

①

BEFORE THE WORTHY SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

CM No. _____/2024
In
Service Appeal No. 1103/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13914

Dated 02-07-2024

Usman Khan
VS

Government of Khyber Pakhtunkhwa Et. Al.

CIVIL MISCELLANEOUS APPLICATION FOR PLACING ON FILE SOME ADDITIONAL DOCUMENTS

The Applicant is pleased to beseech before this Honorable Tribunal as under;

1. That the above mentioned service appeal is pending before this Honorable Tribunal which is fixed for 08/07/2024.
2. That the Applicant wants to submit some additional documents which would be of great help for disposing of the appeal on its merits.
3. That all the additional documents are relevant to the service appeal as all pertain to the same subject-matter pending before this Honorable Tribunal.

PRAYER:

It is therefore, most humbly prayed that on acceptance of the instant application, the application may be allowed to place on file additional documents please.

Through

Applicant


(Mian Muhammad Imran)
Advocate High Court

08-07-24
Pesh

(3)

NC21002/NC24002 (002)
GENERAL ADMINISTRATION

011103 PROVINCIAL EXECUTIVE

FUNCTIONAL CUM OBJECT CLASSIFICATION AND PARTICULARS OF THE SCHEME	NUMBER OF POSTS		BUDGET ESTIMATES	REVISED ESTIMATES	AUTHORIZED EXPENDITURE
	2022-2023	2023-2024	2022-2023	2022-2023	JUL - OCT 2023
			Rs	Rs	Rs
01 GENERAL PUBLIC SERVICE					
011 EXECUTIVE & LEGISLATIVE ORGANS, FINANCIAL					
0111 EXECUTIVE AND LEGISLATIVE ORGANS					
011103 PROVINCIAL EXECUTIVE					
PR4009 Military Secretary to Governor and his (Charged) Staff					
S035 Senior Clerk (BPS-14)	4	4	1,039,000		485,000
J013 Junior Clerk (BPS-11)	4	4	688,000		321,000
A314 Assistant Garden Superintendent (BPS-08)	1	1	221,000		103,000
✓ D482 Driver cum Supervisor (BPS-08)	2	2	304,000		142,000
✓ D112 Driver (BPS-06)	11	11	2,000,000		933,000
D006 Daftari (BPS-04)	1	1	215,000		100,000
C065 Cleaner (BPS-03)	3	3	331,000		154,000
N005 Naib Qasid (BPS-03)	12	12	1,945,000		907,000
A01152 Personal pay			11,000	11,000	4,000
A012 TOTAL ALLOWANCES			<u>29,518,000</u>	<u>31,119,000</u>	<u>10,644,000</u>
A012-1 TOTAL REGULAR ALLOWANCES			<u>28,804,000</u>	<u>30,327,000</u>	<u>10,356,000</u>
A01202 House Rent Allowance			1,277,000	3,225,000	1,075,000
A01203 Conveyance Allowance			1,743,000	2,500,000	633,000
A01207 Washing Allowance			2,000	425,000	121,000
A01208 Dress Allowance			25,000	475,000	132,000
A0120D Integrated Allowance			72,000	250,000	68,000
A0120E Housing Subsidy Allowance			898,000	800,000	175,000
A0120N Special allowances @ 30% of basic pay for Secretar			5,415,000	114,000	54,000
A01217 Medical Allowance			1,054,000	1,070,000	357,000
A0121T Adhoc Relief Allowance 2013			239,000	240,000	80,000
A01224 Entertainment Allowance			7,000	10,000	2,000
A01225 Instruction Allowance				12,000	4,000
A01226 Computer Allowance			38,000	40,000	13,000
A0122C Adhoc Relief Allowance - 2015			167,000	167,000	55,000
A0122M Adhoc Relief Allowance 2016			948,000		
A0122N Special Conveyance Allowance to Disabled Employees			41,000	41,000	7,000
A0122Y Ad-hoc Relief Allowance 2017			1,504,000	4,000	

(3)

~~1~~

NC21002/NC24002 (002)
GENERAL ADMINISTRATION

011103 PROVINCIAL EXECUTIVE

FUNCTIONAL CUM OBJECT CLASSIFICATION AND PARTICULARS OF THE SCHEME	NUMBER OF POSTS		BUDGET ESTIMATES	REVISED ESTIMATES	AUTHORIZED EXPENDITURE
	2022-2023	2023-2024	2022-2023	2022-2023	JUL - OCT 2023
			Rs	Rs	Rs
01 GENERAL PUBLIC SERVICE					
011 EXECUTIVE & LEGISLATIVE ORGANS, FINANCIAL					
0111 EXECUTIVE AND LEGISLATIVE ORGANS					
011103 PROVINCIAL EXECUTIVE					
PR4009 Military Secretary to Governor and his (Charged) Staff					
A01 TOTAL EMPLOYEES RELATED EXPENSES.			45,538,000	56,382,000	18,022,000
A011 TOTAL PAY	60	60	16,070,000	25,263,000	7,378,000
A011-1 TOTAL PAY OF OFFICERS	18	18	8,294,000	14,502,000	3,776,000
A01101 Total Basic Pay Of Officer	18	18	8,176,000	14,000,000	3,613,000
SP03 Military Secretary (Special)	1	1	899,000		397,000
SP04 Aid-De-Camp (Special)	1	1	556,000		246,000
C081 Comptroller (BPS-18)	1	1	576,000		255,000
P075 Private Secretary (BPS-17)	2	2	1,346,000		594,000
S022 Section Officer (BPS-17)	2	2	1,272,000		562,000
S166 Superintendent (BPS-17)	2	2	816,000		361,000
A057 Assistant (BPS-16)	4	4	1,197,000		529,000
C082 Computer Operator (BPS-16)	2	2	468,000		207,000
G002 Garden Superintendent (BPS-16)	1	1	281,000		124,000
P021 Personal Assistant (BPS-16)	1	1	441,000		195,000
S061 Senior Scale Stenographer (BPS-16)	1	1	324,000		143,000
A01102 Personal pay			21,000	25,000	7,000
A01103 Special Pay			13,000	50,000	17,000
A01105 Qualification Pay			28,000	28,000	9,000
A01109 Command Pay			19,000	19,000	3,000
A01150 Others			37,000	380,000	127,000
001 Others			37,000	380,000	127,000
A011-2 TOTAL PAY OF OTHER STAFF	42	42	7,776,000	10,761,000	3,602,000
A01151 Total Basic Pay Other Staff	42	42	7,715,000	10,750,000	3,598,000
G001 Garage Superintendent (BPS-15)	1	1	284,000		132,000
J024 Junior Scale Stenographer (BPS-14)	3	3	688,000		321,000

*Attested
by
AHC*

(4)

NC24002 (002)
GENERAL ADMINISTRATION

011103 PROVINCIAL EXECUTIVE

FUNCTIONAL CUM OBJECT CLASSIFICATION AND PARTICULARS OF THE SCHEME			NUMBER OF POSTS		BUDGET ESTIMATES	REVISED ESTIMATES	BUDGET ESTIMATES
			2023-2024	2024-2025	2023-2024	2023-2024	2024-2025
					Rs	Rs	Rs
01	GENERAL PUBLIC SERVICE						
011	EXECUTIVE & LEGISLATIVE ORGANS, FINANCIAL						
0111	EXECUTIVE AND LEGISLATIVE ORGANS						
011103	PROVINCIAL EXECUTIVE						
PR4010	Salary/House Hold Staff/State conveyance (Charged) Motor Cars of the Governor Khyber Pakhtunkhwa						
A01	TOTAL EMPLOYEES RELATED EXPENSES.				<u>105,897,000</u>	<u>105,897,000</u>	<u>116,296,000</u>
A011	TOTAL PAY		<u>117</u>	<u>117</u>	<u>40,493,000</u>	<u>40,493,000</u>	<u>44,540,000</u>
A011-1	TOTAL PAY OF OFFICERS		<u>6</u>	<u>6</u>	<u>4,368,000</u>	<u>4,368,000</u>	<u>4,805,000</u>
A01101	Total Basic Pay Of Officer		<u>6</u>	<u>6</u>	<u>3,408,000</u>	<u>3,408,000</u>	<u>3,749,000</u>
G044	Salary Of Governor	(Special)	1	1	864,000		950,000
P137	Protocol Officer	(BPS-17)	1	1	480,000		528,000
A504	Assistant Protocol Officer	(BPS-16)	1	1	576,000		634,000
C011	Care Taker	(BPS-16)	3	3	1,488,000		1,637,000
A01106	Total Pay of contract officer				<u>960,000</u>	<u>960,000</u>	<u>1,056,000</u>
A011-2	TOTAL PAY OF OTHER STAFF		<u>111</u>	<u>111</u>	<u>36,125,000</u>	<u>36,125,000</u>	<u>39,735,000</u>
A01151	Total Basic Pay Other Staff		<u>111</u>	<u>111</u>	<u>35,976,000</u>	<u>35,976,000</u>	<u>39,571,000</u>
I002	Imam Masjid	(BPS-12)	1	1	852,000		937,000
P334	Protocol Assistant	(BPS-12)	1	1	396,000		436,000
H018	Head Cook	(BPS-11)	1	1	504,000		554,000
H077	House Supervisor	(BPS-11)	1	1	636,000		700,000
J013	Junior Clerk	(BPS-11)	1	1	360,000		396,000
C095	Cook	(BPS-10)	8	8	3,264,000		3,590,000
H063	House Attendent	(BPS-09)	1	1	492,000		541,000
H075	Head Khidmatgar	(BPS-08)	1	1	420,000		462,000
S191	Steward	(BPS-08)	1	1	684,000		752,000
B009	Barber	(BPS-07)	1	1	288,000		317,000
B013	Bearer	(BPS-07)	16	16	5,892,000		6,481,000
D060	Dhobi	(BPS-07)	4	4	2,232,000		2,455,000

NC24002 (002)
GENERAL ADMINISTRATION

5

011103 PROVINCIAL EXECUTIVE

FUNCTIONAL CUM OBJECT CLASSIFICATION AND PARTICULARS OF THE SCHEME			NUMBER OF POSTS		BUDGET ESTIMATES	REVISED ESTIMATES	BUDGET ESTIMATES
			2023-2024	2024-2025	2023-2024	2023-2024	2024-2025
					Rs	Rs	Rs
01	GENERAL PUBLIC SERVICE						
011	EXECUTIVE & LEGISLATIVE ORGANS, FINANCIAL						
0111	EXECUTIVE AND LEGISLATIVE ORGANS						
011103	PROVINCIAL EXECUTIVE						
PR4010	Salary/House Hold Staff/State conveyance (Charged) Motor Cars of the Governor Khyber Pakhtunkhwa						
K011	Khidmatgar	(BPS-07)	2	2	756,000		832,000
S012	Sanitary Supervisor	(BPS-07)	1	1	336,000		370,000
S127	Store Keeper	(BPS-07)	1	1	312,000		343,000
T005	Tailor	(BPS-07)	1	1	312,000		343,000
T008	Tandoorchi	(BPS-07)	2	2	672,000		739,000
T058	Tennis Marker	(BPS-07)	1	1	504,000		554,000
W049	Washerman	(BPS-07)	1	1	384,000		422,000
M140	Moazzan/Khadim	(BPS-06)	1	1	432,000		475,000
H283	Head Khalasi	(BPS-05)	1	1	444,000		488,000
H076	Head Khakrob	(BPS-04)	1	1	444,000		488,000
A171	Aya	(BPS-03)	1	1	216,000		238,000
B006	Behishti	(BPS-03)	2	2	480,000		528,000
B066	Brassman	(BPS-03)	2	2	588,000		647,000
C057	Chowkidar	(BPS-03)	2	2	468,000		515,000
K009	Khalasi	(BPS-03)	6	6	1,164,000		1,280,000
K016	Khakroob	(BPS-03)	12	12	3,192,000		3,511,000
M010	Mali	(BPS-03)	30	30	6,876,000		7,564,000
M062	Misalchi	(BPS-03)	3	3	1,092,000		1,201,000
N005	Naib Qasid	(BPS-03)	2	2	504,000		554,000
S162	Sweeper	(BPS-03)	2	2	780,000		858,000
A01152	Personal pay				147,000	147,000	162,000
A01153	Special Pay				2,000	2,000	2,000
A012	TOTAL ALLOWANCES				<u>65,404,000</u>	<u>65,404,000</u>	<u>71,756,000</u>
A012-1	TOTAL REGULAR ALLOWANCES				<u>65,117,000</u>	<u>65,117,000</u>	<u>71,470,000</u>
A01202	House Rent Allowance				4,235,000	4,235,000	4,659,000



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

6

APPEAL NO. 146 /2018

Muhammad Ayab

V/S

Govt: of KPK etc.

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	---	01-03
2.	Copy of order dated 22.08.2009	---A---	04
3.	Copy of order dated 05.08.2010	---B---	05
4.	Copy of order dated 29.07.2016	---C---	06
5.	Copy of Applications	---D---	07-17
6.	Copy of Departmental Appeal	---E---	18-19
7.	Copy of Rejection order	---F---	20
8.	Copy of working paper	---G---	21-22
9.	Copy of relevant documents	---H---	23-27
8.	Vakalat Nama	-----	28


APPELLANT

THROUGH:

(M.ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

&
(S. NOMAN ALI BUKHARI)
ADVOCATE PESHAWAR



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

7

APPEAL NO. _____/2018

Muhammad Ayub, Computer Operator (BPS-16),
Governor House Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Case No. 1785

Dated 24-12-2018

(Appellant)

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Establishment Department Government of Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Administration Department Government of Khyber Pakhtunkhwa Peshawar.
4. The Secretary Finance Department, Government of Khyber Pakhtunkhwa, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 27.11.2018, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR INCLUSION HIS NAME IN THE SENIORITY OF COMPUTER OPERATOR, BPS-16 AT PROPER PLACE HAS BEEN REJECTED FOR NO GOOD GROUND.

PRAYER:

Filed to-day
Registrar
24/12/18

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.11.2018 MAY BE SET ASIDE AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO INCLUDE THE NAME OF THE APPELLANT THE SENIORITY LIST OF THE COMPUTER OPERATOR BPS-16 AT PROPER PLACE. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

M
AA

RESPECTFULLY SHEWETH:

8

FACTS:

1. That different cadre of post in which the post of Key Punch Operator was also included were created in Governor's House Peshawar vide letter dated 28.04.2009 the appellant applied for the post of Key Punch Operator and was appointed as Key Punch Operator BPS-10 on 22.08.2009 and since then performing his duty with great devotion and honesty whatsoever assign to him. **Copy of order dated 22.08.2009 is attached as Annexure-A.**
2. That the KPK Finance Department upgraded the post of Computer Operator on 12.07.2010 and on the basis of that the post of appellant was also upgraded from BPS-10 to BPS-12 with the nomenclature as Computer Operator w.e.f 12.07.2010 vide order dated 05.08.2010. **Copy of order dated 05.08.2010 is attached as Annexure-B:**
3. That the KPK Finance Deptt: further the post of Computer Operator to BS-16 vide notification dated 29.07.2016 due to which the post of the appellant was also upgraded to BPS-16 issued by KP Finance Department. **Copy of notification dated 29.07.2016 is attached as Annexure-C.**
4. That the appellant since from the date of appointment was working as Computer Operator which was upgraded to BPS-12 and then to BPS-16, however the name of the appellant was not included in the seniority list of Computer Operator in BPS-16.
5. That the appellant was not included in the seniority list of Computer Operator, therefore he filed many applications and finally he filed departmental appeal which was rejected on 27.11.2018 for no good grounds. **(Copies of applications, departmental appeal & rejection order is attached as Annexure-D,E&F)**
6. That the appellant now comes to this august Tribunal on the following grounds amongst others.

GROUND:

- A. That the order dated 27.11.2018 and not including the name of the appellant in the seniority list of Computer Operator BPS-16 are against the law fact, norms of justice and fair play.
- B. That the appellant is a regular Civil Servant and as per section 8 of the Civil Servant Act 1973 and as per Rules 17 of APT Rules 1989 the appellant is entitled to be placed at proper place in the seniority list of Computer in BPS-16.

[Handwritten signature]

Section Officer to Mr. Muhammad Ayub

- 1. The Accountant General NWFP Peshawar.
- 2. The Comptroller, Governor's House, Peshawar.
- 3. The Section Officer (B&A), Governor's House Peshawar.
- 4. The Section Officer (Admin), Governor's Secretariat, NWFP.
- 5. Peshawar with the request to terminate the extended term of
- 6. Contractual appointment of the official vide order Endst. No. SO-11
- 7. 3-2/8/GS/09/190-93 dated 02-02-2009.
- 8. PS to MSG, Governor's House Peshawar.
- 9. Bill Assistant, Governor's House, Peshawar.
- 10. Official Concerned.
- 11. Personal File.

Copy forwarded for information and necessary action to:-

Endst. No. SO/MSG/GH/PP/2009. Dated August, 2009.

Military Secretary to Governor NWFP

[Handwritten signature]

- i. His appointment is purely temporary and his services are liable to be terminated without assigning any reason.
- ii. In case he wish to resign from service 15 days advance notice will be necessary or in lieu thereof, 15 days pay shall be forfeited.
- iii. He will be entitled for conveyance, Medical, House Rent Allowances, TA/DA and leave as per Government rules.
- iv. He will not be entitled to Pension or Gratuity. He shall, however, be entitled to Contributory Provident Fund in terms of Civil Servants Amendment Act 2005 (NWFP Act No. IX of 2005).
- v. His appointment is subject to the production of Medical Fitness Certificate from the Civil Surgeon, Peshawar.

with immediate effect on the following terms and conditions:

Mr. Muhammad Ayub s/o Muhammad Daud, resident of Mohallah, Mobeen Banda, Ghazi, Tehsil Ghazi, District Haripur as Key Punch Operator (BES-10). The Competent Authority is pleased to appoint

OFFICE ORDER

No. SO/MSG/GH/PP/2009

28 August, 2009

[Handwritten number 9]

GOVERNOR'S HOUSE PESHAWAR





GOVERNOR'S HOUSE
PESHAWAR

05 August, 2010

OFFICE ORDER.

No. SO (MSG)/GH/4-71/2010. In pursuance of Government of Khyber Pakhtunkhwa, Finance Department's Notification No.KC/FD/SO(FR)/7-3/2001 dated 12-07-2010, the Competent Authority is pleased to upgrade the following KPOs (BS-10) to (BS-12) with nomenclature as Computer Operator with effect from 12-07-2010:

- 1- Mr. Muhammad Ayub.
- 2- Mr. Abdul Haleem.

2. Terms and Conditions of their appointment will be the same as issued vide Office Orders No. SOMSG/GH/PF/2009/2152-59 dated 22-8-2009 and No.SOMSG/GH/PF/2009/324-31 dated 01 03-2010.

Military Secretary to Governor
Khyber Pakhtunkhwa

Endst.No. SO(MSG)/GH/4-71/2010/1707-15 Dated 05 August, 2010.

Copy forwarded for information and necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Section Officer (FR), Finance Department, KPK, Peshawar w/r to his letter No.SO(FR)/FD/7-11/2008/Vol:I dated 14-07-2010.
3. The Section Officer(E-V), Establishment Department, KPK, Peshawar.
4. The Comptroller, Governor's House, Peshawar.
5. The Section Officer (B&A), Governor's House Peshawar.
6. PS to MSG, Governor's House Peshawar.
7. Bill Assistant, Governor's House, Peshawar.
8. Officials Concerned. (Ayub)
9. Personal File.

(Muhammad Islam)
Section Officer to MSG

Shahbaz

Muhammad Ayub

The Secretary Establishment,
Establishment Department,
Govt. of Khyber Pakhtunkhwa
Civil Secretariat Peshawar

11

Through Proper Channel

Subject: DEPARTMENTAL APPEAL FOR INCLUSION THE NAME OF APPELLANT IN THE SENIORITY LIST OF COMPUTER OPERATORS (BPS-16) AT PROPER PLACE

Dear Sir,

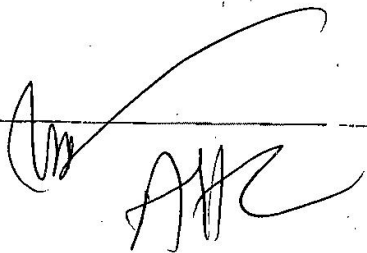
It is humbly stated that I was appointed as Key Punch Operator (BPS-10) in Governor's House Peshawar by Military Secretary to Governor vide order No.SO(MSG)GH/11/17/2009 dated 22 August 2009 on the advice of Administration Department KP letter No.SO(MSG)GH/2009/1575/WE dated 30 June 2009 after fulfilling all the codal formalities (Annex-I) In this regard, Government of Khyber Pakhtunkhwa (N.W.F.P). Administration Department replied vide letter No.F&A(AD)4(5)/2009 dated 27-07-2009 (Annex-II) Subsequently all the posts of Key Punch Operator were upgraded with standard nomenclature of Computer Operators (BPS-12) w.e.f 12-07-2010 vide Finance Department Notification.No.KC/PD/SO (FR)/7-5/2010 dated 12-07-2010 (Annex-III) and I was adjusted against the post of Computer Operator (BPS-12).

It is pertinent to mention here that in Governor's House Khyber Pakhtunkhwa two types of posts are found which are as below:

- I. Household Staff
- II. Secretariat/regular staff

The sanctioning authority for creation of new posts of House Hold staff is the Cabinet Division Government of Pakistan and for creation of new posts of secretariat/regular staff is Finance Department Government of Khyber Pakhtunkhwa. The Household staff draw their salaries under Budget code PR-4010 while the Secretariat regular staff working in Governor House draw their salaries under Budget code PR-4009.

Two posts of KPO and eight others were sanctioned by the Finance Department Khyber Pakhtunkhwa for Governor House Peshawar vide letter No BOIV/FD/2-1/2008-05 Dated 28-4-2009 (Annex-IV) who are draw salaries out of regular budget PR-4009.



12

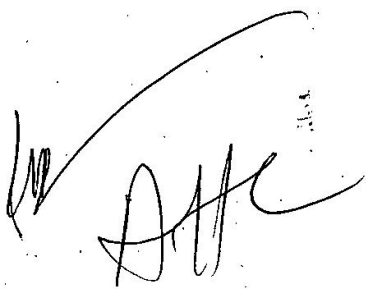
grounds:

Now I once again submit present appeal in your honor on the following

- i. That I have the fundamental and constitutional right to include his name at the appropriate place of the Seniority list of Computer Operator maintained by Provincial Govt. of KP.
- ii. That my post is a sanctioned post of Finance Department Kyber Pakhtunkhwa and draw salary under the Annual budget code of PR-4009 regular staff of Civil Secretariat, and deserve to get proper place in the seniority list of Computer Operators maintained by the Establishment Department Govt. of KP.
- iii. That I have been selected against the post of Computer Operators through proper procedure set by the provincial govt. and have all the required qualifications according to the required criteria of Provincial Govt of KP.

In the light of above it is therefore, once again humbly request to kindly include the my name of at proper place in the seniority list of maintained for Computer Operators maintained by Establishment Department Govt. of KP.

Yours Obedient Servant,
Muhammad Ayub
(Computer Operators)
Governor House Peshawar





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

PH# 091-9213457 FAX# 091-9210447 Email:sectionofficerv@gmail.com

NO.SOE-V (E&AD)/6-36/2011

Dated Peshawar, the NOVEMBER 27, 2018

To

✓ The Section Officer to MSG,
Governor's House, Peshawar.

13

Subject: DEPARTMENTAL APPEAL FOR INCLUSION THE NAME OF
APPELLANT IN THE SENIORITY LIST OF COMPUTER
OPERATORS (BS-16) AT PROPER PLACE.

I am directed to refer to your letter No. SOMSG/GH/2018/979-80,
dated 13-09-2018 on the subject noted above and regret to state that subject
appeal of Computer Operators (BS-16), Governor's House Khyber Pakhtunkhwa
has been regretted by the Competent Authority being not covered under the law,
please,

ENDST: NO. & DATE EVEN.

SECTION OFFICER (E-V) 27/11/18

Copy forwarded to the:

1. PA to Deputy Secretary (Estt), Establishment Department.
2. Master file.

SECTION OFFICER (E-V)

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (February-2021)



14

Personal Information of Mr ABDUL HALEEM d/w/s of SHER MUHAMMAD

Personnel Number: 00458271

CNIC: 1730115171913

NTN:

Date of Birth: 22.09.1985

Entry into Govt. Service: 01.06.2009

Length of Service: 11 Years 09 Months 001 Days

Employment Category: Active Temporary

Designation: COMPUTER OPERATOR

80003814-GOVERNMENT OF KHYBER PAKH

DDO Code: PR4009-SECTION OFFICER (B&A)GOVERNOR'S HOUSE PESHAWAR

Payroll Section: 005

GPF Section: 002

Cash Center:

GPF A/C No: 458271

Interest Applied: Yes

GPF Balance:

376,255.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16

Pay Stage: 6

Wage type		Amount	Wage type		Amount
0001	Basic Pay	28,030.00	1001	House Rent Allowance 45%	4,091.00
1210	Convey Allowance 2005	5,000.00	1500	Computer Allowance	1,500.00
1947	Medical Allow 15% (16-22)	1,500.00	2148	15% Adhoc Relief All-2013	450.00
2199	Adhoc Relief Allow @10%	308.00	2211	Adhoc Relief All 2016 10%	1,844.00
2224	Adhoc Relief All 2017 10%	2,803.00	2247	Adhoc Relief All 2018 10%	2,803.00
2264	Adhoc Relief All 2019 10%	2,803.00	2283	Secretariat Perform Allow	14,015.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-735.00	4004	R. Benefits & Death Comp	-650.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 8,404.15 Recovered till FEB-2021: 5,465.00 Exempted: 0.21- Recoverable: 2,939.36

Gross Pay (Rs.): 65,147.00 Deductions: (Rs.): -5,525.00 Net Pay: (Rs.): 59,622.00

Payee Name: ABDUL HALEEM

Account Number: 0850223571001815

Bank Details: MCB BANK LIMITED, 241678 Dalazak Road Peshawar, Dalazak Road Peshawar., Peshawar

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: pesharaw

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: haleem742@gmail.com

System generated document in accordance with APM 4.6.12.9(SERVICES/01.03.2021/16.06.21/v2.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted

Attested

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (February-2021)



(Handwritten signature)

Personal Information of Mr MUHAMMAD AYUB d/w/s of MUHAMMAD DAUD

Personnel Number: 00483274 CNIC: 1330113477281 NTN:
 Date of Birth: 27.07.1975 Entry into Govt. Service: 22.09.2009 Length of Service: 11 Years 06 Months 008 Days

Employment Category: Active Temporary

Designation: COMPUTER OPERATOR 80003814-GOVERNMENT OF KHYBER PAKH

DDO Code: PR4009-SECTION OFFICER (B&A) GOVERNOR'S HOUSE PESHAWAR

Payroll Section: 005 GPF Section: 002 Cash Center:

GPF A/C No: 483274 Interest Applied: Yes **GPF Balance: 124,656.00**

Vendor Number: 30403486 - MUHAMMAD AYUB 000242652632 UBL

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 6

15

Wage type		Amount	Wage type		Amount
0001	Basic Pay	28,030.00	1210	Convey Allowance 2005	5,000.00
1500	Computer Allowance	1,500.00	1897	Housing Subsidy Allowance	13,958.00
1947	Medical Allow 15% (16-22)	1,500.00	2148	15% Adhoc Relief All-2013	450.00
2199	Adhoc Relief Allow @10%	308.00	2211	Adhoc Relief All 2016 10%	1,844.00
2224	Adhoc Relief All 2017 10%	2,803.00	2247	Adhoc Relief All 2018 10%	2,803.00
2264	Adhoc Relief All 2019 10%	2,803.00	2283	Secretariat Perform Allow	14,015.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-531.00	4004	R. Benefits & Death Comp:	-650.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	240,000.00	-7,000.00	205,000.00

Deductions - Income Tax

Payable: 5,949.55 Recovered till FEB-2021: 3,828.00 Exempted: 0.53- Recoverable: 2,122.08

Gross Pay (Rs.): 75,014.00 Deductions: (Rs.): -12,321.00 Net Pay: (Rs.): 62,693.00

Payee Name: MUHAMMAD AYUB

Account Number: 000242652632

Bank Details: UNITED BANK LIMITED, 210032 PESHAWAR CANTT PESHAWAR CANTT, PESHAWAR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESHAWAR

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: ayub1428@gmail.com

(Handwritten signature)

System generated document in accordance with APPM 4.6.12.9(SERVICES/01.03.2021/16.34.24/v2.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted

Attested

16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 591 /2018

Jamshed Khan S/O Fazal Sarwar Khan R/O District Bannu, (Driver, Administration
Department Civil Secretariat Peshawar)

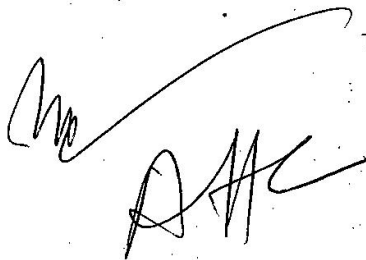
.....Appellant

VS

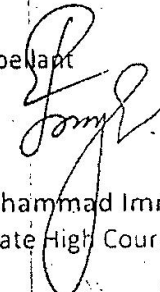
Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat
Peshawar Et. Al.

INDEX

Serial No	Documents	Flag/Annex	Page
1.	Service Appeal		1-5
2.	Copy of Appointment Order Dated: 15/5/2006	A	6
3.	Copy of Transfer Order Dated: 08/09/2010	B	7
4.	Copy of Transfer Order Dated: 01/06/2011	C	8
5.	Copy of Promotion Order Dated: 13/02/2013	D	9
6.	Copy of Seniority List Dated: 29/10/2015	E	10-13
7.	Copy of Departmental Appeal	F	14-15
8.	Copy of Rejection Letter Dated: 05/04/2018	G	16
9.	Copy of Establishment Department Letter Dated: 03/04/2018	H	17
10.	Copy of Appointment Order of other Colleague/Driver along with Pay Slips	I & J	18-21
11.	Copy of APT Rules, 1989	K	22-25
12.	Copy of SO(A) Letter Dated: 28/12/2016	L	26
13.	Copy of Relevant Part of Rules of Business 1985	M	27-29
14.	Copies of Service Rules of Drivers and Finance Department Letter Dated: 26/02/2018	N & O	30-33

Through


Appellant


(Mian Muhammad Imran)
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 591 /2018

Jamshed Khan S/O Fazal Sarwar Khan R/O District Bannu, (Driver, Administration Department Civil Secretariat Peshawar)
.....Appellant

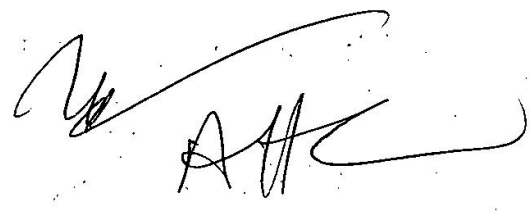
VS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar
 2. Secretary to Government of Khyber Pakhtunkhwa Administration Department Civil Secretariat Peshawar
 3. Secretary to Government of Khyber Pakhtunkhwa Establishment Department Civil Secretariat Peshawar
-Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR THE ISSUANCE OF DIRECTIONS TO PLACE THE APPELLANT AT THE RIGHT PLACE IN THE SENIORITY LIST OF THE DRIVERS OF THE CIVIL SECRETARIAT PESHAWAR AND TO CONSIDER AND TREAT THE APPELLANT AS A "SENIOR DRIVER" KEEPING IN VIEW THE FACT THAT THE APPELLANT HAS BEEN PROMOTED TO THE POST OF "SENIOR DRIVER" ON THE RECOMMENDATION OF "DEPARTMENTAL PROMOTION COMMITTEE" ON 13/02/2013

The appellant is pleased to beseech before this Honorable Tribunal as under;

1. That the appellant was appointed as "Driver" (BPS-04) on 15/05/2006 in "Frontier House Islamabad (Pakhtunkhwa House)", Administration Department Peshawar. (Copy of the Appointment Order is attached as F/A)
2. That on 08/09/2010 the appellant was transferred from Pakhtunkhwa house Islamabad to Driver's Pool of Administration Department Peshawar. (Copy of Transfer Order is attached as F/B)
3. That the appellant was further transferred to "communication and works department" (C&W) followed by transferring to Pakhtunkhwa house Islamabad on 01/06/2011. (Copy of the Transfer Order Dated 01/06/2011 is attached as F/C)

15/5/2006


②
①8

4. That it is intrinsic to bring into notice of this honorable tribunal that on 13/02/2013 on the recommendations of departmental promotion committee (DPC), 57 drivers of civil secretariat were promoted to the post of "Senior Driver" (BPS- 06) including the appellant at Serial No. 32 of the promotion order. (Copy of the promotion order is attached as F/D)

5. That it is also inevitable to submit that the Respondent no 2 issued a tentative seniority list of senior drivers (BPS-06) of Civil Secretariat on 29/10/2015 wherein the Appellant was placed at Serial No. 55 out of 80 Senior Drivers. (Copy of seniority list is attached as F/E).

6. That it is legit to bring into notice that despite the issuance of the promotion order as "Senior Driver" (BPS-06), the Respondents showed reluctance and remained lethargic and adamant to provide perks and privileges of "Senior Driver" (BPS-06) to the appellant but his other colleagues who have been promoted under the same order, they have been enjoying the promotion benefits and privileges since the date of promotion, i.e. 13/2/2013 but on the other hand, the appellant didn't get his promotion as "Senior Driver" which is a gigantic example of the mendacity and spitefulness of the Respondents.

7. That it is further submitted that the appellant has also been deprived from his seniority in the relevant list of Drivers of the Civil Secretariat Peshawar which is also against the mandate of law and rules.

8. That feeling aggrieved from the anomalies, irregularities and continuous violation of his fundamental rights, the appellant preferred a departmental appeal to the Respondent No. 02 (Secretary Administration) which was declined on 05/04/2018 by referring that as per the opinion of the Establishment Department, the appellant being a house-hold staff cannot be enlisted in the seniority list of the secretariat drivers. (Copies of the Departmental Appeal, Rejection Letter Dated: 5/4/2018 along with Establishment Department Letter are attached as F/E, F/G & F/H respectively)

9. That the appellant being a permanent civil servant working in the Administration Department, in absence of any other remedy, knocks the door of this Honorable Tribunal on the following grounds inter alia;

GROUND:

A. That the act of the Respondents not to include the appellant in the seniority list of the drivers of civil secretariat is against the mandate of law, rules, and constitution of Islamic Republic of Pakistan 1973.



①

① 19

B. That the appellant has been kept in the seniority list of the drivers and on the same basis, he has been promoted as a "Senior Driver" on 13/02/2013 on the recommendation of the "Departmental Promotion Committee" along with other drivers but lamentably, other drivers got their promotion as "Senior Driver" but the appellant has been kept on the post of "Driver" and neither he has been promoted nor any perks and privileges of the "Senior Driver" were extended to the appellant which is sheer violation of the fundamental rights of the appellant as well as the doctrine of "Locus Poententia" is rightly applicable.

C. That the appellant is a permanent civil servant of the Administration Department and has been appointed under the relevant rules i.e. "Rule 10 (2) of APT Rules 1989" in BPS-04 as a "Driver" on 15/5/2006. It is rudimentary to submit that other class-IV employees of the Administration Department have also been appointed under the ibid rule carrying the post of "Driver" having the same terms & conditions but they have been enlisted in the seniority list of the "Drivers" and have also been promoted to "Senior Driver" post but the appellant have been deprived from such opportunity which is against the rules and law. (Copy of the Appointment Letter of other colleague of the Appellant is attached as F/I along with Pay Slip of the month of Sep 2013 attached as F/J as well as Relevant Rule of APT, 1989 as F/K)

D. That it is brazen violation of the right of the appellant because each and every civil servant has got his legitimate expectation to get promotion to the higher scale but the Respondents are indifferent to promote the appellant despite of the fact that his promotion order has already been issued on 13/02/2013 (F/D) which is equivalent to crippling the right of the appellant.

E. That, it is also indispensable to submit that even the status of the civil servants working in the governmental houses under the Administration Department has been endorsed by the Respondents as regular employees of the Administration Department but still showing reluctance to promote and include the appellant in the seniority list of the Drivers of the Civil Secretariat is against the norms of justice and equality. (Copy of SO(A) letter to SO(R-IV) Dated: 28/12/2016 is attached as F/L)

F. That a stark perusal of the rejection letter vide dated: 05/04/2018 shows the point that the departmental appeal has been rejected/declined on the ground of being house-hold staff which is not even a ground to reject the heretofore appeal because the appellant is a permanent civil servant of Civil Secretariat working in the Administration Department and factually,

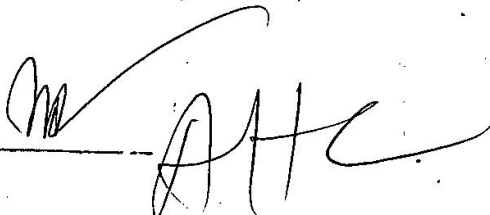
On
ATK

(S)

20

Administration Department is a department of Civil Secretariat Peshawar as per the mandate of Rule 3 (1) and Schedule-1, column 2 of the Rules of Business, 1985. (Copy of the Relevant Rules and Schedule-1 of the Rules of Business is attached as F/M)

- G. That it is also axiomatic to submit that there is not even an iota and speck of difference in the job description of the employees who got promotion along with the appellant on 13/02/2013 (F/D) and all of them have been getting the benefits of such promotion as "Senior Driver" but the appellant has not been granted such benefits despite of issuance of promotion order which is unlawful.
- H. That it is also submitted that the appellant is a permanent civil servant of Administration Department like other Drivers because he has, not only, performed his duties at Frontier House Islamabad but has also been transferred to other departments of the Secretariat like C&W, Finance etc and performed duties over there.
- I. That it is also inevitable to submit that the government of Khyber Pakhtunkhwa Finance department issued letter no BOIV/FD/2-4/2017-18/SNE Dated: 26/02/2018 where the avenues of promotion for the "DRIVER" cadre of the civil secretariat has been enhanced/extended by introducing about 5 posts of Garage superintendent (BPS-16) and about 05 posts of Driver cum supervisor (BPS-08). By excluding the appellant from the seniority list of the drivers of the civil secretariat Peshawar is pushing the said person to the wall which is equivalent to violation of his Article 4 and 25 of the Constitution and he would not be able to enjoy the perks and privileges of the aforesaid newly created posts. (Copies of the service rules and finance department letter dated 26/02/2018 are attached as F/N,O)
- J. That noteworthy is that the appellant was promoted by the "Departmental Promotion Committee" on 13/02/2013 which consisted of competent cum able officers who were well versed about the scenario along with the concern rules so calling in question/not extending the promotion order of the appellant is imprudent in conjunction with the probity that such promotion is still intact and in field.
- K. That it is also a fact that a number of house hold staff i.e. "Malis" have been promoted to the ministerial cadre who were initially appointed in the governmental rest houses and currently performing their duties on the posts of "Assistants" etc in civil secretariat and the appellant being house hold staff which comes under the administration department is not receiving the benefits of promotion which is colossal violation of the fundamental right of the petitioner.



- (21)
- L. That it is also stated that in the terms & conditions of the appointment order, it is clearly mentioned that the appellant will be considered for appointment against a higher post, if found eligible and due for promotion. Thus, the appellant has vested right to be promoted to higher post as his order has already been issued and still intact.

M. That any other grounds though not taken may be raised at the time of arguments with the prior permission of this honorable tribunal.

PRAYER:

It is, therefore, most convivially and humbly prayed that on the acceptance of this appeal, this Honorable Tribunal may be pleased to direct the Respondents to;

1. Enlist/Incorporate the appellant in the Seniority List of the "Drivers" of the Civil Secretariat as per the mandate of law and rules keeping in view the fact that the appellant is a permanent employee of Administration Department Civil Secretariat Khyber Pakhtunkhwa
2. Consider the appellant as "Senior Driver" from the date of his promotion with all back/consequential benefits keeping in view the fact that the appellant has already been promoted to the post of "Senior Driver" by the DPC on 13/02/2013.
3. Any other relief which deems fits and appropriate may also be granted in favor of the appellant.

Through

Appellant

(Mian Muhammad Imran)
Advocate High Court

(Muhammad Uzairullah Jan)
Advocate

OFFICE NO. 05, SHAN PLAZA
SIKANDAR PURA CHOWK
HASHTNAGRI PESHAWAR
0333 95 77770, 0333 92 74073

GOVERNMENT OF N.-W.F.P.
ADMINISTRATION DEPARTMENT

DATED PESHAWAR THE 15.05.2006

ORDER.

NO.E&A(A.D)4(75)/2003. Under rule 10 sub rule 2 of the N-WFP Civil Servants (Appointment, Promotion & Transfers) Rules, 1989 read with amendment vide notification No.SOR.VI(E&AD)1-3/2003.Vol.V dated 03.07.2003 and No.SOR.VI(E&AD)1-13/2005 dated 10.08.2005, Mr. Jamshed Khan S/O Fazal Sarwar Khan, resident of District Bannu is hereby appointed as Driver in BS-4 (2345-100-5345) against an existing vacancy in Frontier House, Islamabad under the administrative control of Administration Department in relaxation of ban, with immediate effect on the following terms and conditions:-


- i. He will get pay at the minimum of BS-4 including usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing policy.
- ii. His services will be liable to termination with or without any reason on two months notice from either side. In case of termination without notice by the employer or two months notice from the employee for resignation, two months pay and allowances shall be paid by the Government or refunded by the employee as the case may be.
- iii. He will not be entitled of pension/gratuity.
- iv. He will not contribute towards G.P.Fund. However, they will contribute C.P.Fund 10% of minimum of pay scale and an equal amount of 10% contribution will be made by the Government as per rules.
- v. His appointment will be purely temporary and will not confer on him any right for regular appointment.
- vi. He will be allowed Conveyance, Medical, House Rent Allowance, Leave and T.A/D.A as per Government rules.
- vii. He will be considered for appointment against higher post, if found eligible and due for promotion.
- viii. He will be entitled to facility of Benevolent Fund as per existing recruitment policy.
- ix. He shall produce a medical certificate of fitness from Medical Superintendent, Civil Hospital, Peshawar before reporting himself for duty as required under the rules.

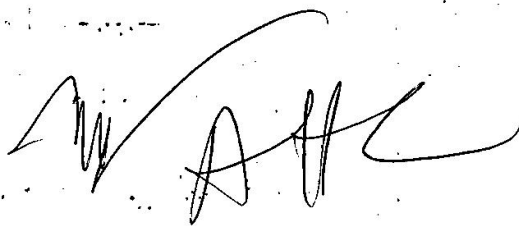
SECRETARY TO GOVT. OF N-WFP
ADMINISTRATION DEPARTMENT.

ENDST: NO. & DATE EVEN.

Copy forwarded to:-

- 1) Accountant General, N-WFP, Peshawar.
- 2) Comptroller, Frontier House, Islamabad.
- 3) D.S to Secretary, Admin. Department


22/5/



Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (March-2018)



23

Personal Information of Mr JAMSHED KHAN d/w/s of FAZAL SARWAR KHAN
Personnel Number: 00324199 CNIC: 6110119940705 NTN:
Date of Birth: 10.05.1979 Entry into Govt. Service: 16.05.2006 Length of Service: 11 Years 10 Months 017 Days

Employment Category: Active Temporary

Designation: DRIVER

S0003S23-GOVERNMENT OF KHYBER PAKH

DDO Code: PR4019-ESTABLISHMENT & ADMINISTRATION DEPARTMENT.

Payroll Section: 005

GPF Section: 001

Cash Center:

GPF A/C No: 324199

Interest Applied: Yes

GPF Balance:

87,413.00

Vendor Number: -

Pay and Allowances:

Pay scale: DPS For - 2017

Pay Scale Type: Civil BPS: 07

Pay Stage: 11

Wage type	Amount	Wage type	Amount
0001 Basic Pay	17,700.00	1001 House Rent Allowance 45%	1,589.00
1210 Convey Allowance 2005	1,932.00	1300 Medical Allowance	1,500.00
1567 Washing Allowance	150.00	1580 Overtime Allowance	2,000.00
1966 Special Allowance 30%	5,310.00	2148 15% Adhoc Relief All-2013	387.00
2199 Adhoc Relief Allow @10%	270.00	2211 Adhoc Relief All 2016 10%	1,279.00
2224 Adhoc Relief All 2017 10%	1,770.00		0.00

Deductions - General

Wage type	Amount	Wage type	Amount
3007 GPF Subscription - Rs1010	-1,010.00	3501 Benevolent Fund -	-600.00
3609 Income Tax	-113.00	4004 R. Benefits & Death Comp:	-690.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 1,175.40 Recovered till March-2018: 837.00 Exempted: 0.15- Recoverable: 338.55

Gross Pay (Rs.): 33,887.00 Deductions: (Rs.): -2,413.00 Net Pay: (Rs.): 31,474.00

Payee Name: JAMSHED KHAN

Account Number: 0001000728

Bank Details: UNITED BANK LIMITED, 210570 New Bus Stand Br.Bannu, New Bus Stand Br.Bannu., BANNU

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESHAWAR

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: rean.kpk100@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 591/2018

24

BEFORE: MRS RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Jamshed Khan S/O Fazal Sarwar Khan R/O District Bannu, Driver,
Administration Department Civil Secretariat Peshawar (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat
2. Secretary to Government of Khyber Pakhtunkhwa Administration Department Civil Secretariat Peshawar
3. Secretary to Government of Khyber Pakhtunkhwa Establishment Department Civil Secretariat Peshawar (Respondents)

Mian Muhammad Imran,
Advocate

For appellant

Mr. Muhammad Jan
District Attorney

For respondents

Date of Institution.....	27.04.2018
Date of Hearing.....	19.10.2023
Date of Decision.....	19.10.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, for issuance of directions to place the appellant at the right place in the seniority list of the Drivers of the Civil Secretariat Peshawar and to treat him as a Senior Driver, keeping in view his promotion on 13.02.2013.

Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Driver (BPS -04) on 15.05.2006 in Frontier House/Pakhtunkhwa House Islamabad. On 08.09.2010, he was transferred from Pakhtunkhwa House, Islamabad to Driver's Pool of Administration

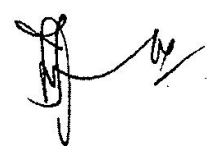
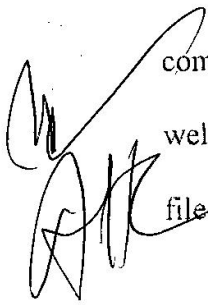
M
Adh

JM

25

Department, Peshawar. He was further transferred to Communication & Works Department followed by transferring to Pakhtunkhwa House Islamabad on 01.06.2011. On 13.02.2013, on the recommendations of Departmental Promotion Committee, 57 Drivers of Civil Secretariat were promoted to the post of Senior Driver (BPS-06), including the appellant at Serial No. 32 of the promotion order. Respondent No. 2 issued a tentative seniority list of Senior Drivers (BPS-06) of Civil Secretariat on 29.10.2015, wherein the appellant was placed at Serial No. 55 out of 80 Senior Drivers. Despite the issuance of the promotion order as Senior Driver, the respondents showed reluctance and remained lethargic and adamant to provide perks and privileges of Senior Driver to the appellant but his other colleagues, who were promoted under the same order, were enjoying the promotion benefits and privileges since the date of promotion i.e 13.02.2013. The appellant was deprived from his seniority in the relevant list of Drivers of the Civil Secretariat. Aggrieved from the anomalies, irregularities and continuous violation of his fundamental rights, he preferred a departmental appeal to the respondent No. 2 which was declined on 05.04.2018 by referring that as per the opinion of the Establishment Department, the appellant being a house-hold staff, could not be enlisted in the seniority list of the Secretariat Drivers; hence the instant service appeal.

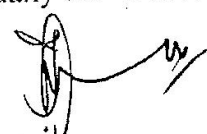
3. Respondents were put on notice who submitted written replies/ comments on the appeal. We heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.



26

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was kept in the seniority list of Drivers and on the same basis, he was promoted as a Senior Driver on 13.02.2013. He further argued that the appellant was a permanent civil servant of the Administration Department and was appointed under the relevant rules i.e. Rule 10 (2) of APT Rules 1989 in BPS-04 as a Driver on 15.05.2006. He further argued that other class-IV employees of the Administration Department had also been appointed under the rules ibid against the post of Driver, had the same terms & conditions and they had been enlisted in the seniority list of the Drivers. According to him, it was clear violation of the right of the appellant because he had got his legitimate expectation to get promotion to the higher scale, and he was promoted, but denied the benefits of that promotion. It was further argued that vide letter dated 5.04.2018 the departmental appeal was rejected on the ground of being house-hold employee despite the fact that he was a permanent civil servant of Civil Secretariat working in the Administration Department. It was also a fact that a number of house-hold staff, including the Malis, for example, who were appointed in the government rest houses, were promoted to the ministerial cadre and currently performing their duties on the post of Assistants etc in the Civil Secretariat. He requested that the appeal might be accepted as prayed for.

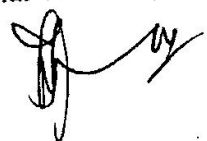
5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was a household Driver of the Administration Department specifically recruited in 2006 for Khyber Pakhtunkhwa House Islamabad. In 2013, his name was erroneously included in seniority list of Drivers of the Civil Secretariat which eventually led to his



(27)

promotion but due to the objections of the Establishment Department (Regulation Wing) his promotion could not be materialized. Later on, he submitted an application to the Secretary, Administration Department for back date promotion and for placing his name in the seniority list of Senior Drivers at original place. His case was referred to the Establishment Department for advice and in response, it was advised that he, being a household employee, could not be enlisted in the seniority list of Secretariat Drivers. He requested that the appeal might be dismissed.

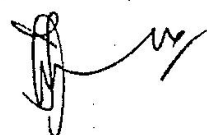
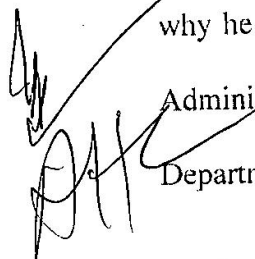
6. Arguments and record presented before us transpires that the appellant was appointed as Driver in 2006 against an existing vacancy in Frontier House/Pakhtunkhwa House Islamabad under the Administration Department, Government of Khyber Pakhtunkhwa. In 2010, he was transferred/posted to the Driver's pool of Administration Department and later posted in the C&W Department. In 2011, he was transferred to Pakhtunkhwa House, Islamabad. Vide an order dated 13.02.2013, he was promoted as Senior Driver (BS-6). Later, an issue arose and it was declared that he, being a household staff, was not entitled to such promotion. A tentative seniority list of Senior Drivers attached with the appeal, as on 31.10.2015, shows him at Serial No.55. The minutes of Departmental Promotion Committee meeting held on 31.12.2012, in which the appellant was promoted, shows that the seniority list of drivers had been circulated and finalized and after doing the needful, the case of promotions was processed. Decision of the DPC clearly mentions that Drivers in BS-4 at Serial No. 59 to 144 of the Seniority List of Drivers are recommended for promotion to the post of Senior Driver (BS-6). Name of the appellant is at Serial No. 118,



28

according to those minutes. When confronted with the question that if his name was included in the seniority list and he was also given promotion based on that, then why at a later stage the respondents are denying it, the learned District Attorney stated that the appellant was not at the strength of the Civil Secretariat, rather he was a household staff of the Khyber Pakhtunkhwa House Islamabad and therefore could not be included in the seniority list of Drivers of the Civil Secretariat.

7. During the course of proceedings before this Tribunal, on 2nd March 2023, a point was highlighted regarding service structure of the household staff and the same was presented by the respondents before us. It was noted that the position of Driver was not mentioned in that structure. On that point, the learned District Attorney was of the view that the service structure of household staff was formulated on the directions of the honourable Peshawar High Court dated 21.02.2021 and COC No. 394/2022 and 395/2022 in case titled "Yasir Zeb and Aminul Haq Vs. Government of Khyber Pakhtunkhwa". As stated by him, the appellant was not the petitioner before the Honourable Peshawar High Court, therefore, his name was not included in the structure for household staff. The departmental representative was asked to clarify the post of Driver in the proposed structure, to which he frankly conceded that Drivers have not been included in it. When further confronted with the question that if the appellant was a household staff, then why he was transferred to Peshawar and placed in the Driver's Pool of the Administration Department, from where he was posted in the C&W Department also, the departmental representative could not respond.




29


8. The above discussion clearly shows that the Administration Department left the Drivers out of the structure proposed for the household staff which means that they are at the strength of Administration Department, Civil Secretariat Peshawar. The appellant was transferred to the drivers' pool of Administration Department in the same way as any other driver in the Secretariat is transferred. They included the name of the appellant in the seniority list of Drivers of Civil Secretariat and he was given promotion based on the same seniority list. In the light of all these facts, the right of the appellant as Senior Driver in the Civil Secretariat gets established, which cannot be denied to him at any later stage.

9. In view of the foregoing, the appeal in hand is allowed as prayed for. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19th day of October, 2023.*


(FAREEHA PAUL)
Member (E)

Fazle Subhan, P.S


(RASHIDA BANO)
Member (J)





19th Oct. 2023

01. Mian Muhammad Imran, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 06 pages, the appeal in hand is allowed as prayed for. Costs shall follow the event. Consign. .

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19th day of October, 2023.*


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

Fazal Subhan PS

