

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

**SERVICE APPEAL NO.333/2024**

Sher Asghar.....appellant

**Versus**

Govt: of Khyber Pakhtunkhwa and others ..... Respondents

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*Return due to photo  
copy  
authority letter attached  
with comments.*



*S. bag Khan*

**Section Officer (Lit-II)**  
Government of Khyber Pakhtunkhwa,  
Health Department

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

**SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 333 OF 2024**

Sher Ashghar .....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa and others.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO#01,02 &03**

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 16990

Dated 22-10-24

**Respectfully Sheweth:**

**Preliminary Objections:-**

1. That the appellant has got no cause of action or locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
9. That the jurisdiction of the honorable tribunal is barred by section 4 (b)(i) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

**ON FACTS:**

1. Petain to record.
2. Petain to record.
3. Incorrect. In-fact the meeting of DPC was held on 05/03/2018 to consider the promotion of office assistant/stenographer/auditor from BS-16 to the post of office superintendent BS-17 however the promotion of office assistant/stenographer/auditor from BS-16 to the post of office superintendent BS-17 was deferred on account of discrepancies found in working paper as seniority list was found disputed and the existing service rules for the subject post was amended since 22/06/1983 while the finance department had already upgraded the existing positions. (Copy of the DPC minutes dated 05/03/2018 is Annexure-A).

4. Correct to the extent that the replying respondent held a DPC meeting on 23/12/2023 in which the appellant was recommended for promotion to the post of superintendent BPS-17 on regular basis with immediate effect as per promotion policy of the province.
5. Correct to the extent that the appellant was promoted against the vacant post of Superintendent BPS-17 on 12-04-2023 on the recommendation of DPC held on 22-12-2022 with immediate effect in accordance with Para-VI of the Khyber Pakhtunkhwa promotion policy 2009 which provides that the promotion will always be notified with immediate effect.
6. Correct to the extent that the appellant filed a joint departmental appeal on 13/10/2023 which was badly time barred furthermore the joint departmental appeal is clear cut violation of rules 3(2) of the Khyber Pakhtunkhwa Civil Servants (Appeal) rules 1986. The time barred departmental appeal was rejected by the appellate authority vide order dated 26/12/2023 Furthermore the apex court has held that when a time barred departmental appeal would be decided it would be presumed that the same has been decided on merit as well as limitation. Reliance is placed on 2007 SCMR 513.
7. Incorrect no vested right of the appellant has been violated by the replying respondent therefore he is not an aggrieved person however reply on the grounds is as under:-

### GROUNDS

- A. Incorrect the impugned orders dated 12/04/2023 and 26/12/2023 are in accordance with law rules and principals of natural justice.
- B. Incorrect already replied in Para-A above.
- C. Incorrect neither promotion/Antedate promotion is a right nor did the same has been violated by the replying respondent. He has been treated in accordance with the promotion policy of the Provincial Government.
- D. Incorrect. Already replied in Para-6 of the facts and Para-A of the grounds.
- E. Incorrect. As explained in Para-A.
- F. Incorrect. As explained in Para-A.
- G. Incorrect. As explained in Para-A.
- H. No comments. Formal.

### PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal of the appellant may very graciously be dismissed with costs.



(Dr. Muhammad Saleem)  
Director General, Health Services,  
Khyber Pakhtunkhwa (Respondent#03)



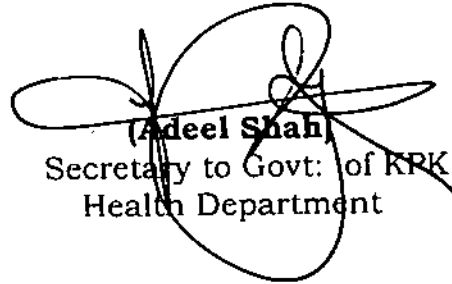
(Azeel Shah)  
Secretary to Govt. of  
Khyber Pakhtunkhwa Health Department  
(Respondent No. 01 & 2)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

**AUTHORITY LETTER**

**Mr. Shah Baz Khan**, Section Officer ( Litigation-II), Health Department Civil Secretariat Peshawar is hereby authorized to attend/defend the court cases and file comments on behalf of Secretary to Government of Khyber Pakhtunkhwa Health Department before the Service Tribunal and lower Courts.

  
**(Adeel Shah)**  
Secretary to Govt: of KPK  
Health Department

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

**SERVICE APPEAL NO.333/2024**

Sher Ashghar..... appellant

**Versus**

Govt: of Khyber Pakhtunkhwa and others ..... Respondents

**Affidavit**

I Adeel Shah, Secretary to Govt of Khyber Pakhtunkhwa Health Department is hereby, solemnly affirmed on oath that the contents of the Parawise Comments in Service Appeal NO.333/2024 on behalf of respondents are true and correct to the best of my knowledge and belief as per information provided and nothing has been concealed from this Honorable Court. *it is further stated on oath that in this appeal, the answering respondent neither has been pleased ex-parte nor their defence has been struck off/cost.*

*[Handwritten Signature]*  
**Adeel Shah**  
Secretary to Govt: of Khyber Pakhtunkhwa,  
Health Department

Identified by



**Add: Advocate General,**  
Khyber Pakhtunkhwa,  
Service Tribunal.

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MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF OFFICE ASSISTANT/STENOGRAPHER/AUDITOR BS-16 TO THE POST OF OFFICE SUPERINTENDENT BS-17 IN HEALTH DEPARTMENT, KHYBER PAKHTUNKHWA, PESHAWAR HELD ON 5<sup>TH</sup> MARCH, 2018 AT 1100 HRS

A meeting of the departmental promotion committee was held on 5<sup>th</sup> March, 2018 at 1100 hrs under the Chairmanship of Special Secretary Health to consider the promotion of Office Assistant/Stenographer/Auditor from BS-16 to the post of Office Superintendent BS-17 in health Department.

The following attended the meeting:-

- |  |          |
|--|----------|
| i. Special Secretary Health Department                             | Chairman |
| ii. Mrs. Zuhra Nigar, Dy. Secretary (Admn), Health Department      | Member   |
| iii. Mr. Naik Muhammad, Deputy Secretary, Finance Department       | Member   |
| iv. Dr. Khalid Iqbal; Additional Director General, DGHS, Peshawar  | Member   |
| v. Dr. Rizwan, DD (HRM), DGHS, Peshawar                            | Member   |
| vi. Mr. Najeeb Ullah, Section Officer (Regulation-II) Estb. Deptt. | Member   |

Deputy Secretary (Admn), Health Department explained the agenda regarding promotion of Office Assistant/Stenographer/Auditor from BS-16 to the Post of Office Superintendent BS-17 in Health Department.

The Committee thoroughly examined/checked the documents, Service Rules, Seniority position and original PERs of the incumbents. The committee agreed to defer the promotion of Office Assistant/Stenographer/Auditor from BS-16 to the post of Office Superintendent BS-17 in Health Department on account of discrepancies found in working paper as seniority list was found disputed and the existing service rules for the subject posts have not been amended since 22-06-1983 while Finance Department has already upgraded the existing positions.

*Attested*

*S. Bag Khan*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

**(BETTER COPY)**

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF OFFICE ASSISTANT/STENOGRAPHER /AUDITOR BS-16 TO THE POST OF OFFICE SUPERINTENDENT BS-17 IN HEALTH DEPARTMENT KHYBER PAKHTUNKHWA, PESHAWAR HELD ON 5<sup>TH</sup> MARCH, 2018 AT 1100 HRS**

A meeting of the departmental promotion committee was held on 05<sup>th</sup> march 2018 at 1100 HRS under the chairmanship of special secretary health to consider the promotion of office assistance/stenographer /auditor from BS-16 to the post of office superintendent BS-17 in health department.

The following attended the meeting.

- |      |   |            |
|------|---|------------|
| i.   | Special Secretary, Health Department.                       | (chairman) |
| ii.  | Mrs. Zuhra Nigar, DY. Secretary (Admin), Health Department. | (Member)   |
| iii. | Mr. Naik Muhammad DY. Secretary Finance Department.         | (Member)   |
| iv.  | Dr. Khalid Iqbal, Addle: Director General, DGHS Peshawar.   | (Member)   |
| v.   | Dr. Rizwan, DD(HRM) DGHS Peshawar.                          | (Member)   |
| vi.  | Mr. Najeeb Ullah Section Officer(regulation), Estb. Deptt.  | (Member)   |

Deputy Secretary (admin) Health Department explained the agenda regarding promotion of Office Assistance/stenographer /auditor from BS-16 to the post of Office Superintendent BS-17 in Health Department.

The Committee thoroughly examined/checked the documents service rules seniority position and original PERS of the incumbents. The committee agreed to defer the promotion of office assistance/stenographer /auditor from BS-16 to the post of office superintendent BS-17 in health department on account of discrepancies found in working paper as seniority list was found disputed and the exiting service rules for the subject posts have not been amended since 22/06/1983 while Finance Department has already upgraded the existing positions.

The chair directed the representative of Director General, Health Services, Khyber Pakhtunkhwa, Peshawar to forward the working paper regarding amendment in the existing service rules for the subject posts proposing amendments as per upgraded posts reflected in the budget book for placement before SSRC for consideration at the earliest. Moreover, DGHS may move the promotion case after finalization of the proposed amendments in the service rules and rectifying other discrepancies pointed out above.

The meeting ended with vote of thanks from the chair.

Mr. Naik Muhammad, Deputy Secretary  
Finance Department

Mr. Najeed Ullah, Section officer  
(R-II), Establishment Department

Mrs. Zuhra Nigar, Deputy Secretary (Admn)  
Health Department

Dr. Khalid Iqbal, Add: DG  
DGHS, Office, Peshawar

Dr. Rizwan, DD (HRM)  
DGHS, KPK, Peshawar

Special Secretary Health Govt. of Khyber Pakhtunkhwa  
Health Department  
(Chairman)

attested  
S. Bazarwan

Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa



**(BETTER COPY)**

The chair directed the representative of Director General, Health Services, Khyber Pakhtunkhwa, Peshawar to forward the working paper regarding amendment in the existing service rules of the subject posts proposing amendments as per upgraded post reflected in the budget book for placement before, SSRC for consideration at the earliest. Moreover, DGHS may move the promotion case after finalization of the proposed amendment in the service rules and rectifying other discrepancies pointed out above.

The meeting ended with vote of thanks from the chair.

Mr. Naik Muhammad DY. Secretary  
Finance Department

Mr. Najeeb Ullah Section Officer,  
(R-II) Estb Department

Mrs. Zuhra Nigar, DY. Secretary (Admin),  
Health Department.

Dr. Khalid Iqbal, Addle:DG  
DGHS Office Peshawar.

Dr. Rizwan, DD(HRM)  
DGHS Peshawar.

Special Secretary, Govt of Khyber Pakhtunkhwa  
Health Department.  
**(chairman)**