

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, CAMP COURT ABBOTTABAD**

**SERVICE APPEAL NO. 2442/2023**

**Muhammad Arshad, Office Assistant, District Public Prosecutor Office, Battagram**

**Appellant .....**


**VERSUS**

**Government of Khyber Pakhtunkhwa, Home and Tribal Affairs Department & Others.**

**Respondents.....**

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**(Muhammad Gulzar Ali)**  
Superintendent  
Directorate of Prosecution  
Khyber Pakhtunkhwa

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

APPEAL NO. 2442/2023

Muhammad Arshad S/o Muhammad Hassan Assistant Office of District Public  
Prosecutor Battagram.

.....APPELLANT

VERSUS

Secretary to Govt. of Khyber Pakhtunkhwa Home & Tribal Affairs Department  
Peshawar.

And

Others....

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 15730

Dated 27/8/24

..... RESPONDENTS

**Comments On Behalf Of Respondents No.1 & 2.**

**PRELIMINARY OBJECTIONS:**

1. That the instant Service Appeal is not maintainable in the eyes of law.
2. That the Appellant has got no Cause of Action.
3. That the Appellant has concealed the material facts from this Honourable Tribunal.
4. That the Appellant has challenged the Promotion Order dated 08.08.2023, with unrealistic grounds.
5. That the Appellant is estopped by his own conduct to bring the present Appeal before this honorable Tribunal.
6. That the Appellant has not arrayed other assistants as respondents whose seniority can be effected by this Appeal, hence the appeal is not maintainable.

**PARAWISE REPLY:-**

**Respectfully Sheweth,**

1. Pertains to record.
2. Pertains to record.
3. Correct to the extent of facts narrated in this Para, however, it needs a detailed clarification. The promotion Notification dated 11.02.2019 (on regular basis) was issued in line with decision of Departmental Promotion Committee (DPC) taken in its meeting dated 28.12.2018 (**Annex-I**). In the said meeting, the DPC was to consider promotion of seventeen (17) Senior Clerks (BS-14) to the post of Office Assistant (BS-16) on Acting Charge Basis. The DPC determined that Sub-Rule-2 of Rule-9 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 (herein after referred as "APT rules") had been deleted hence instead of promotion on Acting Charge Basis; the Senior Clerks were promoted on Regular Basis.
4. Pertains to record.
5. Pertains to record.
6. Correct to the extent of facts mentioned in the para. However it needs a detailed clarification. One, Mr. Ismail Khan, was directly recruited in the Directorate of Prosecution as Assistant on 15.03.2019 i.e. after the above mentioned promotion. He filed a Departmental Representation and objected over the above mentioned Promotion of Senior Clerks on Regular basis having adversely affected his Seniority. Home &

2

Tribal Affairs Department vide letter dated 13.12.2022 (**Annex-II**) sought opinion of Establishment Department upon the decision of DPC meeting dated 28.12.2018 regarding deletion of Rule 9(2) of APT Rules. The Establishment Department vide its letter dated 13.03.2023 (**Annex-III**) conveyed that DPC had mis-interpreted Rule 9(2) of APT Rules and advised that the promotion case may be re-submitted to DPC for resolving the issue. The matter was again placed before DPC, which, in its meeting dated 25.09.2023 (**Annex-IV**) reconsidered the matter and in light of the opinion of Establishment Department, recommended that 14 senior clerks, including the Appellant, be promoted on Acting Charge Basis, with effect from 11.02.2019 and thereby the impugned order dated 08.08.2023 was issued. It is pertinent to mention here that vide a recent Promotion order dated 18.10.2023 (**Annex-V**), the Appellant alongwith some other Senior Clerks, have been promoted on Regular Basis, due to availability of vacant posts of Office Assistant BS-16.

7. The departmental appeal was rightly filed by the competent authority, mainly on the ground maintained above.

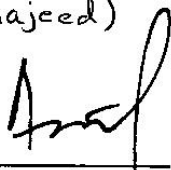
**GROUNDS**

- A. Incorrect, hence denied. Detailed replied already given at 3 and 6 of the Para-wise reply. Moreover the Appellant has remained as assistant during the whole term and has obtained perks of the post.
- B. Incorrect, hence denied. Detailed replied already given at 3 and 6 of the Para-wise reply.
- C. No details provided, hence cannot be replied.
- D. No comments.
- E. The Respondents also seek permission to raise other grounds at time of arguments.

**PRAYER:**

In light of the above facts and circumstances of the case, the Service Appeal is devoid of any merit and legal substance; therefore, the same may kindly be dismissed with special cost, please.

(Abid Majeed)



Additional Chief Secretary to Govt.  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Respondent No.1

Additional Chief Secretary  
Home & T.As Department  
Khyber Pakhtunkhwa.

(Robeen Haider Bukhari)



Director General Prosecution  
Khyber Pakhtunkhwa  
Respondent No.2

Director General Prosecution  
Khyber Pakhtunkhwa

(3)

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Secretary to Govt.  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Respondent No.1

Director General Prosecution  
Khyber Pakhtunkhwa  
Respondent No.2

*to view subject  
all attachment of  
annexures with paper index,  
affidavit of Oath and approval  
24/7/24*

*Submitted for vetting purpose.*

*Approved  
[Signature]*

*[Signature]*  
**SUPERINTENDENT**  
Directorate of Prosecution  
Home & Tribal Affairs Department  
KPK

*24-7-24*  
**Additional Advocate General**  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE

A meeting on the subject was held on 28<sup>th</sup> December, 2018 at 1100 hours under the chairmanship of Special Secretary, Home & Tribal Affairs Department in his office.

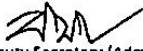
02 The meeting commenced with the recitation from the Holy Quran, after which, the Chair welcomed the participants and invited DG Prosecution to present the case.

03. The Director General Prosecution apprised the Departmental Promotion Committee that Seventeen (17) posts of Office Assistants (BS-16) fall under the promotion quota in the Directorate of Prosecution as well as District Public Prosecutors offices in the Khyber Pakhtunkhwa. According to Serial No.8 (b) of Khyber Pakhtunkhwa, Prosecution Service Rules 2005, amended in 2010 and 2013, the method of promotion of Senior Clerks to the next higher rank of Office Assistant is 75% by promotion on the basis of Seniority-cum-fitness from amongst the Senior Clerks (BPS-14), with at least five (05) years service as Junior Clerk and Senior Clerk. It was further elaborated that 15 Assistants have recently been appointed as Superintendent (BS-17) on acting charge basis.

04 Keeping in view the above, 17 Senior Clerks are required to be appointed as Office Assistant on Acting Charge Basis, including those three senior clerks who were not promoted in previous DPC due to inquiry pending against them. It was pointed out that Sub rule (2) of Rule-9 of the Khyber-Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 had been deleted vide Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011. Hence, the committee recommended the following 17 Senior Clerks (BS-14) for promotion as Assistant (BS-16) on regular basis.

S.#	Name of Senior clerks	Recommendation Of the Departmental Promotion Committee
1.	Shakeel Akhtar	Recommended for promotion
2.	Syed Ibrar Shah	Recommended for promotion
3.	Sakhawat Shah	Recommended for promotion
4.	Muhammad Arshad	Recommended for promotion
5.	Malik Rehmat Ali	Recommended for promotion
6.	Yaqoob Khan	Recommended for promotion
7.	Khalrullah Jan	Recommended for promotion
8.	Fida Muhammad	Recommended for promotion
9.	Muhammad Yousaf	Recommended for promotion
10.	Aurangzeb	Recommended for promotion
11.	Ajmal Khan	Recommended for promotion
12.	Sahibzada	Recommended for promotion
13.	Said Rehman	Recommended for promotion
14.	Tariq Ahmad	Recommended for promotion
15.	Syed Alam Shah	Recommended for promotion
16.	Hozrat Muhammad	Recommended for promotion
17.	Jehan Alam	Recommended for promotion

The meeting ended with a vote of thanks from to the chair.

  
Deputy Secretary (Admn)  
Home & Tribal Affairs Department  
Member/Secretary of DPC

  
Director General Prosecution  
Khyber Pakhtunkhwa.

  
Member  
Finance Department

  
Member  
Establishment Department

AH-atal  
Fai

  
Chairman  
Secretary Home & Tribal Affairs Department  
Khyber Pakhtunkhwa

AH-atal  
Fai  
Suptd.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

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NO. SO (Pros)/110/3-1/2022/KC  
Dated Peshawar the 13<sup>th</sup> December, 2022

To: The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar

Subject: APPLICATION TO REVISIT / REVIEW OF DECISION REGARDING FINAL SENIORITY LIST OF ASSISTANTS (B-15) ISSUED BY THE DG(PROS) VIDE ORDER NO. DP/E7A/A(6675-6720) DATED 25.04.2022

Dear Sir,

1. I am directed to refer to your letter SOR-III(E&AD)4-2/2022 dated 23.11.2022 on the subject noted above and state that this Department vide letter of even number dated 05.09.2022 [copy enclosed for ready reference] has intimated that promotion case of (14) Senior Clerks (BPS-14) to the post of Assistant (BPS-16) in the Directorate General Prosecution was placed before the Departmental Promotion Committee to consider promotion against (01) post on regular basis and (13) posts on acting charge. It is pertinent to mention here that earlier (15) Assistants were appointed as Superintendents (BPS-17) on acting charge basis, resultantly the posts of Assistant were available for promotion on acting charge basis.

2. The Departmental Promotion Committee recommended all (14) Senior Clerks for promotion as Assistant on regular basis instead of acting charge on the grounds that sub-Rule-2 of Rule-9 of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989 has been deleted vide notification No.SOR-VI(E&AD)1-3/2009/Vol-VIII dated 22.10.2011.

3. This Department vide letter of even number dated 05.09.2022 has therefore, requested for your advice as to whether the Senior Clerks promoted on regular basis on the grounds of deletion of rule 9(2) of APT Rules, 1989 against the posts which were not actually available for regular promotion is correct or otherwise.

4. I am, therefore, directed to request you that the matter may be re-considered and guide this department to resolve the issue of seniority as intimated vide this Department letter of even number dated 05.09.2022, please.

Yours faithfully,

(Muhammad Israr)  
SECTION OFFICER (PROSECUTION)

Copy forwarded to:  
Encl: No. & Date even

- 1. P.S to Secretary Home Department, Khyber Pakhtunkhwa.
- 2. Master file.

SECTION OFFICER (PROSECUTION)

Handwritten signature and initials

Handwritten signature and initials



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN. DEPARTMENT  
(REGULATION WING) 140

No. SOR-III (E&AD)/4-2/2022  
Peshawar the March 13<sup>th</sup>, 2023

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Home & T.As Department.

Subject: -

APPLICATION TO REVISIT/REVIEW OF DECISION REGARDING  
FINAL SENIORITY LIST OF ASSISTANT (BS-16) ISSUED BY THE  
DG(PROS) VIDE ORDER NO. DPE&A/A(66)6675-6720 DATED  
25/04/2022

Dear Sir,

I am directed to refer to your letter No. SO(Pros)HD/3-1/2022/KC dated 13.12.2022 on the subject noted above to state that the earlier advice of this department dated 23.11.2022 (Copy enclosed) is correct as far as fixation of seniority is concerned.

I am further directed to convey that the Departmental Promotion Committee in its meeting held on 28.12.2018 has misinterpreted Rule-9(2) of APT Rules, 1989 and have recommended promotion on regular basis against a vacancy available on acting charge basis hence the case of promotion of Senior Clerks (BS-14) to the post of Assistant (BS-16) may be re-submitted to the DPC to resolve the issue once for all, please.

Yours faithfully,

*[Signature]*  
SECTION OFFICER (R-III)  
Phone No. 9211793

Issue Branch, Home Deptt

Diary No. 7499 Dated 15/3/23

Spl Secy..... J

Addl Secy..... J

Deputy Secy..... BS(4)

*[Handwritten notes]*  
15/3  
So (Pros)

15/3/23

*[Handwritten signature]*  
Attest

*[Handwritten signature]*  
Attest  
Suptd.





8

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

Subject: MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE'S (DPC) MEETING HELD ON 25.09.2023 UNDER THE CHAIRMANSHIP OF SPECIAL SECRETARY-I, HOME & TA'S DEPARTMENT

A meeting of the Departmental Promotion Committee (DPC) was held on 25-09-2023 at 11:00 AM under the Chairmanship of Special Secretary-I, Home and Tribal Affairs Department in his office. The following attended the meeting:

1. Mr. Akbar Ali Khan, Special Secretary-I, Home & Tribal Affairs Department Chairman
2. Mr. Sadaqat Ullah Deputy Secretary (R-II), Establishment Department
3. Mr. Fazal Qayyum Khattak, Deputy Secretary (Judicial), Home & Tribal Affairs Department
4. Mr. Sikandar Khan, Dy. Director (Admn) Directorate of Prosecution, Khyber Pakhtunkhwa
5. Mr. Yar Muhammad, Section Officer (SR-IV), Finance Department

2. The meeting started with the recitation from the Holy Quran. The Chair welcomed the participants and asked the Deputy Secretary Judicial, Home & Tribal Affairs Department to brief the forum in the instant case. The Deputy Secretary (Judicial) briefed the forum on the following two point's agenda:

- i) Promotion of (28) Acting charge Assistants (BPS-16) on regular basis.
- ii) Promotion of (01) acting charge Senior Scale Stenographer-BPS-16) on regular basis

AGENDA ITEM NO.1: (Promotion of (28) Acting charge Assistants (BPS-16) on regular basis)

3. The Deputy Secretary (Judicial) apprised the forum that total sanctioned strength of Assistant (BPS-16) in the Directorate of Prosecution is (50) posts, out of which 25% quota has been reserved for initial recruitment i.e (12.5 posts). 37.5 posts @ 75% come to the share of promotion quota. Presently 10 posts of Assistant (BPS-16) have been filled on regular basis, while 28 Senior Clerks (BS-14) are working as Assistants on acting charge basis. As per Prosecution Service Rules, for promotion to the post of Assistant (BPS-16), five years' service is required as Senior Clerk and Junior Clerk.

Attested  
[Signature]

Attested  
[Signature]

4. The Deputy Secretary (Judicial) further informed that the required length of service of the (28) acting charge Assistants has already been completed. He requested the Departmental Promotion Committee to consider regular promotion of the following acting charge Assistants:

S.#	Name of officials (acting charge Assistant)	Eligibility for regular promotion
1	Mr. Sakhawat Shah	Eligible
2	Mr. Muhammad Arshad	-do-
3	Mr. Malik Rehmat Ali	-do-
4	Muhammad Yousaf	-do-
5	Mr. Ajmal Khan	-do-
6	Mr. Sahibzada	-do-
7	Mr. Saïd Rehman	-do-
8	Mr. Tariq Ahmad	-do-
9	Mr. Syed Alam Shah	-do-
10	Mr. Hazrat Muhammad	-do-
11	Mr. Jehan Alam	-do-
12	Mr. Tariq Khan	-do-
13	Mr. Waseem Abbas	-do-
14	Mr. Shah Fahad	-do-
15	Mr. Shahzeb	-do-
16	Mr. Bakht Pervesh	-do-
17	Mr. Wali ur Rehman	-do-
18	Mr. Nasir Ali	-do-
19	Mr. Jamshed Ahmed	-do-
20	Muhammad Zarshad	-do-
21	Muhammad Tariq Khan	-do-
22	Mr. Taj Rehman	-do-
23	Mr. Tufail Khan	-do-
24	Muhammad Nasir	-do-
25	Mr. Noman	-do-
26	Mr. Saïd Nawaz	-do-
27	Mr. Roman Mehmood Khan	-do-
28	Mr. Osama Ali Khan	-do-

#### RECOMMENDATIONS

5. The Departmental Promotion Committee recommended the above mentioned (28) acting charge Assistant (BPS-16) for promotion as Assistants on regular basis with immediate effect i.e. date of notification.

#### AGENDA ITEM NO.2: (Promotion of (01) acting charge Senior Scale Stenographer-BPS-16) on regular basis)

6. The forum was informed that there are two sanctioned posts of Senior Scale Stenographer (BPS-16) in the Directorate of Prosecution. However, only one post has been filled through appointment of Mr. Muhammad Zahid, Junior Scale Stenographer (BPS-14) on acting charge basis due to less length of service. As per Service Rule, the post of Senior Scale Stenographer (BPS-16) is required to be filled by promotion from amongst the holder of the post of Junior Scale Stenographer (BPS-14) with at-least five years' service as such.

*Attested  
[Signature]*

*AH [Signature]  
Suppld*

7. Mr. Muhammad Zahid, Junior Scale Stenographer (BPS-14) was initially appointed on 07.08.2018 in the Public Safety Commission of Home and Tribal Affairs Department. He was appointed as Junior Scale Stenographer (BPS-14) in the Directorate of Prosecution on 17.12.2018 through proper channel. The required length of service for regular promotion to the post of Senior Scale Stenographer is five years as Junior Scale Stenographer.

8. The representative of Establishment Department was of the view that the incumbent has not completed the required length of service as he has joined the present post on 18.12.2018. His previous service rendered in Public Safety Commission could not be counted for the purpose of seniority. Therefore, his case for regular promotion to the post of Senior Scale Stenographer is required to be dropped due to less length of service.

**RECOMMENDATIONS**

9. After threadbare discussion, the Departmental Promotion Committee decided to defer the case.

Meeting ended with a vote of thanks to and from the chair.

*05/10/23*  
 Deputy Secretary (Judicial)  
 Home & Tribal Affairs  
 Department

*[Signature]*  
 Deputy Secretary (Regulation-II)  
 Establishment Department

*[Signature]*  
 Deputy Director (Admin.)  
 Directorate of Prosecution  
 Khyber Pakhtunkhwa

*[Signature]*  
 Section Officer (SR-IV)  
 Finance Department

*[Signature]*  
 Special Secretary-I  
 Home & Tribal Affairs Department

*04/10/23*

Attested  
*[Signature]*

Attested  
*[Signature]*  
 Supt.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

No. DP/

Dated Peshawar the 12/10/2023

Office Landline#091-9212559

11

**ORDER:**

No. DP/E&A/1(100)12P33

S.9

On the recommendations of the Departmental Promotion Committee (DPC) meeting held on 25-09-2023, the Competent Authority has been pleased to promote the following acting charge Assistant (BPS-16) on regular basis with immediate effect:

Sr	Name of Officer
1	Mr. Sakhawat Shah
2	Muhammad Arshad
3	Malik Rehmat Ali
4	Muhammad Yousaf
5	Mr. Ajmal Khan
6	Mr. Sahibzada
7	Mr. Said Rehman
8	Mr. Tariq Ahmad
9	Syed Alam Shah
10	Hazrat Muhammad
11	Mr. Jehan Alam
12	Mr. Tariq Khan
13	Mr. Waseem Abbas
14	Mr. Shah Fahad
15	Mr. Shah Zeb
16	Mr. Bakht Pervesh
17	Mr. Wali Ur Rehman
18	Mr. Nasir Ali
19	Mr. Jamshed Ahmed
20	Muhammad Zarshad
21	Muhammad Tariq Khan
22	Mr. Taj Rehman
23	Mr. Tufail Khan
24	Muhammad Nasir
25	Mr. Noman
26	Mr. Said Nawaz
27	Mr. Roman Mehmood Khan
28	Mr. Osama Ali Khan

Attended  
[Signature]

-Sd-  
Director General Prosecution  
Khyber Pakhtunkhwa.

Encl: even No & dated:

Copy forwarded for information to the:  
Accountant General, Khyber Pakhtunkhwa, Peshawar.  
District Public Prosecutor offices concerned.

District Account Offices concerned.

PS to Special Secretary-I, Home & TAs Department, Khyber Pakhtunkhwa, Peshawar.

Assistant Director (I.T), Directorate of Prosecution.

PA to Director General Prosecution, Khyber Pakhtunkhwa.

Establishment Section of this Directorate.

[Signature]  
Assistant Director Administration

Attended  
[Signature]  
Suptd

93  
12

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
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**Appellant.....**

**VERSUS**

**Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department through its  
Secretary & Others.**

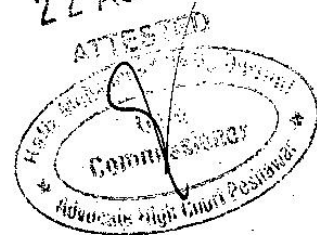
**Respondents.....**

**AFFIDAVIT**

I, Robin Haider Bokhari, Director General Prosecution, Khyber Pakhtunkhwa (Respondent No. 02), do hereby solemnly affirm and declare on oath that the contents of Service Appeal No. 2442/2023, are true and correct to the extent of office record and nothing has been concealed from Service Tribunal Khyber Pakhtunkhwa. It is further stated on oath that, the replying respondents have neither been placed ex-party nor their defense struck off/cost.

  
**Deponent**

**22 AUG 2024**



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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
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**Muhammad Arshad, Office Assistant, District Public Prosecutor Office, Battagram**

**Appellant .....**


**VERSUS**

**Government of Khyber Pakhtunkhwa, Home and Tribal Affairs Department & Others.**

**Respondents.....**

**AUTHORITY LETTER**

Muhammad Gulzar Ali, Superintendent Legal, Directorate of Prosecution, is hereby authorized to submit Para-wise comments on behalf of Director General Prosecution (Respondent No.02), in Service Appeal No. 2442/2023 before the Khyber Pakhtunkhwa Service Tribunal, at Camp Court Abbottabad.

  
**Director General Prosecution**  
Directorate of Prosecution  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Peshawar.