

**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 16247

Dated 02-10-24

SA No: 1727/ 2023

Imtiaz Hussain .....Appellant

Versus

DPC, District Judiciary through its Chairman, District & Sessions Judge,  
Kurram District.....Respondent

**REJOINDER ON BEHALF OF THE APPELLANT TO THE  
COMMENTS SUBMITTED BY THE RESPONDENT NO. 1 TO  
THE TITLED APPEAL.**

Appellant respectfully submits rejoinder to the subject comments as  
under;

**As to the Preliminary Objections:**

**1 to 3**

All the preliminary objections raised by the respondent are misconceived hence denied. Appellant being a government servant has lawfully approached this honourable tribunal for his lawful claim and nothing has been, as alleged in the comments, kept concealed or wrongly laid before the tribunal while the respondent has concealed material facts/ record from the honourable tribunal. Non joinder of necessary parties being curable under the law is no ground for adjudging the competency of the present appeal.

**As to the Facts:**

1. Needs no reply as corresponding para of the appeal is admitted correct.
2. Needs no reply as corresponding para of the appeal is admitted correct.
3. Needs no reply as corresponding para of the appeal is admitted correct.
4. Needs no reply as corresponding para of the appeal is admitted correct.
5. In reply to para 5 of the comments, it is stated that 50% of the criteria for promotion in respect of the appellant has been admitted with reference to seniority as appellant was second most senior incumbent on the seniority list of the working paper. Moreover, as regards the second half of the criteria i.e fitness, the appellant was neither communicated any adverse remarks or warning in the reporting year 2019 nor any record has been placed before this honourable tribunal to substantiate the existence of any adverse remarks in the lost ACR of 2019, while a so called adverse ACR was prepared in July of 2020 without any ground justification or supporting record or an inquiry into the exactitude of the previous adverse remarks of the reporting officer, hence the adverse entry reflected for the reporting year 2019 but prepared at the end of reporting year 2020 loses all its veracity and effectiveness.
6. Para 6 of the comments is denied being incorrect. The blunt remarks entered in the subject ACR of 2019 prepared in July 2020 are highly dubious and non-speaking and being based on no evidence and record are arbitrary, whimsical and a product of ill-will hence not tenable. Countersigning of such unfounded remarks by the countersigning officer would not make a wrong into a right.
7. In reply to Para 7 of the comments it is stated that the appellant had known the factum of his ACR for the year 2019 being satisfactory from reliable sources however if the appellant is not in possession

of any proof in this regard then so does the respondents who cannot place any record whatsoever of the proof of the alleged adverse remarks entered by the reporting officer in the lost ACR of 2019. Moreover, the same reporting officer had awarded commendation certificates to the appellant which factum has also been admitted by the replying respondent.

8. Para 8 of the comments being misconceived is denied.
9. Para 9 of the comments is denied being highly discriminatory amounting to unequal treatment before law. If the appellant was deferred due to one alleged adverse ACR then on what principles or exceptions was the said incumbent (Mr. Gul Zaman) who also was having adverse remarks for the reporting year 2021 considered for promotion who was placed at serial no. 7 of the seniority list much below than the appellant. The respondent has thus also admitted discrimination and whims in the impugned DPC meeting and decision taken thereunder.
10. Needs no reply as the corresponding para of the appeal is admitted.

**As to the Grounds:**

- a. Denied being incorrect and misconceived. No explanation or defence has been offered towards the justification of the impugned order.
- b. Denied being incorrect and misconceived. As per the above replies, the impugned order is totally not based on seniority cum fitness but personal whims.
- c. Denied being incorrect and misconceived. The impugned order does not disclose any cogent reason whatsoever.
- d. Denied being incorrect and misconceived. No rules or procedure was followed nor any heed was paid to the working papers but a whimsical selection was made by the DPC.
- e. As above.

- f. As above.
- g. As above.
- h. Denied being incorrect and misconceived. Detail reply as above.
- i. Needs no reply.

For the foregoing reasons, it is respectfully prayed the appeal may be allowed as prayed for with all back benefits along with any other remedy deemed appropriate please.

Appellant  
Through

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Jhangir Khan Mohmand  
ASC Peshawar.

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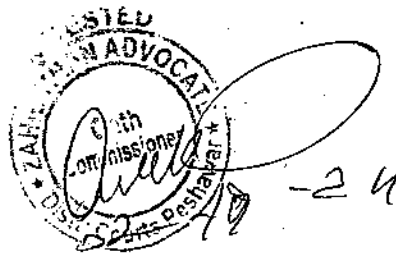
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DPC, District Judiciary through its Chairman, District & Sessions Judge,  
Kurram District..... Respondent

**AFFIDAVIT**

I, Imtiaz Hussain s/o Sajjad Hussain, Junior Clerk BPS-11 District Judiciary Kurram, R/o Chinar Kalay, Alizai Lower, Kurram District/ appellant, do hereby solemnly affirm and declare on oath that contents of the accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept or concealed therein.



*Imtiaz Hussain*  
DEPONENT