

**BEFORE THE KPK SERVICE TRIBUNAL**  
**PESHAWAR.**

*Appeal*  
W.P.No. 2441/2023

Syed Alam Shah

...APPLICANT

**V E R S U S**

Government KPK and others

...RESPONDENTS

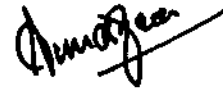
**SERVICE APPEAL**

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...APPELLANT

Through:



Dated:- \_\_\_\_\_/2024

(SARDAR MUHAMMAD AZEEM)  
Advocate High Court, Abbottabad

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**BEFORE KPK SERVICE TRIBUNAL PESHAWAR.**

**Appeal No. 2441/2023**

Syed Alam Shah

...APPELLANT

**V E R S U S**

Secretary to Government of KPK homes tribal affairs department & others.

...RESPONDENTS

**Service Appeal**

**Rejoinder on behalf of Appellant**

***Respectfully Sheweth;***

**PRELIMINARY OBJECTIONS:**

1. Para No.1 of the Reply is incorrect hence denied.
2. Para No.2 of the Reply is incorrect hence denied in reply to Para No.2 it is submitted that the appellant was promoted against the post of assistant. The post of assistant BPS 16 on regular bases on the recommendation of the DPC, which the respondents illegally converted into an acting charge against which appellant has got a cause of action.
3. Para No 3 to 5 of the preliminary objection is incorrect hence denied.
4. Para No 6 of converts is totally in correct hence denied In reply to Para No.6 it is submitted that the appellant challenged the order of acting charge promotion in which the regular promotion

was converted into acting charge bases and not seniority therefore no assistant need be made a party does it effect.

**FACTUAL OBJECTION:-**

***Respectfully Sheweth:***

1. Para No.1 to 4 no reply has been given by the respondents which require no further reply.
2. Para No.5 of the appeal admitted by the respondents, however respondents mention in said para, that in said meeting, the DPC was to consider promotion of seventeen 17 senior clerks BS 14 to the post of assistant (BPS 16) on acting charge bases, is totally wrong and against the record, the DPC clearly mention in last three lines of its meeting note that the committee recommended the following 17 senior clerk (BPS 14) for promotion as assistant (BPS 16) on regular basis.
3. Para No.5 & 6 no reply has been given by the respondents hence no further reply.
4. Para 8 of the appeal has been admitted by the respondents however detailed clarification given by the respondents is totally wrong against the Law & Facts hence denied.

In reply to detailed certification of the respondents. It is submitted that Muhammad Ismail who was directly recruited on 15/03/2019, after the promotion of the appellant. And others how he can objects. The promotion of the appellant and others who were promoted earlier then Muhammad Ismail and was senior under the Law,

furthermore that if the promotion order dated 11-02-2019 was issued to the appellant and others on a regular basis due to Misinterpretation of the rule by the committee, whether it is the fault of the appellant & whether the appellant can be punished due to wrong translation of rule by the DPC, whether such an order which is implemented and appellants has acquired the vested rights based on the said order, after 4 years said of order can be revoked, canceled, withdraw, or modify once an order has legal effect and certain rights are acquired in favour of any individual, the principle of locus poenitentiae would be available, and as per section 21 of general clauses act 1897 such an order cannot be withdraw or cancel,

**Grounds:-**

- a) In reply to Para A grounds of comments it is submitted that admitted the services of Appellant as assistant and also admitted the parks on the post of assistant which clearly shows that the promotion order was executed which subsequently cannot be converted into acting charge bases.
- b) In reply to Para B ground of comments is incorrect hence denied.
- c) In reply to Para C grounds of comments is incorrect hence denied in reply to Para C ground of comment it is submitted. That the appellant and others was promoted on regular bases to the past of assistant

(BPS 16) on 11.02.2019 which later on converted to acting charge bases but the respondent maintained regular promotions of Shakeel and Syed Ibrar Shah they had also not complete the probation period. Thus the respondents passed the impugned order in violation of Article 4 & 25 of the constution hence not sustainable under the law.

d) In reply to that Para d grounds of comments respondents did not gave any reply hence need no further reply.

It is therefore respectfully prayed on that acceptance of appeal impugned order may graciously be set-aside in the best interest of justice.

  
...APPELLANT

Through:

  
(SARDAR MUHAMMAD AZEEM)  
Advocate High Court, Abbottabad

Dated:- 9/10/24/2024

... APPELLANT

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**Appeal No. 2441/23

Syed Alam Shah

...APPELLANT

**V E R S U S**

Secretary to Government of KPK homes tribal affairs department &amp; others.

...RESPONDENTS

**SERVICE APPEAL****AFFIDAVIT**

I, **Syed Alam Shah, Appellant**, do hereby solemnly affirm and declare on Oath that the contents of instant **Rejoinder** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated: - 9/10/24 2024
  
 DEPONENT


09/10/24