

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

S.A No. 1727/2023

Imtiaz Hussain

VERSUS

Departmental Promotion Committee through its
Chairman, District & Session Judge Kurram & Others


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Respondent No.1

(Ihtesham Ul Haq Danishmand Khan)
District & Sessions Judge, Kurram,
Chairman, Departmental Promotion
Committee

Through


(Sayed Rooh Ullah)
Superintendent Session Judge Kurram.

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal # 1727/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15416

Dated 4/9/24

Imtiaz Hussain, Junior Clerk, District Judiciary, Kurram.

..... APPELLANT


V E R S U S

Departmental Promotion Committee through its Chairman, District &
Sessions Judge, Kurram and others.

.....RESPONDENTS

PARA-WISE COMMENTS IN SERVICE APPEAL

Respectfully Sheweth: -

 para-wise comments are as under:

Preliminary Objections: -

1. The appellant has neither cause of action nor locus standi to file the instant appeal hence the same being outright untenable is liable to be dismissed.
2. That the appellant has been guilty of concealment of material facts, hence the appeal in hand cannot further be proceeded.
3. That appeal in hand is also incompetent on account of non-joinder of necessary parties who are likely to be affected in case the prayer of the appellant is granted.

ON FACTS:

1. Para No. 1 is admitted and correct.
2. Para No. 2 is correct as per the then seniority list issued accordingly.
3. Para No. 3 is correct.
4. Para No. is correct.

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5. Para No. 5 is denied as the promotions were granted to the officials after considering service record and special reference to the principle of "*seniority-cum-fitness basis*" and vide meeting minutes it is clearly mentioned that "*Mr. Imtiaz Hussain Junior Clerk (BPS-11) appearing on Serial No. 02 of working paper has been considered for promotion to the post of Senior Clerk (BPS-14). On recourse to the principle of Seniority cum fitness, he was not found suitable and fit for promotion*". (Copy of meeting minutes are annexure "A").
6. Para No 6 is denied as the appellant was deferred due to ACR of 2019 containing adverse remarks regarding the appellant and the same was communicated to the appellant vide this office letter No. 991/DSJ/ Kurram dated 21/07/2020 clearly depicting the remarks of the reporting officer duly agreed upon by the countersigning officer. (Copy of letter is Annexure "B").
7. Para No. 7 is correct to the extent that an ACR of the appellant was misplaced and an inquiry was conducted. The Superintendent was issued warning after conducting proper inquiry. However, the claim of the appellant regarding lost ACR being satisfactory is fictitious as no proof of the claim is available. It is correct that the appellant was awarded appreciation certificates later on after his performance improved.
8. Para No 8 is incorrect as the adverse remarks in ACR of 2019 could not be ignored.

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9. Para No.9 is correct to the extent that in ACR, 2021 of Mr. Gul Zaman, the reporting officer considered him as not fit for promotion, however, no adverse remarks were reported.
10. Para No. 10 is correct as the same is pending before the DPC and will be decided when the DPC is constituted for next promotion in due course of time as provided under rules ibid.
11. No comments.

GROUND:

- a) The impugned order is neither arbitrary, discriminatory and perverse nor against the law & rules and the same is based on cogent and convincing grounds.
- b) The order passed by the respondents is in accordance with principle of Seniority cum fitness basis, hence denied.
- c) The order of respondents is based on cogent reasons and grounds.
- d) The order of the respondents is based on thorough perusal of ACRs and working papers by the Departmental Promotion Committee as laid down in relevant rules.
- e) As above.
- f) Reply of this para has already been given at ground-d.
- g) Reply of this para has already been given at ground-d.
- h) That the appeal is not maintainable. Apart from the above, it is apt to mention that in meeting of departmental promotion committee held on 21.05.2022 the appellant was considered for promotion along with other candidates but one ACR out of last three ACRs of the

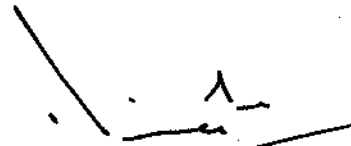
16.8.24

(4)

appellant/official was adverse, hence, promotion was deferred to the appellant.

i) No comments.

In light of above, it is submitted that the impugned order dated 21.05.2022 is based on cogent and convincing grounds; therefore, it is humbly prayed that appeal of the appellant may kindly be dismissed with cost, being meritless.



District & Sessions Judge, Kurram
Chairman, Departmental Promotion Committee

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**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 1727/2023

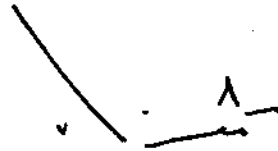
Imtiaz Hussain Appellant

VERSUS

Departmental Promotion Committee through its Chairman, District and
Sessions Judge, Kurram etc..... Respondents

AFFIDAVIT

I, Ihtesham-Ul-Haq Danishmand Khan, District & Sessions Judge, Kurram, Chairman, Departmental Promotion Committee (District Judiciary Khyber Pakhtunkhwa at Kurram) do hereby solemnly affirm and declare on oath that the contents of Para wise Comments at Page No. 01 to 04 submitted on behalf of Respondent No. 1 to 5 are true and correct to the best of my knowledge, belief and nothing has been concealed from this Hon'ble Court.



(Ihtesham Ul Haq Danishmand Khan)
District & Sessions Judge, Kurram,
Chairman, Departmental Promotion
Committee.



4-9-24

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Annex - A

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D

MINUTES RECORDED IN THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE, ESTABLISHMENT OF DISTRICT & SESSIONS JUDGE, KURRAM AT PARACHINAR HELD ON 21/05/2022.

Subject meeting was held in the Chamber of District & Sessions Judge, Kurram on this day of Saturday, 21st May 2022. The following were in attendance.

PRESENT:

1. Abdul Jabbar Khan,
District & Sessions Judge,
Kurram, (Chairman)
2. Ijaz ul Haq Awan,
Additional District & Sessions Judge,
Lower Kurram at Sadda, (Nominee of DSJ)
3. Sayed Fazal Wadood,
Additional District & Sessions Judge,
Orakzai, (Nominee of August Peshawar High Court, Peshawar)
4. Muhammad Aaqib,
Senior Civil Judge,
Kurram, (Nominee of DSJ)

Attested

 Superintendent
 Sessions Judge
 Kurram

21-05-2022
 21-05-2022

AGENDA ITEMS:

The following agenda items have been tabled for discussion.

1. Promotion of two (02) Steno-typist (BPS-14) to the vacant positions of Senior Scale Stenographer (BPS-16).
2. Promotion of eight (08) Junior Clerk (BPS-11) to the vacant positions of Senior Clerk (BPS-14).
3. Promotion of four (04) employees of the menial establishment (Naib Qasid, Chowkidar, and Sweeper) to the vacant positions of Daftari & Record Lifter (BPS-04) respectively from the common seniority list.

The above said posts in the Establishment of District & Sessions Judge, Kurram were sanctioned vide Hon'ble Peshawar High Court, Peshawar Order No. 498-512/B&A Dated Peshawar the 13/03/2019. Promotion criteria for Senior Scale Stenographer (BPS-16) was followed as mentioned in Judicial Esta

(7)

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Attested
[Signature]
Superintendent
District Judge,
Kurrum

Code Revised 2021 on page No. 454, para 2. Promotion criteria for Senior Clerk (BPS- 14) was followed as mentioned in Judicial Esta Code Revised 2021 on page No. 457, para 10. Similarly, promotion criteria for Daftari & Record lifter (BPS- 04) was followed as mentioned in Judicial Esta Code Revised 2021 on page No. 468, para 21 & 22 respectively.

A tentative Seniority list of all the officials was issued vide this Office Letter No. 1816/DSJ/ Kurrum dated 27/07/2021, which was circulated amongst the all and asking them to file objections/grievances, if any, within 14 days. One Junior Clerk namely Mr. Fazal Haq filed and put up an application regarding his merit, and the same was put up before the local DPC Committee and was decided by the Committee vide Office Order No. 1837/DSJ/Kurrum, dated 30/08/2021. It is further necessary to mention here that in March 2019, the District Judiciary was established in this District after the FATA merger that has been reached to the limit of the three years' service length. Consequently, service record of the officials has been considered and examined with special reference to the principle of seniority-cum-fitness.

7/2
21-05-2021

Mr. Imtiaz Hussain Junior Clerk (BPS-11) appearing on Serial No. 02 of Working Paper has been considered for promotion to the post of Senior Clerk (BPS-14). On recourse to the principle of Seniority cum fitness, he was not found suitable and fit for promotion. Therefore, the Committee unanimously deferred him.

The below-mentioned officials are unanimously recommended by the Committee for the promotion to the post mentioned against their names with immediate effect in the best interest of the public by attracting the principle of Seniority cum fitness with the suitability of official for the post.

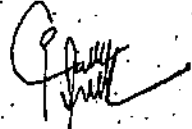
S. No.	Name of Official with Designation & BPS	Promoted to:
1.	Sadam Hussain, Steno-typist BPS-14	Senior Scale Stenographer BPS-16
2.	Muhammad Khalid, Steno-typist BPS-14	Senior Scale Stenographer BPS-16
3.	Shams-ur-Rehman, Junior Clerk BPS-11	Senior Clerk BPS-14
4.	Muhammad Younas, Junior Clerk BPS-11	Senior Clerk BPS-14
5.	Imran Khan, Junior Clerk BPS-11	Senior Clerk BPS-14
6.	Qaiser Abbas, Junior Clerk BPS-11	Senior Clerk BPS-14

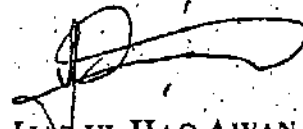
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Attested
Superintendent
Sessions Judge,
Kurram

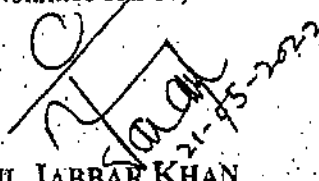
7.	Muhammad Qasim, Junior Clerk BPS-11	Senior Clerk BPS-14
8.	Gul Zaman, Junior Clerk BPS-11	Senior Clerk BPS-14
9.	Fazal Haq, Junior Clerk BPS-11	Senior Clerk BPS-14
10.	Khurshid Ali, Junior Clerk BPS-11	Senior Clerk BPS-14
11.	Zaiul Rehman, Sweeper BPS-03	Daftari BPS-04
12.	Mir Hussain, Naib Qasid BPS-03	Daftari BPS-04
13.	Karnil Khan, Chawkidar BPS-03	Record lifter BPS-04
14.	Roman Khan, Naib Qasid BPS-03	Record lifter BPS-04

The meeting ended with thanks from and to the Chair.


MUHAMMAD AAQIB
SENIOR CIVIL JUDGE,
KURRAM
(Nominee of DSJ)


IJAZ UL HAQ AWAN
ADDITIONAL DISTRICT & SESSIONS
JUDGE, LOWER KURRAM AT SADDA
(Nominee of DSJ)


SAYED FAZAL WADOOD
ADDITIONAL DISTRICT & SESSIONS JUDGE,
ORAKZAI
(Nominee of August Peshawar High Court)

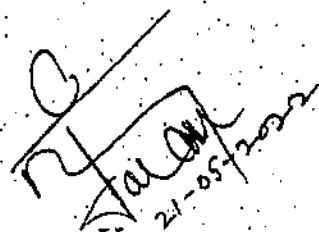

ABDUL JABBAR KHAN
DISTRICT & SESSIONS JUDGE,
KURRAM
(Chairman)

Endst: No. 1988-92/DSJ/Kurram

Dated 21/05/2022

COPY FORWARDED FOR INFORMATION TO THE:

1. Worthy, The Registrar, August Peshawar High Court, Peshawar.
2. All the DPC members.
3. The District Account Officer, Kurram.
4. Office Copy.
- 5.


ABDUL JABBAR KHAN
DISTRICT & SESSIONS JUDGE,
KURRAM

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of sender |

Page 05

Page 1 of 2



OFFICE OF THE
DISTRICT & SESSIONS JUDGE,
KURRAM

Phone No: 0926-312092
Fax No: 0926-311938
Email: dsjkorram@gmail.com

No. 1993-96/DSJ/Kurram Dated: 21/05/2022

Attested
[Signature]
Suppl

OFFICE ORDER:

21/05/2022

Consequent upon the recommendations of the Departmental Promotion Committee meeting held on 21/05/2022, the following Officials in the Establishment of the undersigned are hereby promoted to the Post mentioned against their names with immediate effects in the best interest of public.

S. No.	Name of Official with Designation & BPS	Promoted to:
1.	Sadam Hussain, Steno-typist BPS-14	Senior Scale Stenographer BPS-16
2.	Muhammad Khalid, Steno-typist BPS-14	Senior Scale Stenographer BPS-16
3.	Shams-ur-Rehman, Junior Clerk BPS-11	Senior Clerk BPS-14
4.	Muhammad Younas, Junior Clerk BPS-11	Senior Clerk BPS-14
5.	Imran Khan, Junior Clerk BPS-11	Senior Clerk BPS-14
6.	Qaiser Abbas, Junior Clerk BPS-11	Senior Clerk BPS-14
7.	Muhammad Qasim, Junior Clerk BPS-11	Senior Clerk BPS-14
8.	Gul Zaman, Junior Clerk BPS-11	Senior Clerk BPS-14
9.	Fazal Haq, Junior Clerk BPS-11	Senior Clerk BPS-14
10.	Khurshid Ali, Junior Clerk BPS-11	Senior Clerk BPS-14
11.	Zaiul Rehman, Sweeper BPS-03	Daftari BPS-04
12.	Mir Hussain, Naib Qasid BPS-03	Daftari BPS-04

21-05-2022
[Signature]

13.	Karnil Khan, Chawkidar BPS-03	Record lifter BPS-04
14.	Roman Khan, Naib Qasid BPS-03	Record lifter BPS-04

[Handwritten Signature]
21-05-2022

ABDUL JABBAR KHAN
DISTRICT & SESSIONS JUDGE,
KURRAM.

Endst: No, and Dated Even

COPY FORWARDED FOR INFORMATION TO THE:

1. Worthy, The Registrar Peshawar High Court, Peshawar.
2. All the Official Concerned by name.
3. Office Copy

[Handwritten Signature]
21-05-2022

ABDUL JABBAR KHAN
DISTRICT & SESSIONS JUDGE,
KURRAM.

Attested
[Handwritten Signature]
Sardar Sebban
Judge, Hermai

11

Annex - B

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~~Page 15~~

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OFFICE OF THE
DISTRICT & SESSIONS JUDGE,
KURRAM

Phone No: 0926-312092
Fax No: 0926-311938
Email: dsjkurram@gmail.com

No. 991 /DSJ/Kurram

Dated Kurram the 2^{1st} July, 2020

From: District and Session Judge, Kurram.

To: Mr. Iratiaz Hussain
Junior Clerk/Record Keeper,
District Courts Kurram.

Attested
[Signature]
So. Ill. Session
Judge, Kurram

Subject: Communication of Remarks

Reference the above cited subject, it is to inform you that in your Annual Confidential Report for the year 2019, the following remarks have been recorded by the reporting officer, agreed upon by the countersigning officer.

1	Pen Picture	Irresponsible and no regard for service discipline
2	Overall grading	Below Average
3	Integrity	Not good for other consideration
4	Secrecy and trust worthiness in confidential and secreta official matters	Nil

A spare copy of this communication is enclosed which may be signed in token of its having received the original and be return to this office immediately.

[Signature]
(SAFIULLAH JAN)
District & Sessions Judge,
Kurram.

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**OFFICE OF THE
DISTRICT & SESSIONS JUDGE,
KURRAM**

Phone No: 0926-312092
Fax No: 0926-311938
Email: dsjkurram@gmail.com

No. 3283/DSJ/KURRAM - Dated: 03 September, 2024

AUTHORITY

Mr. Sayed Rooh Ullah, Superintendent Session Judge is hereby authorized to attend Khyber Pakhtunkhwa services Tribunal in connection with the service appeal filed by Imtiaz Hussain, Junior Clerk.

IHTESHAM UL HAQ DANISHMAND KHAN
District and Sessions Judge,
Kurram