

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 348/2024

Gul Noor,

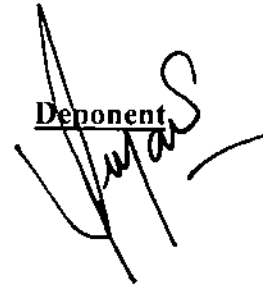
..... (Appellant)

VERSUS

1. The Chief Inspector of Mines Khyber Pakhtunkhwa.
2. The Secretary Minerals Development Department Khyber Pakhtunkhwa.
.... (Respondent)

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Deponent


BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Service Appeal No. 348/2024

Gul Noor,

..... (Appellant)

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 17027
Dated 23/10/24

VERSUS

- 1. The Chief Inspector of Mines Khyber Pakhtunkhwa.
- 2. The Secretary Minerals Development Department Khyber Pakhtunkhwa.

.... (Respondent)

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2.

Respectfully Shewith:

Preliminary Objections:

- 1. That the appellant has neither come to this court with clean hands nor the appeal is based on factual grounds, legal footing and is, therefore, liable to be dismissed.
- 2. That the appellant has no cause of action/locus standi to file the instant appeal, hence, the appeal is not maintainable in its present form.
- 3. That the appellant is stopped by his own conduct to file the instant appeal.
- 4. That the appeal in its present form is defective, bad and is liable to be dismissed.
- 5. That the appellant is bound to abide by law and regulations of the respondents issued from time to time.
- 6. That this honorable tribunal has no jurisdiction to entertain the present appeal being not maintainable, hence liable to be dismissed.

ON FACT:

1. Pertains to record.
2. Pertains to record. However, the application of the appellant was for up gradation and not for regular promotion.
3. Correct to the extent that the applications of appellant were forwarded to Finance Department. However, the same was not considered.
4. Correct to the extent that the Provincial Government issued notification for up gradation of all paramedical staff of Health Department in 2015.
5. Incorrect. Hence, vehemently denied.
6. Incorrect. The appellant only applied for two step up gradation of his post from BPS-12 to BPS-14 on *parity basis*. As per general up gradation policy of paramedic staff dated 11.08.2015, officials serving in BPS-09 shall be up graded to BPS-12. In addition to that officials serving in BPS-12 & BPS-14 shall be given two step up gradation respectively (**Annex-A**). In light of which basic pay scale of appellant was up graded from BPS-09 to BPS-12 under the rules. He was not entitled for up gradation to BPS-16.
7. Correct to the extent that government had announced fixed health allowance of Rs. 10,000/-to paramedic staff of health department only. The appellant was not entitled for the same allowance as he was not serving in health department. Rest of the para is incorrect.
8. Correct to the extent that government had extended health allowance to the paramedic staff of home & tribal affairs department and other allied departments, however, minerals development department was not granted with such allowance. Therefore, the appellant's request for health allowance was not entertained as per law. Rest of the para is incorrect.
9. Pertains to record.
10. Incorrect. Every government department carries out promotions and appointments in light of service rules promulgated for that department. Inspectorate of Mines Khyber Pakhtunkhwa does not have any such provision in service rules promulgated for this department.
11. Correct to the extent that the appellant had applied for his promotion/up gradation and grant of health allowance however, due to the lack of any proper line of promotion and sanction of health allowance by government for this department, his request could not be entertained. Rest of the para is incorrect.

- 12. Correct to the extent that a reminder request from petitioner are received. However, the petitioner was informed to provide the documents to be forwarded to the Finance Department for consideration of his request, but the petitioner is failed to submit the requisite documents till date **(Annex-B)**.
- 13. Pertains to record.
- 14. Pertains to record.
- 15. Pertains to record, being legal.

ON GROUNDS:

- a) Incorrect. This department only proceeded in light of rules and regulation in vogue. No unlawful action has been taken against the appellant.
- b) Incorrect. All departments are bound to follow the Rules of Business 1985 chalked out by government and cannot violate the same by undertaking person-specific actions.
- c) Incorrect. This department has always supported the appellant as per law, rules & regulation in vogue.
- d) Same as in Para a) above.
- e) Needs no comment. Pertains to record.
- f) Same as in Para a) above.

PRAYERS:

It is therefore, humbly prayed that, the appeal of Appellant does not hold a firm ground which may kindly be dismissed to avoid violation of existing policy as well as pandora box of such like demands.

Respondents:

Chief Inspector of Mines,
Khyber Pakhtunkhwa
~~Chief Inspector of Mines~~
~~Khyber Pakhtunkhwa~~
~~Peshawar~~

S. Mujahid Ali Shah

Respondent-1

Secretary,
Minerals Development Department,
Khyber Pakhtunkhwa
Secretary to
Govt. of Khyber Pakhtunkhwa
Minerals Dev. Department,
Peshawar.

Mutahir Zeb

Respondent-2



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 11-08-2015

NOTIFICATION

NO. SO(FR)FD/7-3/2015/Paramedics. The competent authority has been pleased to upgrade all the Paramedics Staff appointed under Khyber Pakhtunkhwa Civil Service, 1973, with immediate effect:

- I. All the incumbents Paramedics in BS-09 are upgraded to BS-12. In future the initial recruitment will be made in BS-12 instead of BS-09 and the Administrative Department shall immediately amend the service rules through SSRC accordingly.
- II. The incumbents presently serving in BS-12 & BS-14 are allowed 02 steps upgradation respectively with relaxation of condition of 10 years service in the same grade stipulated in the existing upgradation policy.
- III. The Paramedics presently serving in BS-16 and BS-17, having 05 years service in the respective pay scales, are allowed an allowance at the rate of fixation of pay in next grade.
- IV. The Administrative Department shall further streamline the service structure of BPS-16 and above through the mechanism of SSRC.
- V. Pay of existing incumbents of the posts shall be fixed in higher pay scales at the stage next above the pay in the lower pay scale.
- VI. This department notification bearing No. SO(FR)/FD/10-22/2015 dated 30-06-2015 will have no effect on the above employees.


SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst No. & Date even.

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Additional Chief Secretary, FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.

Attested


Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa



INSPECTORATE OF MINES
KHYBER PAKHTUNKHWA, PESHAWAR
ATTACHED DEPARTMENT, NEAR JUDICIAL COMPLEX
KHYBER ROAD PESHAWAR

Ph: 091-9211746- Fax No. 091-9210236 Email: jomadm@gmail.com

No. DGMM/Admn/2/1147/5783

Dated: 01/11/2023

To:

The Rescue Superintendent,
Mines Rescue Safety & Training Centre,
Jalozai, Nowshera.

Subject: Appeal Through Proper Channel For

- i. Upgradation of Single Cadre post of Medical Technician at Mines Rescue, Safety and Training Centre Jalozai, District Nowshera from BPS-12 to BPS-17 on the basis of Graduate Degree from Khyber Medical University.
- ii. Upgradation and Promotion on the basis of Time Scale.
- iii. Ante Date Grant of Health Professional Allowance.

I am directed to refer to your letter No. 215/MRSTC/RS/Miscellaneous, dated 04.09.2023 on the subject noted above and to state that the Minerals Development Department has directed to re-submit working paper of subject matter whereas you have sent appeal which may be reconsidered and a proper working paper supported with cogent reasons/justifications focusing on only one request of applicant shall be sent to this office for onward submission to Minerals Development Department, please.

Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa

9/c

Handwritten signature

Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa

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PESHAWAR.

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AFFIDAVIT

I, **Syed Mujahid Ali Shah**, Chief Inspector of Mines, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off/*lost*.

DEPONENT


CNIC: _____
21303-22516833

ATTESTED


10-224

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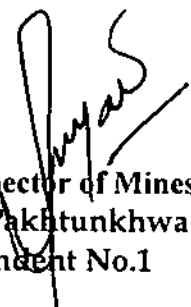
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AUTHORITY LETTER

Mr. Zaka Ullah, Assistant Director (Administration), Inspectorate of Mines, Khyber Pakhtunkhwa is hereby authorized/nominated on behalf of Respondent to submit comments/reply in the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.


Chief Inspector of Mines
Khyber Pakhtunkhwa
Respondent No.1