

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

Service Appeal No.1174/2023

Muhammad Rafiq.....**APPELLANT**

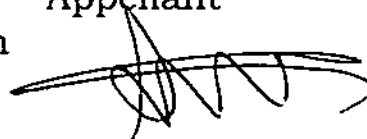
Versus

Chief Secretary Govt. of KP & others.....**RESPONDENTS**

I N D E X

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Through Appellant



Amanullah Marwat
Advocate Supreme Court

Date: 03.10.2024

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
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Versus

Chief Secretary Govt. of KP & others.....**RESPONDENTS**

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

Preliminary Objections:

All of pry objections raised by the respondents in its written reply are against law, facts and record of the case, thus based on assumptions and presumptions and not attracted in the given facts and circumstances of the case, thus liable to be rejected.

ON FACTS:

1. That Para No.1 needs no reply.
2. That Para No.2 is correct to the extent that the appellant was promoted from the post of Surveyor BPS-11 to Survey & Drawing Officer (BPS-16) and thereafter BPS-17, rest of the para is denied. Respondent No.5 is holding post of BPS-16 as per

budget book, thus he is junior than appellant not entitled for consideration of promotion.

3. That detailed reply is given in Para No.2 of the rejoinder.
4. Para No.4 is incorrect, hence denied. Appellant was promoted from BPS-16 to BPS-17 as Assistant Director Survey & Drawing vide notification dated: 18.05.2022. The official respondents promoted private respondent No.5 on the basis of seniority list issued on 07.02.2022, after three days one Shahid Farooq Assistant Director Survey & Drawing stood retired on 10.02.2022. Thereafter, official respondents issued tentative seniority list in which appellant was shown junior to the respondent No.5 by inviting objections thereon, but all of sudden, respondent without issuance of final seniority list promoted respondent No.5 on 31.12.2022 on the basis of impugned seniority existed on 07.02.2022 without waiting for final seniority list. Later-on respondent No.5 was promoted on the basis of seniority list having no base in the eyes of law.
5. That Para No.5 is incorrect, detailed reply is given in para No.4.

6. That Para No.6 is incorrect, detailed reply is given in the above para.
7. That Para No.7 is correct.
8. That Para No.8 is incorrect, hence denied. Respondent No.5 was illegally promoted on the basis of tentative seniority list, thus seniority list through which appellant was placed junior to respondent No.5 is illegal, without lawful authority and jurisdiction.
9. That Para No.9 is incorrect, hence denied. Detailed reply is given in para No.2.

GROUND S:

- A. That Ground "A" of the appeal is incorrect, hence denied. One Shahid Farooq Assistant Director Survey & Drawing stood retire on 10.02.2022, thereafter, respondent issued tentative seniority list on 31.05.2022 by inviting objections on it. Appellant submitted objection thereon and was waiting for final seniority list, but official respondents promoted respondent No.5 through impugned notification dated: 13.12.2022.

- B. That Ground "B" is correct to the extent that appellant was appointed in BPS-11 as Surveyor in the year of 1986, whereas, the respondent No.5 was appointed as Draftsman BPS-11 in the year 1991. Appellant was promoted from the post of Surveyor BPS-11 to the post of Survey & Drawing Officer BPS-16 on 04.12.2013. and then promoted as Assistant Directed on 18.05.2022, whereas, respondent No.5 was promoted from Draftsman BPS-11 to Chief Draftsman BPS-17 on 30.10.2013, but actually the Chief Draftsman post is BPS-16 as reflected in budget, thus he has never been promoted to the post of BPS-17 rather than BPS-16, thus he is junior to appellant and is not entitled for promotion for BPS-18. Further, it is stated that respondent No.5 is junior to appellant in terms of length of service and also in scale.
- C. That to Para "C" is incorrect, hence denied. The official respondents have illegally promoted respondent No.5 on the basis of tentative seniority list for which he is not entitled for promotion under the service rules.
- D. That Para "D" is incorrect, hence denied. Respondent No.5 was never promoted to BPS-16


rather his post is BPS-16 as mentioned in the budget book. Thus respondent No.5 is junior to appellant. **(COPY OF BUDGET BOOK IS ATTACHED)**

- E. That Para "E" is incorrect, hence denied. Detailed reply is given in above para.
- F. That Para "F" needs no reply.

It is, therefore, most humbly prayed that appeal may graciously be accepted in terms of the prayer mentioned therein.

Appellant

Through


Amanullah Marwat
 Advocate Supreme Court

Date: 03.10.2024

AFFIDAVIT

It is stated on oath that the contents of this **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.



DEPONENT

(6)

MC:21032 (026)
MINERAL DEVELOPMENT AND INDUSTRY OF

044201 MINING OF MINERAL RESOURCES OTHER THAN FUEL

FUNCTIONAL, COM OBJECT CLASSIFICATION AND PARTICULARS OF THE SCHEME	NUMBER OF POSTS	NUMBER ESTIMATED	REVENUE ESTIMATE	BUDGET ESTIMATE
	2021-2021	2021-2021	2021-2021	2021-2021

04 ECONOMIC AFFAIRS
 044 MINING AND MANUFACTURING
 0442 MINING
 044201 MINING OF MINERAL RESOURCES OTHER THAN FUEL

PR4442 Headquarter's Office Mineral Development
Department Peshawar

A181 Assistant Director Royalty	(OPS-17)	1	1	426,000	470,000
A250 Assistant Director(Planning &	(OPS-17)	2	2	656,000	670,000
A360 Assistant Director (Litigation)	(OPS-17)	1	1	298,000	332,000
A494 Assistant Director Geologist	(OPS-17)	2	2	708,000	744,000
A495 Assistant Director Mining Engineer	(OPS-17)	2	2	708,000	744,000
A507 Assistant Director Mineral	(OPS-17)	1	1	521,000	611,000
A544 Assistant Director (Survey & Drawing)	(OPS-17)	1	1	440,000	472,000
A545 Assistant Director Technical (Mining Engineers)	(OPS-17)	2	2	610,000	662,000
A666 Assistant Director Surveillance	(OPS-17)	1	1	294,000	313,000
A683 Assistant Manager GIS	(OPS-17)	1	1	331,000	340,000
A706 Assistant Director IT	(OPS-17)	4	4	131,000	156,000
B050 Budget & Accounts Officer	(OPS-17)	1	1	431,000	475,000
D334 Database Administrator	(OPS-17)	1	1	346,000	364,000
G053 GIS Development Officer	(OPS-17)	1	1	331,000	350,000
A1178 Manager Information	(OPS-17)	1	1	364,000	383,000
S166 Superintendent	(OPS-17)	9	9	1,923,000	2,070,000
W034 Web Developer	(OPS-17)		1		161,000
A017 Assistant	(OPS-16)	22	22	6,216,000	6,527,000
C038 Chief Draftsman	(OPS-16)	1	1	481,000	479,000
C052 Computer Operator	(OPS-16)	9	10	1,661,000	1,979,000
C353 Computer Technician	(OPS-16)	1	1	261,000	275,000
H021 Head Draftsman	(OPS-16)		1		227,000
L011 Librarian	(OPS-16)	1	1	266,000	282,000

ATTESTED
[Signature]

ATTESTED

BUDGET OVERVIEW-VIII
 Govt. of Kyrgyzstan
 Finance Department

178,000	178,000	2
185,000	185,000	2
264,000	264,000	3
1,011,000	1,011,000	3
814,000	814,000	8
108,000	108,000	1
108,000	108,000	1
4,340,000	4,340,000	15
818,000	818,000	3
<u>17,329,000</u>	<u>17,329,000</u>	<u>118</u>
<u>17,329,000</u>	<u>17,329,000</u>	<u>118</u>
340,000	340,000	
1,400,000	1,400,000	4
380,000	380,000	2
265,000	265,000	1
135,000	135,000	1
135,000	135,000	1
140,000	140,000	1
350,000	350,000	1
446,000	446,000	1
215,000	215,000	1
215,000	215,000	1
215,000	215,000	1
435,000	435,000	2

- 1011 Total Basic Pay Govt Staff (BPS-16)
- 1012 Senior Scale Stenographer (BPS-14)
- 1013 Assistant (BPS-14)
- 1014 Human Scale Stenographer (BPS-14)
- 1015 Office Assistant (BPS-14)
- 1016 Computer Operator (BPS-12)
- 1017 Junior Scale Stenographer (BPS-14)
- 1018 Computer Examiner (BPS-11)
- 1019 Budget Inspector (BPS-11)
- 1020 Surveyor (BPS-11)

W112 TOTAL PAY OF OTHER STAFF

- 1021 Personal pay
- 1022 Superintendent (BPS-16)
- 1023 Survey And Drawing (BPS-16)
- 1024 Mining Development (BPS-16)
- 1025 (Laboratory) Technician (BPS-16)
- 1026 Computer Technician (BPS-16)
- 1027 Chief Examiner (BPS-16)
- 1028 Budget & Accounts Officer (BPS-16)
- 1029 Administrative Officer (BPS-16)
- 1030 Manager Information (BPS-17)
- 1031 GIS Development Officer (BPS-17)
- 1032 Database Administrator (BPS-17)
- 1033 Technical Drawing Engineer (BPS-17)

112 Headquarter's Office Mineral Development
 Department Peshwar

MINING OF MINERAL RESOURCES OTHER THAN FUEL

**ECONOMIC AFFAIRS
 MINING AND MANUFACTURING**

NUMBER OF POSTS	BUDGET	RELEASSED
2013-2014	2013-2014	2013-2014
ESTIMATES		

MINING OF MINERAL RESOURCES OTHER THAN FUEL

MINERAL DEVELOPMENT AND INSPECTORATE OF MINES

NC21032 (026)

(7)

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NC21032 (026)
MINERAL DEVELOPMENT AND INSPECTORATE OF MINES

MINING OF MINERAL RESOURCES OTHER THAN FUEL

GENERAL CUM OBJECT CLASSIFICATION
ARTICLES OF THE SCHEME

NUMBER OF
POSTS
2010-2011

BUDGET
ESTIMATES
2010-2011

RELEASES
2010-2011

		Rs	Rs	Rs
ECONOMIC AFFAIRS				
MINING AND MANUFACTURING				
MINING				
MINING OF MINERAL RESOURCES OTHER THAN FUEL				
TR442 Headquarter's Office Mineral Development Department Peshawar				
021	Administrative Officer (BPS-16)	1	270,000	270,000
030	Budget & Accounts Officer (BPS-16)	1	255,200	255,200
038	Chief Draftsman (BPS-16) <i>B-17</i>	1	286,200	286,200
033	Computer Technician (BPS-16)	1	110,200	110,200
1006	Laboratory Technician (BPS-16)	1	110,200	110,200
M057	Mineral Development Officer (BPS-16)	1	140,400	140,400
S159	Survey And Drawing Officer (BPS-16)	1	239,600	239,600
S166	Superintendent (BPS-16)	1	1,019,300	1,019,300
A01102	Personal pay	4	224,100	224,100
A011-2 TOTAL PAY OF OTHER STAFF		106	12,099,300	12,099,300
AR1151 Total Basic Pay Other Staff		106	12,099,300	12,099,300
S061	Senior Scale Stenographer (BPS-15)	3	668,900	668,900
A057	Assistant (BPS-14)	15	2,776,900	2,776,900
O003	Office Assistant (BPS-14)	1	95,500	95,500
D012	Data Entry Operator (BPS-12)	2	157,100	157,100
J024	Junior Scale Stenographer (BPS-12)	4	888,300	888,300
154	Cartographer/ Draftsman (BPS-11)	3	157,100	157,100
R052	Royalty Inspector (BPS-11)	2	147,200	147,200
S161	Surveyor (BPS-11)	2	227,400	227,400
C082	Computer Operator (BPS-10)	5	359,700	359,700
S035	Senior Clerk (BPS-09)	11	1,186,400	1,186,400
J013	Junior Clerk (BPS-07)	13	1,189,400	1,189,400
T029	Tracer (BPS-07)	1	99,900	99,900
D112	Driver (BPS-05)	6	652,500	652,500
D006	Daftari (BPS-01)	2	207,900	207,900

ATTENDED