.2 and Miss. Farah Naz was wrongly and illegally placed at serial No.1.

He further asserted that Mr. Faiza Abbasi was appointed in 2nd DSC, two months later than his appointment. Since the Service Tribunal quashed the seniority list, he should be placed at the top of the seniority list, being the rightful and the deserving one in light of Section-8 of Civil Servant Act, 1973.

Abdul Wahab, Junior Scale Stenographer

Mr. Abdul Wahab personally attended the meeting and presented his stance that as per prevailing rules, 60/40 quota was reserved for JSS and Computer Operators for further promotion as Senior Scale Stenographers (BPS-16). A working paper was prepared in the light of prevailing rules for the promotion of JSS/Computer Operator to the post of Senior Scale Stenographer in which the JSS was to be promoted as SSS but due to lack of required length of service his case was deferred and Mr. Awais Qureshi was promoted as Senior Scale Stenographer. Mr. Abdul Wahab further stated that promotion of Mr. Awais Qureshi was in violation of the rules in vogue. Since, his required length of service was less than three years, which was admissible for promotion on acting charge basis therefore, he should be promoted from JSS to SSS as the working paper of DPC reflected the turn of JSS for promotion to the post of SSS.

Attested
Commissioner Hazara Division
No. 459
Date 5-1-24
Abbottabad

DECISIONS:

After hearing the arguments and record presented by the appellant and the respondents and in light of the Judgment of Service Tribunal dated 27/09/2023 in cases No.712/2016 & 7313/2021, the following decision were made:

3

1. The seniority list in respect of Mr. Awais Qureshi, Miss. Farah Naz & Miss. Faiza Abbasi will be prepared afresh in light of section-8 of Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rules-17(a) of Khyber Pakhtunkhwa, (Appointment, Promotion/Transfer Rule-1989).
2. The seniority list will be finalized on the basis of ESTA Code & Merit List of Departmental Selection Committee as available and produced before Service Tribunal.
3. Since, there are two conflicting merit lists produced before the Tribunal, therefore, the lists of then ACRs, Member of DSC, corresponding to their period in this office will be considered authentic and final.
4. The Deputy Commissioner, Mansehra will initiate inquiry against the alleged appointment of Miss. Farah Naz as it is apparent that she has been appointed without fulfillment of due process. The process of enquiry shall be completed within one month.

Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan

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5. Regarding connected service appeal of Mr. Abdul Wahab, the same will be reviewed in light of the recent notification of Board of Revenue No.Estt:II/SSRC/Div:/CMSR/2023/25494-502 dated 20/11/2023.

Secretary to Commissioner
Hazara Division Abbottabad

Endst: Even No & Date:
Copy forwarded to:

1. Senior Member, Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner, Mansehra for further necessary action on decision No.4, please.
3. Assistant Secretary (Estt), Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar w/r to his letter No, Estt:I/SA/712/2016/Faiza Abbasi/25391-93 dated 07/11/2023.
4. PS to Commissioner, Hazara Division. Abbottabad.



Secretary to Commissioner
Hazara Division Abbottabad

Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/03/2024

MERIT LIST OF THE CANDIDATES FOR THE POST OF COMPUTER OPERATORS (BPS-12)

S. No.	Name of candidate	Father name	Total marks in Screening Test=75 Marks obtained	Computer practical marks=15 Marks obtained	Interview Marks=10 Marks Obtained	Marks as per ESTA code out of 82		Total 182
						Academic Marks=70	Higher Education Marks=12	
1.	Faiza Abbasi	Jan-e-Alam	48.5	11.5	05	58	6	129
2.	Awais Qureshi	Wali Muhammad	34.5	11	09	58	-	112.5
3.	Farah Naz	Muhammad Ismail	A	A	09	42	6	57

NOTE: The merit list has been prepared in the light of decisions taken in the meeting held on 13/12/2023 under the Chairmanship of the Commissioner, Hazara Division and in compliance of KP Service Tribunal Judgment dated 27/09/2023 in service appeals No.712/2016 & 7313/2021,

NO. 3/2/EST/23-25 Dated: 01-01-2024

[Signature]
Assistant to Commissioner (Poll/Dev),
Hazara Division, Abbottabad

[Signature]
Secretary to Commissioner,
Hazara Division, Abbottabad
29-12-2023

[Signature]
Commissioner
Hazara Division, Abbottabad.

[Signature]
Attest
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan



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OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No: CHD / Estb/ 1/2/ 718-19
Dated 29/01/2024

CORRIGENDUM NOTIFICATION

In partial modification of this office merit list issued vide No.1/2/Estb/23-25 dated 01/01/2024, academic marks in respect of Faiza Abbasi may be read as 64 with total of 135 marks instead of 58 & 129 respectively while academic marks in respect of Farah Naz may be read as 52 with total of 67 marks instead of 42 & total 57 respectively. Subsequently, the order of merit and seniority will remain same as issued earlier vide office number mentioned above.

Secretary to Commissioner
Hazara Division Abbottabad

Endst: Even No & Date:

Copy forwarded to:

1. Senior Member, Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar w/r this office letter No. CHD/Estab/1/2/71-73 dated 02/01/2024 for information & further necessary action, please.
2. PS to Commissioner, Hazara Division. Abbottabad.

Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/01/2024

Secretary to Commissioner
Hazara Division Abbottabad

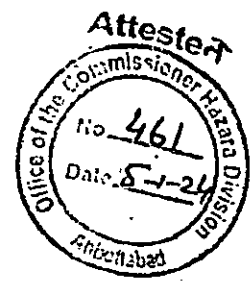
**FINAL SENIORITY LIST OF COMPUTER OPERATOR (BS-12)
WORKING IN COMMISSIONER OFFICE HAZARA DIVISION, STOOD ON 31-12-2011**

S.#	Name	Date Of Birth	Qualification	Date of first entry into Govt. service	Date of Regular Appointment /Promotion as Computer Operator	Method of recruitment	Office	Remarks
1.	Miss. Faiza Abbasi	19.04.1984	MA/BIT	30.06.2009	30.12.2011	Direct	Commissioner's Office Hazara Division	
2.	Awais Qureshi	17.05.1985	BA/DIT	06.10.2011	06.10.2011	Direct	Commissioner's Office Hazara Division	
3.	Mrs. Farah Naz	20.03.1986	M.SC	06.10.2011	06.10.2011	Direct	Commissioner's Office, Hazara Division	

NOTE: The Final Seniority list has been issued in the light of decisions taken in the meeting held on 13/12/2023 under the Chairmanship of the Commissioner, Hazara Division and in compliance of KP Service Tribunal Judgment dated 27/09/2023 in service appeals No.712/2016 & 7313/2021. Furthermore, previous seniorities in respect of aforementioned officials are hereby superseded.

No.2/3 Estb/CHD/ 68-70 Dated: 2/01/2024

Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/03/2024



[Signature]
Secretary to Commissioner
Hazara Division, Abbottabad

(29)

ANNEURE "E"



OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No: CHD /Estb/ 1/21/7/-73
Dated 22/01/2024

To
The Senior Member, Board of Revenue,
Revenue & Estate Department, Khyber Pakhtunkhwa,
Peshawar.

Subject: SERVICE APPEALS NO.712/2016 "TITLED FAIZA ABBASI VS SMBR & NO.7313/2021 TITLED ABDUL WAHAB VS GOVERNMENT OF KHYBER PAKHTUNKHWA

Dear Sir,

I am directed to refer to your office letter No.Estt:II/SA/712/2016/ Faiza Abbasi/25391-93 dated 17/11/2023 on the subject cited above and to state that a meeting on the subject case was held on 13/12/2023 on the consolidated Judgment of the KP Service Tribunal dated 27/09/2023 in respect of subject appeals. (Copy of the minutes of the meeting is enclosed). In light of decisions taken in the meeting and in compliance of KP Service Tribunal Judgment, a merit list and final seniority list of Computer Operators (BPS-12) have been issued by this office, superseding all the previous seniority lists. (Copies of merit list & seniority list are enclosed).

Furthermore, a fresh Seniority list is required to be published in official Gazette as directed by the Honorable KP Service Tribunal. It is pertinent to submit that as per para-14 of the Judgment ibid, all promotions made by the department on the basis of previous seniority lists have been raze to the ground.

Keeping in view of the above, it is, therefore, requested that:

- > Fresh Seniority list issued by this Office vide No.2/5-Estb/CHD/30-32 dated 01/01/2024 may please be forwarded to quarter concerned for publishing of same in Official Gazette.
- > The Promotion made by the Board of Revenue, Khyber Pakhtunkhwa may be reviewed in light of aforementioned Judgment of Service Tribunal.

The case is, therefore, submitted for your kind information and further necessary action, please.

Your's faithfully,

Secretary to Commissioner
Hazara Division Abbottabad

Secretary to Commissioner
Hazara Division Abbottabad

Endst: Even No & Date:
Copy forwarded to:

1. Assistant Secretary (Estb), Board of Revenue, Khyber Pakhtunkhwa, Peshawar for information, please.
2. PS to Commissioner, Hazara Division. Abbottabad.


Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18.03.24



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Annexure ^u F^u

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
	<i>Reg</i>	
091-9212726		091-9214208
No. Estt:1/SA/712/16/Faiza Abbas/ 2909		Peshawar Dated the 12 /02/2024

To

The Secretary to Commissioner,
Hazara Division, Abbottabad.

SUBJECT:

SERVICE APPEAL NO. 712/2016 TITLED FAIZA ABBASI VERSUS SENIOR MEMBER, BOARD OF REVENUE AND NO. 7313/2021 TITLED ABDUL WAHAB VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA.

Dear Sir,

I am directed to refer to your letter No. CHD/Estb/1/2/71-73 dated 02.01.2024 on the subject and to state that Two vacancies of Computer Operators were advertised by Commissioner Hazara Division in the daily (Aaj) on 7th July, 2010. Total 43 candidates were called for the screening test held on 20.05.2011 while 33 appeared for the test. Out of 33, 19 qualified the test. For the Practical Computer typing test, 19 candidates attended which was held on 08.06.2011. Out of the 19 candidates, only 5 qualified who were called for interview.

2. The committee interviewed all the 5 candidates, and at the end concluded that out of the 5 candidates, the 2 at the top of the final merit list i.e. Ms. Farah Naz D/O Muhammad Ismail and Mr. Awais Qureshi S/O Wali Muhammad may be appointed on the posts of Computer Operator keeping in view the emergent need of the office while the remaining vacancy will be considered for filling later on either from the candidates on the present merit list or otherwise. The committee unanimously agreed with this decision and approve accordingly. Appointment orders of Miss. Farah Naz and Mr. Awais Qureshi was issued on 06.10.2011.

3. Second meeting was held 16.12.2011. The Committee gone through the qualification and merit of all the candidates thoroughly and recommended that one Miss. Faiza Abbasi D/O Jana-e-Alam who was a Junior Clerk in the office of Commissioner Hazara and the committee unanimously decided to appoint Miss. Faiza Abbasi as Computer Operator (BPS-12) against the vacant post. Appointment order was issued on 16.12.2011. Miss. Faiza Abbasi was appointed in the same selection process for unknown reasons. Two meetings of the DSC were held on two different dates i.e on 03.10.2011 and the second was on 16.12.2011.

4. Further to mention here that Advertisement published in July, 2010 and only two posts of Computer Operatos were mentioned upon which Miss Farrah Naz and Awais Qureshi were appointed so, how Miss Faiza Abbasi was appointed against the post of Computer Operator. In light of first Departmental Promotion Committee meeting Miss Farrah Naz and Awais Qureshi were appointed against the two posts of Computer Operator as mentioned in the Advertisement while Miss Faiza Abbasi was appointed in light of second Departmental Promotion Committee meeting without clarifying vacant post of Computer Operator.

5. It merits to mentioned here that when both Departmental Promotion Committee minutes are authentic/legal as well as appointment order of the officials so how Miss Farrah Naz has been considered junior to Miss Faiza Abbasi as the appointment order of Miss Farrah Naz was issued 75 days prior to the appointment order of Miss Faiza Abbasi.

Attested for
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18-03-24

6. The Khyber Pakhtunkhwa Service Tribunal in its judgment dated 27.09.2023 time and again reiterated to fix/determine the seniority in accordance with Civil Servant Act, 1973 read with Rule 17-A of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and then issued final seniority list and properly notify the same in the official gazette as required under the law/rules. As per Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 persons selected for appointment to post in an early selection shall rank senior to the person selected in a later selection.

7. Likewise as per Para 10(5) of the Service Tribunal Khyber Pakhtunkhwa judgment dated 27.09.2023 wherein it has been held that "in present situation, this office cannot ascertain that which merit list is genuine as the entire recruitment process from beginning has procedural lapses and after lapse of 12 years; it is not possible to validate the said process or any part/document of it" when it was not possible for the Khyber Pakhtunkhwa Service Tribunal to ascertain the which merit list in genuine so how the fate of the seniority list is decided on said to merit list. If both the DPC minutes and appointment orders are genuine then the seniority will be determined upon it.

8. Furthermore, through your office letter No. CHD/Estb/1/2/4916-17 dated 05.05.2023 a detail report alongwith copies of relevant record were submitted before the Registrar Khyber Pakhtunkhwa Service Tribunal wherein it has clearly be mentioned in Para-7 of the said documents that:-

"It is pertinent to mention here that two posts of Computer Operator were advertised but later on, third one alongwith one post of Junlor Clerk were included in next DPSC without advertisement."

9. In light of the said Para it may be clarified that how Miss Faiza Abbasi without Advertisement the post of Computer Operator and without adopting the legal procedure was appointment as Computer Operator.

10. It is pertinent to mention here that appointment order of Miss. Farah Naz as Computer Operator was issued on 06.10.2011 while appointment order of Miss. Faiza Abbasi was issued on 16.12.2011, so how office of the Commissioner Hazara issued seniority list for the year 2011 on 02.01.2024, by placing Miss. Faiza Abbasi senior to Miss. Farah Naz. Furthermore, Miss. Farah Naz was promoted to the post of Senior Scale Stenographer on 29.01.2018 and then to the post of Private Secretary, BS-17, (ACB) on 12.11.2020, so how she would be reverted back two steps i.e. Computer Operator as on both occasions she was promoted as per seniority list issued by the Commissioner Hazara Division, and what would be the fate of seniority lists issued for the last 12 years wherein Miss. Farah Naz shown senior to Miss. Faiza Abbasi.

11. In view of the above, the case may be re-examined in light of Departmental Promotion Committee meetings and appointment orders of the officials and then issue final seniority list strictly in accordance with the judgment of the Khyber Pakhtunkhwa Service Tribunal dated 27.09.2023 under intimation to this Department please.

Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/12/2024

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

(32)

Annexure G



OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No. CHD/ 2535

Dated: Wednesday, February 21, 2024

Phone No: 0992-9310222

Fax No. 0992-9310500

commissionerhazara@gmail.com

Commissionerhazara

Commissionerhr2

To The Assistant Secretary (Estt:)
Board of Revenue, Khyber Pakhtunkhwa,
Peshawar.

Subject: SERVICE APPEAL NO. 712/2016 TITLED FAIZA ABBASI VERSUS SENIOR MEMBER, BOARD OF REVENUE AND NO.7313/2021 TITLED ABDUL WAHAB VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA.

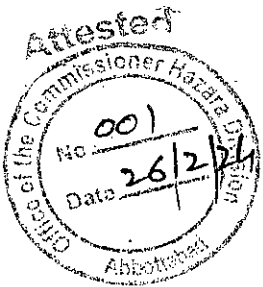
Please refer to your letter No. Estt: IISA/712/16/ FaizaAbbasi /2909 dated 12/02/2024 on the subject captioned above.

2. I am directed to convey that the Khyber Pakhtunkhwa Services Tribunal vide its judgment dated 27/09/2023 directed to fix/determine the seniority in accordance with Section-8 of Khyber Pakhtunkhwa Civil Servant Act 1973 read with Rule 17(a) of Khyber Pakhtunkhwa Civil Servants (appointment, promotion and transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law and rules.

3. It is pertinent to mention that Rule 17(a) of Khyber Pakhtunkhwa Civil Servants (appointment, promotion and transfer) Rules, 1989 stipulates that the seniority interse of civil servants (appointed to a service, cadre or post) shall be determined:

a) In the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission (or as the case may be the Departmental Selection Committee), provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection.

4. As per above mentioned section and rule, when the case of issuance of seniority/merit list was observed, it was noticed that two different DPCs were held on 6/10/2011 (wherein Miss FarahaNaz and Mr. AwaisQureshi were appointed) and 16/12/2011 (wherein Miss FiazaAbbasi was appointed). In order to finalize the seniority list, directions of the Services Tribunal's judgment as per para-7 and para-13 have been found very clear with regard to the same selection process and the same paras are reproduced below:



Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/03/2024

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"from the record placed before the Tribunal, it seems undisputed that the appellant and private respondent No.6 were candidates and were selected and appointed as Computer Operators in the same selection process initiated in response to the same advertisement published in Urdu Daily Aaj dated 07/07/2010"

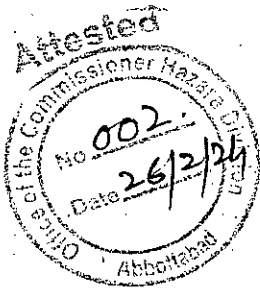
"Be that as it may, it is nowhere denied by anybody that the appellant and private respondents were initially appointed as Computer Operators in the same selection process, though for the unknown reasons, two meetings of DSC were held on two different dates one on 3/10/2011 and the second was on 16/12/2011".

5. Since the judgment of the Tribunal is very clear with regard to the same selection process, through which Miss Farah Naz, Mr. Awais Qureshi and Miss. Faiza Abbasi were appointed, hence, this office prepared the merit/seniority list in accordance with Rule-17(a) of KP Civil Servants, APT Rules 1989 and forwarded the same to BOR for publication in official gazette.

6. As the Tribunal vide its judgment declared the earlier seniority list as disputed/invalid/unauthentic by razing the promotions made in the meantime to the ground and directed this office to determine/fix the same as per relevant rules, therefore, this office accordingly prepared the merit/seniority list as per Esta Code.

7. With regard to the issuance of seniority lists for the last 12 years by this office and two step promotion of Miss Farah Naz, the same has been razed to the ground by the Tribunal vide para 14 of the judgment.

8. Keeping in view of the above narration, it is submitted that the merit/seniority list has been prepared in accordance with the Tribunal's judgment and the administrative department can seek the opinion of Establishment Department with regard to the same selection process, two different DPCs and different dates of appointment orders, if deemed appropriate, please.



Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/03/2024

Assistant to Commissioner (Poll/Dev)
Hazara Division Abbottabad

The Worthy Commissioner,
Hazara Division,
Abbottabad.

Subject: - Request to fix / determine the final seniority list of computers operators appointed on 03/10/2011 and 16/12/2011 in the light of judgment / verdict of Honourable Service Tribunal, KPK Camp Court at Abbottabad as per Section-8 of the Khyber Pakhtunkhawa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhawa Civil Service (Appointment, Promotion and Transfer) Rules, 1989.

Respected Sir,

It is humbly submits as under: -

1. That the applicant was appointed in the office of Commissioner, Hazar Division, Abbottabad as Junior Clerk BPS- 07.
2. That in response to advertisement dated 07.07.2010, applicant applied for the post of Computer Operator and she was appointed in the office of Commissioner Hazara Division Abbottabad as Computer Operator vide order dated 16/12/2011.

That later on seniority list of computer operator was issued whereupon applicant submitted objections but her objections has not been considered by the competent authority. Later on, applicant filed service appeal before Honourable Khyber Pakhtunkahwa Service Tribunal which was disposed off vide consolidated judgment dated 27/09/2023 wherein the Honourable Khyber Pakhtunkhawaa Service Tribunal Camp Court at Abbottabad directed your goodself to fix / determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhawa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhawa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law and rules. Copy of judgment dated 27/09/2023 is enclosed herewith for your kind perusal.

4. That it is necessary to mention here that the applicant and Ms Farah Naz and Awais Qureshi were initially appointed as Computer Operators in the same selection process though for the unknown

Attested

[Signature]
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan

18/03/2024

Secretary

*P. Examine
and process
on priority.*

[Signature]

*Comm
2/11/2023*

ACR/A/B

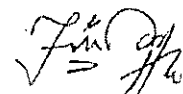
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03/11

reason two meetings of the DSC were held on two different dates i.e. one on 03/10/2011 and the second was on 16/12/2011 which is not the mandate of law or precedent. That right from initial recruitment, until date, no effort seems to have been done by the department to determine the seniority under section 8 of the Khyber Pakhtunkhawa Civil Servants Act 1973 read with Rule-17(a) of the Khyber Pakhtunkhawa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Sir, the applicant is senior as per entire recruitment / selection process and relevant rules. Copy of relevant rules are annexed herewith for your kind perusal.

5. That as per entire selection / recruitment process and section-8 of the Khyber Pakhtunkhawa Civil Servants Act 1973 read with Rule-17(a) of the Khyber Pakhtunkhawa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 the applicant is most senior and is entitled to be placed at serial No.1 of seniority list being senior most.
6. That Honourable Service Tribunal KPK Peshawar held in the judgment dated 27/09/2023 that applicant and Mst. Farah Naz and Awais Qureshi were appointed as Computer Operator in the same selection process and disposed of the appeal by directing your goodself to issue proper seniority list by considering the same process of appointment, therefore, in the light of verdict of Honourable Service Tribunal KPK when the process considered as same then applicant is most senior among the computer operators and is entitled to be placed at serial No.1.


Hence, in the light of above discussion and verdict of Honourable Khyber Pakhtunkhawa Service Tribunal, Peshawar the final seniority list be issued in the interest of justice.



Faiza Abbasi

Computer Operator BPS-16
Commissioner Office
Hazara Division Abbottabad
(Applicant)

Through



Sajjad Ahmed Abbasi
Advocate Supreme Court of Pakistan,
Abbottabad

Dated: 02/11/2023

Attested
Sajjad Ahmed Abbasi
Advocate
Supreme Court of Pakistan
18/03/2024

S.No. 219357

Mob. 03122369478



وکالت نامہ

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Name of Advocate

Syed Ahmed Ali

DBA NO.

TBA NO.

BC No.

10 - 11 21

R.s.200/=

Ch Muhammad Naseem
Finance Secretary
District Bar Association
Abbottabad

سروس رائٹینگ لاء کاٹھاور

بعدالت

حکومت

فائزہ عباسی

عنوان:

Implementation/Execution
نوعیت مقدمہ

سائلہ

منجانب:

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پوری اور ادائیگی برائے پیشی یا تفریق مقدمہ بمقام ایسے آباد کے لیے
کاٹھاور عدالت عالیہ اور وکیل صاحب سید محمد عزیز آف ایف ایف ایف

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہونا ہوں گا اور بروقت پکارے
جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ
سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر مزید دائرہ نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پچھری کے
علاوہ کسی جگہ یا پچھری کے اوقات سے پہلے یا پچھری یا بروڈ تعطیل پیر کوئی کرنے سے ڈستور خارج ہوں گے اور مقدمہ پچھری کے علاوہ کسی اور جگہ
سماعت ہونے پر یا بروڈ تعطیل یا پچھری کے اوقات سے پہلے پچھری میں ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے
کسی معاوضہ کے ادا کرنے یا محتاطانہ کے واسطے کوئی اقدام نہ کرے گا۔ صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کوئی ساختہ پر داخستہ صاحب موصوف
مثلاً کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراء لے کر کسی دفتر ثانی اپیل نگرانی و ہر قسم
درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے
اور ہر قسم کے بیان دینے اور اس پر ناشی و رائی نامہ و فیصلہ برحلاف کرنے اور قبول دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات
از پچھری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا حکم در درخواست حکم اثنائے ماترقتی یا گرفتاری قبل از گرفتاری واجرائے ڈگری بھی صاحب
موصوف کو بشرط ادا سنگی علیحدہ محتاج پوری کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے
کسی جزوی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے جگہ سے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں
وہی اور ویسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف
کاتق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ
کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 2024/03/04
لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ دن ماہ سال

نوٹ: وکالت نامہ کی فوٹو کاپی قابل قبول نہ ہوگی

Accepted
[Signature]