

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

**Execution Petition No. 455/2024 in Service Appeal No. 1334/2019**

Syed Masood Shah.....Appellant

**Vs**

Govt. of Khyber Pakhtunkhwa.....Respondent

**INDEX**

<b>S. #</b>	<b>Description of Documents</b>	<b>Annex/Flag</b>	<b>Pages</b>
1.	Draft Reply		2
2.	Authority Letter		3
3.	Affidavit		4
4.	Annex	<b>Annex-I</b>	5-8
5.	Authorization Letter	<b>Annex-II</b>	9



**Deponent**

(2)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

**Execution Petition No. 455/2024 in Service Appeal No.1334/2019**

Syed Masood Shah, Deputy Secretary (BS-18) in Information & Public Relation Department  
.....(Appellant)

**Versus**

1. Chief Secretary, Khyber Pakhtunkhwa
2. The Secretary Establishment Department, Khyber Pakhtunkhwa.

**Respondent No.01&02**

**Respondent No. 03**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 16046

Date: 25-09-24

**PARA-WISE REPLY ON BEHALF OF RESPONDENTS**

Respectfully Sheweth,

1. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar passed the following directions in Service Appeal No. 1334/2019 on 02.02.2022 (**Annex-I**):-

“Record reveals that promotion of the appellant to BPS-18 was withheld due to his involvement in VR case and after finalization of disciplinary proceedings against him, the appellant was promoted to BPS-18, which shows that the appellant was cleared of the VR case to the extent of inquiry conducted against him and once he was cleared of the charges, **he is entitled to be promoted from the date, when his junior was promoted**”.


2. That the Hon'ble Tribunal was apprized through Para-wise comments that the appellant was promoted to BPS-18 on 13.05.2019 **subject to final decision of the Supreme Court of Pakistan in Suo Moto case No. 17/2016**, as he was entered into voluntarily returns with NAB. Subsequently, the appellant was granted inter-se-seniority over his erstwhile juniors and promoted BPS-19 on 15.04.2022 alongwith others in light of the honourable Service Tribunal Judgment dated 02.02.2022, passed in a similar Service Appeal No. 5965/2021.

3. That the appellant got retired from service w.e.f 31.12.2022 on attaining the age of superannuation and submitted application on 29.11.2023 almost one year after his retirement for implementation of the aforesaid judgment dated 02.02.2022 whereas, the appellant had already availed the benefits of the judgment passed by honourable Service Tribunal on the same date in Service Appeal No. 5965/2021.

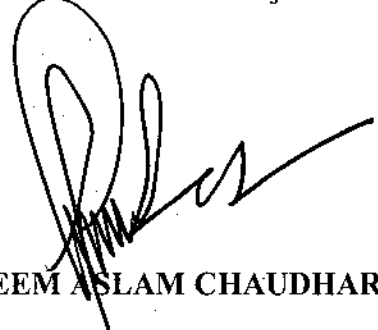
4. That the answering Respondents, being aggrieved from the said judgment dated 02.02.2022, had filed CPLA before the Supreme Court of Pakistan and filed an application for early hearing.

5. That the stance of answering Respondents was ignored, therefore, CPLA filed before the Supreme Court of Pakistan. Hence, let the honourable Supreme Court of Pakistan has yet to decide the case on merit.

Keeping in view of the above, submissions, it is therefore, humbly prayed that the instant Execution Petition may very graciously be either dismissed or suspend/stay of its operation under Section-151, order XXI Rules-26, Order XLI Rule-5 sub-rule (2) of CPC 1908 till its final adjudication by the Supreme Court of Pakistan, please.

  
(ZULFIKAR ALI SHAH)

Secretary Establishment  
Through Ahmad Zab,  
Special Secretary Establishment  
(Respondent No. 03)

  
(NADEEM ASLAM CHAUDHARY)

Chief Secretary,  
Khyber Pakhtunkhwa,  
Through Ahmad Zab,  
Special Secretary Establishment  
(Respondent No.01 & 02)

30

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

**AUTHORITY LETTER**

Mr. Amjad Ali, Section Officer Litigation-I, Establishment Department, Government of Khyber Pakhtunkhwa is hereby authorized to submit a Reply before the Hon'ble Service Tribunal, Peshawar in connection with Execution Petition No. 455/2024 in Service Appeal No. 1334/2019- titled Syed Masood Shah VS Govt. of Khyber Pakhtunkhwa & others.



(CHIEF SECRETARY)

Khyber Pakhtunkhwa,  
through Ahmad Zeb,  
Special Secretary Establishment  
(Respondent No.01 & 02)



**BEFORE THE SERVICE TRIBUNAL, PESHAWAR**

**EP No. 455/2024- in Service Appeal No. 1334/2019**

Syed Masood Shah.....Petitioner

**Versus**

Government of Khyber Pakhtunkhwa & others.....Respondents

**AFFIDAVIT**

I, **Ahmad Zeb, Special Secretary Establishment** Department, do hereby solemnly declare that the contents of the Reply are correct and true to the best of my knowledge and record and nothing have been concealed from this Honorable Court.

It is further stated on oath that in this Appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck-off.

**(CHIEF SECRETARY)**  
Khyber Pakhtunkhwa,  
through Ahmad Zeb,  
Special Secretary Establishment  
(Respondent No. 01 & 02)

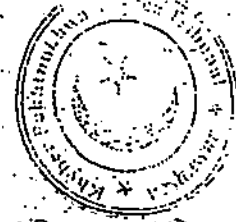
*Signature*  
21/09/2024  
**LAL GUL SAFI**  
DISTRICT COURTS  
OATH COMMISSIONER  
PESHAWAR KPK PAKISTAN  
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 1334/2019

Date of Institution ... 24.09.2019

Date of Decision ... 02.02.2022



Syed Masood Shañ (BPS-18), Deputy Secretary, Information & Public Relation  
Department, Peshawar. (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber  
Pakhtunkhwa, Civil Secretariat, Peshawar and others. (Respondents)

Syed Noman Ali Bukhari,  
Advocate

For Appellant

Muhammad Adeel Butt,  
Additional Advocate General

For respondents

AHMAD SULTAN TAREEN  
ATIQ-UR-REHMAN WAZIR

CHAIRMAN  
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant was initially appointed as Naib Tehsildar in the year 1994 and was promoted to the post of Tehsildar BPS16 in the year 2008. As per seniority list dated 30-06-2010, name of the appellant was at serial No. 14, whereas the name of his other colleague namely Nasir Khan at serial No 25. The appellant alongwith Nasir Khan was promoted to BPS-17 on acting charge basis vide order dated 25-03-2010, who later on was regularly promoted vide order dated 21-12-2011. Mr. Nasir Khan filed Service Appeal No 1403/2010 for ante-dation of his regular promotion, which was accepted vide judgment dated 11-01-2012 and promotion of Nasir Khan was ante-dated with effect from 25-03-2010 and later on Nasir Khan was promoted to BPS-18 vide order dated 08-03-2016.

ATTESTED

CHAIRMAN  
MEMBER (EXECUTIVE)

275  
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6

The appellant also filed Service Appeal No. 1655/2010, which was also decided in favor of the appellant and promotion of the appellant was also ante-dated with effect from 25-03-2010 vide order dated 26-10-2017. The appellant was promoted to BPS-18 vide order dated 17-05-2019 but with immediate effect. Feeling aggrieved, the appellant filed departmental appeal for ante-dation of his promotion with effect from the date when his junior Nasir Khan was promoted i.e. 05-03-2016, which was rejected vide order dated 27-08-2019, hence the instant service appeal with prayers that the impugned order dated 27-08-2019 may be set aside and promotion of the appellant may be ante-dated with effect from 05-03-2016, the date when his junior Nasir Khan was promoted to BPS-18 with all back and consequential benefits.

02. Learned counsel for the appellant has contended that the impugned orders dated 27-08-2019 and 17-05-2019 are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that judgment of this tribunal dated 18-08-2017 ordered for ante-dated promotion of BPS-17 and the same formula equally applies on BPS-18, but the respondents ignored verdict of the judgment of this Tribunal, which is illegal and unlawful; that in the seniority list in BPS-18, name of the appellant is still above the name of Nasir Khan but the appellant was promoted with immediate effect, instead it was required to be effect from the date, when his junior colleague Mr. Nasir Khan was promoted; that inspite of knowing all such fact, departmental appeal of the appellant was rejected without giving any reason or justification; that depriving the appellant from his legal right of promotion to BPS-18 from his due date i.e. 05-03-2016 will also affect his future promotion, which will cause financial loss in shape of pension and other monetary benefits; that the appellant has not been treated in accordance with law and has been deprived of his legal right of promotion to BPS-18 from due date.

ATTESTED.

KAM INDR  
 Ketua  
 Pegawai Tribunal  
 Perkhidmatan

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(8) (7)

03. Learned Additional Advocate General for the respondents has contended that Nasir Khan was promoted to BPS-18 on fulfillment of all requisites provided in PMS-Rules-2007, as he was due for promotion and was promoted vide order dated 05-03-2016, however the appellant was not at the top of the seniority list at that time, therefore he could not be promoted; promotion of the appellant to BPS-18 was delayed due to involvement of the appellant in case of Voluntary Return (VR) with Nab; but after finalization of disciplinary proceedings, the appellant was promoted to BPS-18 vide order dated 17-05-2019 with immediate effect; that after promotion to BPS-18, seniority of the appellant was re-fixed and was placed senior to his juniors, hence the appellant is not aggrieved to this effect.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that promotion of the appellant to BPS-18 was withheld due to his involvement in VR case and after finalization of disciplinary proceedings against him, the appellant was promoted to BPS-18, which shows that the appellant was cleared of the VR case to the extent of inquiry conducted against him and once he was cleared of the charges, he is entitled to be promoted from the date, when his junior was promoted.

06. In view of the foregoing, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
02.02.2022

(AHMAD SULTAN TAREEN)  
CHAIRMAN

(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

To.

The Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Establishment Department.

10/58  
B-8

Subject: APPLICATION FOR JUSTICE --- IMPLEMENTATION OF COURT JUDGEMENT DATED 02.02.2022 IN SERVICE APPEAL No 1334/2019.

Respected,

Assalam-o-Alaikum-Wa-Rahmatullah!

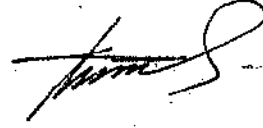
I have the honor to state that my service appeal bearing No 1334 of the year 2019 has been accepted by the Khyber Pakhtunkhwa Services Tribunal vide his Judgement dated 02.02.2022 copy of the Judgment, is enclosed for ready reference.

It is therefore, requested that by implementing the Court decision dated 02.02.2022 I may be promoted to BS-18 with effect from 05.03.2016 with all back/consequential benefits i.e. financial and next promotion to BS-19 with effect from 23.09.2019 when my promotion to BS-19 was deferred due to probation period, please.

Thank You.

Best Regards.

Date: 29.11.2023



SYED MASOOD SHAH  
PMS Officer BS-19  
Retired Additional Secretary  
Revenue & Estate Department







GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

No. SO(Policy)/E&AD/Misc/2020  
Dated Peshawar, the December 24, 2020

To

1. The Director STI, E&A Department.
2. All Additional Secretaries in E&AD.
3. All Deputy Secretaries in E&AD.
4. All Section Officers in E&AD.
5. The Estate Officer/Programme Officer (Computer Cell) in E&AD.

Subject: SIGNING OF PARAWISE COMMENTS ETC IN SERVICE APPEALS.

Dear Sir,

I am directed to refer to this Department letter No.SOR-VI/E&AD/1-23/2005 dated 12-01-2008 (copy enclosed) on the subject, the Competent Authority has been pleased to authorize the Special Secretary (Establishment) Establishment Department to sign the para-wise comments in cases of service appeals filed by the Civil Servants before the Khyber Pakhtunkhwa Service Tribunal on behalf of Chief Secretary, Khyber Pakhtunkhwa and Secretary, Establishment Khyber Pakhtunkhwa.

Yours faithfully,

SECTION OFFICER (POLICY)

ENDST: NO. & DATE EVEN

Copy forwarded to:

1. Secretary to Govt. of Khyber Pakhtunkhwa, Law Department
2. Registrar Peshawar High Court Peshawar.
3. Advocate General Khyber Pakhtunkhwa, Peshawar.
4. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. PS to Chief Secretary, Khyber Pakhtunkhwa
6. PS to Secretary Establishment, Khyber Pakhtunkhwa
7. PS to Special Secretary (Establishment) Establishment Department
8. PS to Special Secretary (Reg), Establishment Department.

SECTION OFFICER (POLICY)