

Service Appeal No. 543-P/2024

Asad Ullah Khan.....Appellant

Vs

Govt. of Khyber Pakhtunkhwa.....Respondent

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Deponent

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

Service Appeal No. 543/2024

Khyber Pakhtunkhwa  
Service Tribunal

Mr. Asadullah Khan (PMS BS-19)

Additional Secretary/Secretary (NMA's), Board of Revenue.

16466

(Appellant)

**VERSUS**

09-10-24

Chief Secretary, Khyber Pakhtunkhwa

(Respondents No. 02 & 03)

Secretary Establishment, Khyber Pakhtunkhwa

(Respondent No. 01)

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3**

**PRELIMINARY OBJECTIONS**

1. This Honourable Services Tribunal has no jurisdiction to entertain the instant appeal U/S 4(b)(i) of the Service Tribunal Act, 1974. Reliance is placed on 2001 SCMR 1446.
2. That the appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
3. That the present appeal is not maintainable. Promotion is neither a vested right nor it can be claimed with a retrospective effect. Reliance is placed on 2005 SCMR 1742, 2002, SCMR 1056, 1992 SCMR 77, 1989 SCMR 23, PLD 1997, SC 351(d) and 1995 SCMR 567.
4. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
5. That the appellant has not come to this Honourable Services Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
7. That the appeal is hit by laches.

**ON FACTS**

1. Correct.
2. Incorrect, the Appellant promoted to PMS BS-18, on regular basis, 21.01.2021. Later on, in pursuance of the Judgement, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 946/2018 dated 27.07.2021, the Appellant was granted proforma promotion to PMS BS-18 **w.e.f 13.01.2017 (from the date when his juniors were promoted to BS-18)**, subject to final decision of CPLA pending in the Supreme Court of Pakistan.
3. As explained vide Fact No. 2.
4. Correct to the extent of acting charge appointment on 03.10.2019 and regular promotion to BS-19 w.e.f 04.08.2021 of his junior Mr. Javed Ali. Rest of the Para is incorrect.
5. Incorrect, the Appellant promoted to PMS BS-18, on regular basis, 21.01.2021. Later on, in pursuance of the Judgement, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 946/2018 dated 27.07.2021, the Appellant was granted proforma promotion to PMS BS-18 **w.e.f 13.01.2017 (from the date when his juniors were promoted to BS-18)**, subject to final decision of CPLA pending in the Supreme Court of Pakistan.
6. Correct. The Appellant's named placed at the right place over his juniors in the Seniority list of PMS BS-18 as issued on 03.06.2021.
7. Correct. In pursuance of the Judgement, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 946/2018

dated 27.07.2021, the Appellant was granted proforma promotion to PMS BS-18 **w.e.f 13.01.2017 (from the date when his juniors were promoted to BS-18)**, subject to final decision of CPLA pending in the Supreme Court of Pakistan.

- 8. Correct to the extent that PSB in its meeting held on 31.07.2021 did not find the Appellant eligible for promotion to BS-19 as he neither completed the required length of service nor completed probation period because he was promoted to PMS BS-18 on 21.01.2021 just 06-months before the said meeting. Besides, he was also not undergone MCMC, which is a pre-requisite for promotion according to Promotion Policy, 2009. Rest of the Para is incorrect.
- 9. Correct to the extent that the Appellant undergone 32<sup>nd</sup> MCMC w.e.f 27.09.2021 to 03.12.2021. Rest of the Para is incorrect.
- 10. Correct to the extent. The Appellant fulfilled the pre-requisite i.e completion of probation period in BS-18 on 20.01.2022 and undergone 32<sup>nd</sup> MCMC on 31.12.2021, therefore, PSB in its first meeting held on 07.04.2022 recommended the appellant for promotion to PMS BS-19, on regular basis and Establishment Department issued the Appellant's promotion notification on 15.04.2022. Rest of the Para is incorrect.
- 11. Correct to the extent. Departmental appeal of the Appellants processed and the Chief Minister, Khyber Pakhtunkhwa (being competent authority) regretted his appeal, being not covered under policy. The Appellant was informed vide letter dated 19.03.2024. Rest of the Para is incorrect.
- 12. As explained vide Fact No. 11 above.
- 13. Need no Comments.

**ON GROUNDS**

- A. Incorrect, PSB in its meeting held on 31.07.2021 did not find the Appellant eligible for promotion to BS-19 due to non fulfilment of the pre-requisites i.e neither undergone mandatory training nor completed probation period in BS-18 as he was promoted to PMS BS-18 on 21.01.2021 just 06-months before the said meeting.  
The Appellant undergone 32<sup>nd</sup> MCMC w.e.f 27.09.2021 to 03.12.2021
- B. Incorrect, In pursuance of the Judgement, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 946/2018 dated 27.07.2021, the Appellant was granted proforma promotion to PMS BS-18 **w.e.f 13.01.2017 (from the date when his juniors were promoted to BS-18)**, subject to final decision of CPLA filed by the Establishment Department in the Supreme Court of Pakistan against the said judgment.
- C. As explained in Ground A.
- D. The position explained vide Grounds A & B, is sufficient for disposal/dismissal of this Service Appeal as the member of service, who completed the pre-requisites, shall be eligible for promotion to PMS BS-19.  
It merits mentioning here that when the Appellant fulfilled the pre-requisite for promotion i.e completion of probation period in BS-18 on 20.01.2022 and undergone 32<sup>nd</sup> MCMC on 31.12.2021, therefore, PSB in its first meeting held on 07.04.2022 recommended the appellant for promotion to PMS BS-19, on regular basis and Establishment Department issued the Appellant's promotion notification on 15.04.2022.
- E. As explained vide Ground-D.
- F. As explained vide Grounds A & D.
- G. Incorrect, the Appellant was dealt with under the prevailing law/policy and

no fundamental right of the Appellant deprived.

Correct as explained vide Grounds A & D.

- I. As explained vide Grounds A & D.
- J. Incorrect as explained vide Ground A.

It is, therefore, most humbly prayed that the instant Service Appeal, being devoid of merit, may very graciously be dismissed with costs.



**(Secretary Establishment)**  
Through Ahmad Zab,  
Special Secretary Establishment  
(Respondent No. 01)



**(NAHEED ASLAM CHAUDHARY)**  
Chief Secretary,  
Khyber Pakhtunkhwa,  
Through Ahmad Zab,  
Special Secretary Establishment  
(Respondent No.02 & 03)



**BEFORE**

**SERVICE TRIBUNAL, PESHAWAR**

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**Service Appeal No. 543/2024**

Asad Ullah Khan.....Petitioner

**Versus**

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

**AFFIDAVIT**

I, Ahmad Zeb, Special Secretary Establishment Department, do hereby solemnly declare that the contents of Parawise Comments 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. /cost.



(CHIEF SECRETARY)

Khyber Pakhtunkhwa,  
through Ahmad Zeb,  
Special Secretary Establishment  
(Respondent No. 01, 02 & 03)

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**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 Parawise Comments before the Hon'ble Service Tribunal, Peshawar in connection with Service Appeal No. 543/2024– titled Asad Ullah Khan VS Govt. of Khyber Pakhtunkhwa & others.

  
(CHIEF SECRETARY)

Khyber Pakhtunkhwa,  
through Ahmad Zeb,  
Special Secretary Establishment  
(Respondent No.01, 02 & 03)