


FORM OF ORDER SHEET

Court of _____

Appeal No. 2161/2024

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 25/10/2024 | <p>The appeal of Mr. Hidayat Ullah presented today by Mr. Muhammad Amin Ayub Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 01.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2161/2024

Hidayatullah Khan Appellant

Versus

The Govt. of KPK and others Respondents

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F. Shah
Appellant

Through

Muhammad Amin Ayub
Muhammad Amin Ayub

&

Muhammad Tariq Khan
Muhammad Tariq Khan
Advocates, High Court
4-B, Nimra Plaza
Opposite Govt, Peshawar
Cell # 0313-4040434

Dated: 25/10/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 216/2024**Mr. Hidayatullah Khan**

Senior Clerk,

Public Library, Lakki Marwat **Appellant**

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**
through Secretary
Higher Education Department,
Civil Secretariat, Peshawar
2. **The Director**
Archives & Libraries Khyber Pakhtunkhwa,
Peshawar.
3. **Mr. Shams-Ul-Islam**
Assistant (BPS-16), Public Library Buner.
4. **Mr. Ghulam Mohi-Ud-Din,**
Assistant (BPS-16), Public Library Kohat.
5. **Mr. Asad-Ullah,**
Assistant (BPS-16), Public Library Dir Lower
6. **Mr. Asad Ullah**
Assistant (BPS-16), Public Library Swat.
7. **Mr. Adnan Ishaq,**
Assistant (BPS-16), Public Library Kohat
8. **Mrs. Sumaira Naz,**
Assistant (BPS-16), Public Library Mahsehra
9. **Mr. Maaz-Ullah,**
Directorate of Archives & Libraries,
Peshawar..... **Respondents**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED PROMOTION ORDERS DATED 29.07.2021,03.08.2022 AND 17.10.2023 OF RESPONDENT NO.2 WHEREBY PRIVATE RESPONDENTS NO. 3-9 WERE PROMOTED TO THE POST OF ASSISTANT (BPS-16), AGAINST WHICH APPELALNT PREFERRED

**DEPARTMENTAL APPEAL BUT THE SAME WAS NOT RESPONDED
WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

PRAYER:

On acceptance of the instant appeal, the impugned promotion orders dated 29.07.2021, 03.08.2022 and 17.10.23 passed by Respondent No.2 whereby Respondents No.3-9 were promoted to the post of Assistants (BPS-16) may graciously be set aside to the extent of them and appellant be promoted to the post of Assistant (BPS-16) on the basis of seniority with effect from the due date with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. **That** the appellant was recruited in the Respondent Department as Junior Clerk way back in the year 2008 and has rendered meritorious service for the Department. Later on, appellant was offered promotion against the post of Senior Clerk and since then he has been performing his duties to the entire satisfaction of the high-ups.
2. **That** the appellant while performing duties at Public Library Lakki Marwat, was issued Charge Sheet and Statement of Allegations for the reasons mentioned therein. Since the charges were unfounded, misplaced therefore, appellant refuted the same and furnished a detailed reply by explaining his position before the competent authority.
3. **That** thereafter appellant was imposed upon major penalty of reduction to lower post of Junior Clerk (BPS-11) for five year on 30.07.2020, which prompted appellant to approach the Appellate Authority by way of preferring Departmental Appeal on 19.08.2020 but the same was remained un-responded.
4. **That** thereafter appellant approached this Hon'ble Tribunal by way of filing Service Appeal No.15290/2020 but during pendency of the appeal, the pending Departmental Appeal of the appellant was decided by means of order dated 01.01.2021 by modifying the penalty of reduction to lower post

of Junior Clerk from five years to one year. Thus the Service Appeal was withdrawn with the permission to file fresh.

5. That appellant being further aggrieved of the office order dated 01.01.2021, filed Service Appeal No.1619-2020, which came for hearing on 23.02.2024 (*Annex:-A*) and adjudicated upon in the following terms, which is being reproduced hereinbelow for ease to reference:-

7. *"In view of the above, instant service appeal is accepted the impugned orders are set aside. Costs shall follow the event. Consign.*

It is significant to add here that the verdict of this Hon'ble Tribunal has not been assailed before the Apex court which has attained finality.

6. That as a matter of fact during pendency of the Service Appeal *ibid*. Respondent Department carried out promotion process of Senior Clerks (BPS-14) to the post of Assistants (BPS-16) and by means of impugned promotion orders dated 29.07.2021, 03.08.2022 and 17.10.2023 (*Annex:-B*) Respondents No.3-9 juniors to appellate vide Seniority List of Junior Clerk (*Annex:-C*) got promoted to the post of Assistants (BPS-16) whereas appellant could not be promoted owing the aforesaid penalty.
7. That after obtaining the attested copy of the judgment dated 23.02.2024 appellant furnished the same to the Respondents for compliance/ promotion against the post of Assistant (BPS-16) because his juniors/Respondents No.3-9 had been promoted which was instantly forwarded to the Respondent No.2 who finally replied the same as is evident form the Office Order dated 10.06.2024 (*Annex:-D*), therein misplaced objections were raised.
8. That appellant being endured to continue his struggle and preferred Departmental Appeal (*Annex:-E*) but the same was not decided within the statutory period of ninety days.
9. That appellant, being disgruntled of the impugned promotion orders *ibid*, files this appeal, inter-alia, on the following grounds:-

GROUND:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to promotion appellant to the post of Assistant (BPS-16), upon his reinstatement into service, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That for the sake of justice it is adduced that two impugned promotion orders dated 29.07.2021 and 03.08.2022 were passed when the Service Appeal No.1619/2021 of the appellant was pending adjudication before this Hon'ble Tribunal which finally allowed on 23.02.2024, while the second penalty of withholding of promotion for the period of three years was inflicted upon the appellant on 11.04.2022, which is still subjudice before this Hon'ble Tribunal in Service Appeal No. 1239/2022 and fixed for hearing on 22.10.2024. The essence of the above contentions is this that Respondent Department itself conceded in letter dated 10.06.2024 that the above captioned promotion orders were issued before the second penalty i.e 11.04.2022, therefore, appellant was not dealt in accordance with law and rules and unlawfully not promoted from the date when his juniors were promoted against the post of Assistant (BPS-16).
- C. That once an employee is re-instated in service after the exoneration of the charges leveled against him, the period during which he remained either suspended or dismissed cannot be attributed as a fault on his part. His absence during this period was not voluntary on his part but was due to order of the appellate authority that he was restrained not to attend his job/duty because on this basis of charge sheets, he was implicated major penalty. At the moment, his exoneration from the charges would mean that he shall stand resorted in service, as if he was never out of service of the department. Therefore, department was well aware of the fact that his earlier Service Appeal was allowed and second Service Appeal is pending adjudication thus, he could be conditionally promoted subject to the outcome of the it.
- D. That clear malafide has been made towards the appellant. Because that was in their knowledge that the Service Appeal No. 1239/2022 is pending adjudication. The august Supreme Court of Pakistan in reported judgment 2009 SCMR 369 held that the Departmental authorities particularly in service matter is required to take off their hands when his was pending in

the court relating to the terms and conditions of service. The operative part is as under for ready reference:-

“Seniority list, preparation of—Pendency of lis before Supreme Court—Effect—Petitioner department and other departments and authorities, particularly in service matter when lis was pending in the court relating to terms and conditions of service, where rights of parties regarding seniority were under consideration and were still to be determined by the Court with a resultant consequence of effecting further promotion and other rights like Selection Grade, the department should keep its hands off unless there was specific order of the court for further proceeding on the part of department/authority, in order to avoid further complications, had shown smartness by deciding the matter hurriedly without waiting for decision of court and if any difficulty had then arisen, it was for petitioner department to solve or to suffer for that—Service Tribunal had rightly passed judgment on favour of respondents and declined to interfere—Leave to appeal was refused”.

- E. **That** the appellant was imposed upon major penalty which was set aside by this Hon'ble Tribunal, which is not assailed before high forum therefore, under the canon of law he cannot be deprived from his promotion. Moreover, it has not been enunciated principle of law when a civil servant is re-instated into service with all back benefits then he shall also be entitled for arrears of salary, promotion and seniority. The logic behind the verdicts is this because he was unlawfully restrained from rendering his services against the post for which he could not be suffered more. Wisdom can be drawn from the reported judgment 2010 SCMR 11.
- F. **That** clear contravention of Section-17 of the Khyber Pakhtunkhwa Civil Servants Acts, 1973 has been made which caters for:- *“Provided further that where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.* This Hon'ble Tribunal left no room for any uncertainty regarding the seniority and promotion of the appellant as he was reinstated into service from the date of imposition of major penalty.
- G. **That** as per Article-13 of the Constitution of the Islamic Republic of Pakistan 1973 read with Section-26 of the General Clauses Act, 1897 *“No person shall be prosecuted or punished for the offence more than once,”* therefore, appellant by means of impugned orders was not only denied the

lawful right of promotion but was also subjected to lower position in seniority in the shape of impugned promotion orders hence, the same amounts to *double jeopardy* and is thus ultra vires of the Constitutional mandate and as such is liable to be struck down.

- H. **That** Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section-16 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides for the right of fair trial as per prescribed law and Rules. Even the meaningful opportunity of personal hearing was not provided to appellant and issued the impugned orders and that too without any cogent reasons hence appellant was condemned unheard, thus the impugned orders are void, ab-initio as well as against the principle of natural justice. Furthermore, Rule-5 of the Khyber Pakhtunkhwa Civil Servant (Appeals) Rules, 1986 stipulates that:-

“5.(1) The appellate authority, after making such further inquiry or calling for such information or record or giving the appellant an opportunity of being heard, as it may consider necessary, shall determine-

- (a) Whether the facts on which the order appealed against was based have been established.*
- (b) Whether the facts established afford sufficient grounds for taking action; and*
- (c) Whether the penalty is excessive, adequate or inadequate.*

Therefore, the mandatory requirements of the cited Rule have been bypassed by the appellate authority/Respondent by non-replying the Departmental Appeal of the appellant which is clear negation of the set procedure and Section-24-A of General Clauses Act.

- I. **That** the bare reading of the Section-17 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 reveals that the word “*may*” has been used which makes the Competent Authority/Respondent No.2 responsible to exercise the discretion fairly and in structured manner as prescribed by the law. Under the law when something is required to be done in a manner then the same must be done in the required manner.

J. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant


Muhammad Amin Ayub

&

Muhammad Tariq Khan
Advocates, High Court

Dated: 28/10/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2024

Hidayatullah Khan Appellant

Versus

The Govt. of KPK and others Respondents

Affidavit

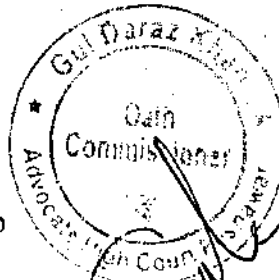
I, Hidayatullah Khan, Senior Clerk, Public Library, Lakki Marwat, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

F. Shah

Deponent

Identified by

Muhammad Anwar Ayub
Muhammad Anwar Ayub
Advocate, Peshawar



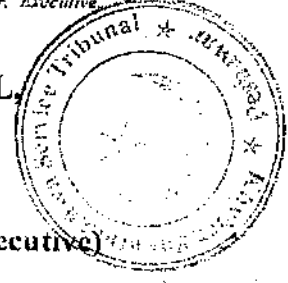
[Signature]
25/10/24

11201-0336251-9

Service Appeal No.1619/2021 titled "Hidayat Ullah-vs-The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Civil Secretariat, Peshawar & others", decided on 23.02.2024 by Division Bench comprising: Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar.

ANNEX A-9-

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**



BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
FAREEHA PAUL ...MEMBER (Executive)

Service Appeal No.1619/2021

Date of presentation of appeal.....25.01.2021
Dates of Hearing.....23.02.2024
Date of Decision.....23.02.2024

Mr. Hidayatullah Khan Ex-Senior Clerk, Public Library, Lakki Marwat.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa**, through Secretary Higher Education Department, Civil Secretariat, Peshawar.
2. **The Director**, Archives & Libraries Khyber Pakhtunkhwa, Peshawar.
3. **The Deputy Director**, Archives & Libraries Khyber Pakhtunkhwa, Lakki Marwat.....(*Respondents*)

Present:

Mr. Muhammad Amin Ayub, Advocate.....For appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney.....For respondents

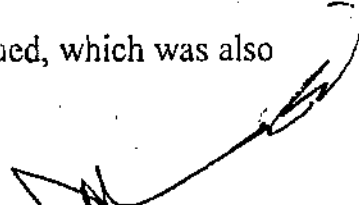
SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 01.01.2021 OF RESPONDENT NO.1 WHEREBY MAJOR PUNISHMENT OF REDUCTION TO LOWER POST OF JUNIOR CLERK (BPS-11) FOR FIVE YEARS HAS BEEN REDUCED TO ONE YEAR.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was appointed as Junior Clerk in the year 2008 and later on was promoted to the post of Senior Clerk. That on 03.02.2020, a charge sheet was issued to him on the charges of misconduct in shape of overwriting in the service book. That same charge sheet was replied by the appellant on 17.02.2020. That an inquiry was initiated against him, wherein, inquiry officer submitted his report, recommending the appellant for removal from service. That on 07.07.2020, show cause notice was issued, which was also

ATTESTED


KALIM ARSHAD KHAN



Service Appeal No.1619/2021 filed "Hidayat Ullah-vs-The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Civil Secretariat, Peshawar & others", decided on 23.02.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar

replied by the appellant. That vide order dated 30.07.2020, major penalty of reduction to lower post of Junior Clerk (BPS-11) for five years was imposed upon the appellant. Feeling aggrieved, he filed departmental appeal, which was not responded at that time, therefore, he filed Service Appeal No.15290/2020. During pendency of the said appeal, the departmental appeal was decided by modifying the penalty of reduction to lower scale for a period of one year. Therefore, the appellant withdrew the service appeal No.15290/2020 with permission to file fresh appeal. Hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were issued notices. They put appearance and submitted reply.
3. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.
4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).
5. Perusal of record reveals that the appellant was serving as Senior Clerk when a charge sheet was issued to him. The contents of the said charge sheet are as under:

"i) That you have an undesirable track record of habitual absence and misconduct since your appointment on 07.08.2008 which has resulted into imposition of minor penalties upon you from time to time. In spite of the aforesaid, you have been again reported for misconduct as evident from the complaint no.KP090120-625847 lodged on Pakistan Citizen Portal as well as manually received. Thus, you have badly failed to bring improvement in your overall misconduct during the course of time spanning over more than eleven years.

ii) That, you have tampered the record of penalty entered with Red Entries on Page-17 of your service book by overwriting the same with

ATTESTED

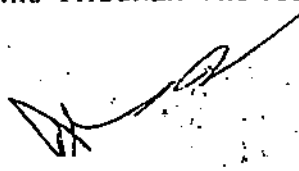

Service Appeal No.1619/2021 titled "Hidayat Ullah-vs-The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Civil Secretariat, Peshawar & others", decided on 23.02.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar.

blue pen, besides, failed to put satisfactory explanation thereof in your reply dated 20.01.2020."

6. The appellant resubmitted reply to the charge sheet denying the allegations. Subsequently, an inquiry was also initiated against the appellant. In Para-IV of the findings of the inquiry, the inquiry officer has given ambiguous remarks regarding the tampering. The said part of para is reproduced as under:

"The committee observed that under these circumstances, it is possible that the accused might have done the subject tampering with the intentions of diverting first attention from the "Red Entries" highlighting record of the penalty on page 17 of his service book and concealing entries pertaining to imposition of withholding of two annual increments for the year, 2019 & 2020 as evident from his silence over annual increment, 2019 which was later on recovered from him with arrears. "

The Enquiry Committee is not sure regarding the alleged act of tampering by the appellant in page-17 of the service book nor we have perused the copy of the Service Book placed on file by the respondents alongwith their reply but that apparently does not show any tampering nor did we have the opportunity to peruse the original as nobody appeared before the Tribunal during the hearing nor produced original. But fact remained the same that even if any tampering has been made the same was required to have clearly been proved to have been made by the appellant in order to hold him guilty for that. When the report does not directly prove the charge, then punishment awarded on the basis of such vague finding could not be sustained. Besides, the allegations leveled against the appellant have not been proved by the respondents as the respondents have not rejected the plea on a strong ground, rather reduced the penalty in response to the departmental appeal and that too, after expiry of 90 days, when the appellant had approached this Tribunal. The record further reflects that the appellant has



ATTESTED
Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No.1619/2021 titled "Hidayat-Ullah-vs-The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Civil Secretariat, Peshawar & others", decided on 23.02.2024 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal Peshawar.

not been given any chance of defense and all the proceedings were done in a haste rendering the entire departmental action fruitless constraining the Tribunal to set aside the impugned orders.

7. In view of the above, instant service appeal is accepted the impugned orders are set aside. Costs shall follow the event. Consign.

8. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 23rd day of February, 2024.

KALIM ARSHAD KHAN
Chairman

FAREEHA PAUL
Member (Executive)

Certified to be true copy.

Muazzam Shah

EX AMIN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12/3/24
 Number of Words 4-pages
 Copying Fee 20/-
 Urgent JK
 Total 25/-
 Name of Copy JK
 Date of Copy 12/3/24
 Date of Delivery of Copy 12/3/24



DIRECTORATE OF ARCHIVES & LIBRARIES,
KHYBER PAKHTUNKHWA, PESHAWAR.
Phone: - 091- 9210100 Website: - www.kpdal.gov.pk,
www.facebook.com/KParchivesandlibraries

No. 1032 /31/DA Dated 29 July, 2021.

-13-

ORDER

ANNEX B

Consequent upon the recommendations of the Departmental Promotion Committee, Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa made in its meeting held on 13-07-2021, the competent authority under Rule-04(02,c-i) of the Appointment, Promotion & Transfer Rules, 1989, is pleased to order: -

1. Promotion of Mr. Muhammad Zulfiqar, Senior Clerk (BPS-14) as Assistant (BPS-16) and post him against the existing vacancy in Directorate of Archives & Libraries, Peshawar with immediate effect.
2. Promotion of Mr. Wajid Ullah, Senior Clerk(BPS-14) as Assistant (BPS-16) on regular basis in Public Library, Mardan.
3. Promotion of Mr. Shams Ul Islam, Senior Clerk (BPS-14), Public Library, Swat as Assistant (BPS-16) and post him against the newly sanctioned post in Public Library, Buner with immediate effect.
4. Promotion of Mr. Ghulam Mohi Ud Din, Senior Clerk(BPS-14), Directorate of Archives & Libraries, Peshawar as Assistant(BPS-16) and post him against the existing vacancy in Public Library, Kohat with immediate effect.
5. Promotion of Mr. Gul Islam, Junior Scale Stenographer(BPS-14) as Senior Scale Stenographer(BPS-16) and post him against the newly sanctioned post in Directorate of Archives & Libraries, Peshawar with immediate effect.
6. Promotion of Mr. Sher Afzal, Junior Scale Stenographer(BPS-14) as Senior Scale Stenographer(BPS-16) and post him against the newly sanctioned post in Directorate of Archives & Libraries, Peshawar with immediate effect.
7. Appointment of Mr. Asad Ullah, Senior Clerk(BPS-14), Directorate of Archives & Libraries, Peshawar to the post of Assistant(BPS-16) on acting charge basis against the existing vacancy in Public Library, Dir Lower.

02- The officials at S.No. 01 to 06 will take charge of their posts within 30-days of the issuance of this order and they will be on probation for period of one year, extendable to further one year, in terms of Rule-15(1 & 2) of the rules ibid.

(RAHEELA HAFEEZ)
Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & Date Even.

Copy forwarded to:

- 1 The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2 The District Accounts Officer, Mardan, Swat, Buner, Kohat and Dir Lower.
- 3 The Section Officer(C-IV.), Higher Education, Archives & Libraries Department.
- 4 Incharge, Public Library, Mardan, Swat, Buner, Kohat and Dir Lower.
- 5 Mrs. Saima Kiran, Assistant to report for duties to this Directorate after expiry of 05-years Extra Ordinary Leave.
- 6 The officials concerned.
- 7 Office Orders File.

Director of Archives & Libraries,



**DIRECTORATE OF ARCHIVES & LIBRARIES,
KHYBER PAKHTUNKHWA, PESHAWAR.**

Phone: - 091- 9210100 Website: - www.appl.gov.pk
www.facebook.com/KParchivandLibraries

No. 1455 /31/DA Dated 03rd August, 2022.

-14-

ORDER

Consequent upon the recommendation of the Departmental Promotion Committee, Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa made in its meeting held on 29-06-2022, the competent authority under Rule-04 (02, c-i) of the Appointment, Promotion & Transfer Rules, 1989 is pleased to order: -

1. Promotion of Mr. Asad Ullah, Senior Clerk (BPS-14) as Assistant (BPS-16) and post him against the existing vacancy in Public Library, Swat.
2. Promotion of Mr. Adnan Ishaq, Senior Clerk (BPS-14) as Assistant (BPS-16) and post him against the existing vacancy in Public Library, Kohat.
3. Promotion of Mrs. Sumaira Naz, Senior Clerk (BPS-14) as Assistant (BPS-16) and post her against the existing vacancy in Public Library, Manshera.


02. The officials will take charge of their posts within 30-days of the issuance of this order and they will be on probation for period of one year, extendable to further one year, in terms of Rule-15 (1-2) of the rules ibid.

(Rahela Hafeez)
Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar

Encl: No. & Date even,

Copy forwarded to: -

- 1 The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2 The District Accounts Officer at Dir Lower, Swat, Kohat, Abbottabad and Manshera.
- 3 The Section Officer (C-IV), Higher Education, Archives & Libraries Department.
- 4 The Incharges at Public Library, Rahman Baba Public Library/Complex, Peshawar, Dir Lower, Swat, Kohat, Abbottabad and Manshera.
- 5 The officials concerned.
- 6 Office Order file.


Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.



-15-
Pat

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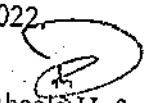
No. 1109 /31/DA Dated 17th October, 2023.

ORDER

Consequent upon the recommendations of the Departmental Promotion Committee dated 03-10-2023, the competent authority, under Rule-04(02,c,i) of the Appointment, Promotion & Transfer Rules, 1989, is pleased to order promotion of Mr. Maaz Ullah, Senior Clerk(BS-14) as Assistant (BPS-16) and adjust him against the existing vacancy of Senior Scale Stenographer(BPS-16) in Directorate of Archives & Libraries, Peshawar with immediate effect.

02- The officials will be on probation for period of one year, extendable to further one year, in terms of Rule-15(1 & 2) of the rules ibid.

03- The instant promotion will be conditional to the decision in appeal No. 1239 filed by Mr. Hidayat Ullah, Senior Clerk in Khyber Pakhtunkhwa Service Tribunal against the penalty of withholding promotion for three years imposed vide order dated 11-04-2022.


(Raheela Hafeez)
Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & Date Even.

Copy forwarded to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer(C-IV), Higher Education, Archives & Libraries Department
3. The official concerned.
4. Office Orders File.

Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

ANNEX C

DIRECTORATE OF ARCHIVES & LIBRARIES,
KHYBER PAKHTUNKHWA, PESHAWAR.

NO. 236 / 152 / DA. Dated 13/02/2020.


To,

1. All concerned Assistants (Appointed on acting charge basis)
 2. All concerned Senior Clerks
- Directorate of Archives & Libraries,
Khyber Pakhtunkhwa.



Subject: UPDATED SENIORITY LIST OF HOLDERS OF THE POSTS OF ASSISTANTS (APPOINTED ON ACTING CHARGE BASIS) SENIOR CLERKS IN DIRECTORATE OF ARCHIVES & LIBRARIES, KHYBER PAKHTUNKHWA AS IT STOOD ON 12-02-2020.

Enclosed please find herewith the above referred seniority list for your information. If you have any objection/reservation regarding your seniority position the same along with relevant record may be forwarded to this office in writing by 20-02-2020 for rectification, otherwise, the list will be considered final and will be notified accordingly. Further, in case of no objection, all concerned Assistants (Appointed on acting charge basis)/ Senior Clerks of branch offices are directed to visit this Directorate for signing/authenticating the subject list at the earliest please.


(Zahid Ullah Khan)
Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar

Endst: No. & Date Even.

Copy of the above referred seniority list is forwarded to:-

- 01- The Incharges, Public Libraries at Peshawar, Swabi, Swat, Dir Lower, DI Khan, Lakki Marwat, Bannu, Haripur and Abbottabad with direction to circulate the list amongst all concerned for their information.
- 02- For Circulation amongst concerned staff of Directorate of Archives & Libraries, Peshawar.

Director of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar

DIRECTORATE OF ARCHIVES & LIBRARIES
KHYBER PAKHTUNKHWA PESHAWAR.

UPDATED SENIORITY LIST OF THE POSTS OF ASSISTANTS (APPOINTED ON ACTING CHARGE BASIS)/ SENIOR CLERKS (BPS-14) WORKING
IN THE DIRECTORATE OF ARCHIVES & LIBRARIES, KHYBER PAKHTUNKHWA AS IT STOOD ON 12-02-2020.

| S.# | Name of Official | Qualification | Date of Birth with Domicile | Date of 1 st Entry into Govt. Service on regular basis with designation & BPS | Date of joining of this Office with designation & date | Date of promotion/ appointment to the present post | Method of Appointment to the present post | Remarks. |
|-----|--|---------------|-----------------------------|--|--|--|---|--|
| 1. | Nasim Sikandar, Assistant (BPS-16), (Appointed on acting charge basis), Abbottabad. | M.A | 01-09-1969 Abbottabad-V | 04-08-1994 Jr. Clerk (BS-05) | 04-08-1994 Jr. Clerk (BS-05) 22-08-2017 Senior Clerk (BS-14) | 11-10-2018 Assistant (BPS-16) | By Promotion | Appointment as Assistant on acting charge basis. |
| 2. | Saleh Mahmood, Assistant (BPS-16), (Appointed on acting charge basis) Lakki Marwat. | SSC | 10-04-1979 Bannu-IV | 12-10-2007 Jr. Clerk (BS-11) | 12-10-2007 Jr. Clerk (BPS-11) 22-08-2017 Senior Clerk (BS-14) | 11-10-2018 Assistant (BPS-16) | By Promotion | -do- |
| 3. | Khalid Usman, Assistant (BPS-16), (Appointed on acting charge basis) J.K.L. | M.A | 12-02-1978 Swabi-II | 27-10-2007 Jr. Clerk (BS-07) | 27-10-2007 Jr. Clerk (BPS-11) 22-08-2017 Senior Clerk (BS-14) | 11-10-2018 Assistant (BPS-16) | By Promotion | -do- |
| 4. | Sajila, Assistant (BPS-16), (Appointed on acting charge basis) RBC, Peshawar. | F.A | 18-02-1986 Peshawar-II | 13-11-2007 Jr. Clerk (BS-11) | 13-11-2007 Jr. Clerk (BPS-11) 22-08-2017 Senior Clerk (BS-14) | 11-10-2018 Assistant (BPS-16) | By Promotion | -do- |
| 5. | Muhammad Zulfiqar, Senior Clerk (BS-14), DA&L, Peshawar. | FA | 18-03-1967 Peshawar/II | 10-08-1991 N. Qasid (BS-01) | 10-08-1991 N. Qasid (BS-01) | 26-05-2014 Senior Clerk (BS-14) | By promotion | Declined to avail promotion chance as Assistant on 06-04-2017 as such, he is not eligible to be considered for promotion for the next 04-years under Rule-7(5) of APT Rules, 1989. |
| 6. | Fazal Wahab, Assistant (BPS-16), (Appointed on acting charge basis), Public Library, Swabi | B. Com | 04-03-1981 Swabi-II | 18-12-2007 Jr. Clerk (BPS-07) | 18-12-2007 Jr. Clerk BS-11 22-08-2017 Senior Clerk (BS-14) | 09-01-2020 Assistant (BS-16) | By Promotion | Appointment as Assistant on acting charge basis. |
| 7. | Wajid Ullah, Senior Clerk (BPS-14), DA&L, Peshawar. | SSC | 05-10-1971 Peshawar-II | 14-11-1990 N. Qasid (BS-01) | 14-11-1990 N. Qasid (BS-01) | 22-08-2017 Senior Clerk (BS-14) | By Promotion | |

-17-

| | | | | | | | | |
|----|---|---|--------------------------------|----------------------------------|--|-------------------------------------|--------------|---|
| | | | | | 07-08-2008 Jr. Clerk BS-11 | | | |
| 8 | Hidayat Ullah, Senior Clerk (BPS-14) Public Library, Lakki | M.A | 20-09-1979 DIK-IV | 07-08-2008 Jr. Clerk (BPS-07) | 07-08-2008 Jr. Clerk BS-11 | 22-08-2017 Senior Clerk (BS-14) | By Promotion | Overall Merit Marks -85 |
| 9 | Sham Ul Islam, Senior Clerk (BPS-14), Swat Public Library, Swat | B. A | 15-04-1974 Swat-II | 16-08-1995 N Qasid (BS-01) | 16-08-1995 N Qasid (BS-01) 07-08-2008 Jr. Clerk BS-11 | 22-08-2017 Senior Clerk (BS-14) | By Promotion | Overall Merit Marks -60 |
| 10 | Ghulam Mohiuddin, Senior Clerk (BS-14) DA&L, Peshawar | FA | 15-03-1981 Peshawar-II | 07-06-2008 Kاتب (BPS-05) | 07-06-2008 Kاتب (BPS-07) | 21-05-2018 Senior Clerk (BPS-14) | By Promotion | |
| 11 | Ashraf Ali, Sr. Clerk (BS-14), KKMPL, Akora Khattak, Nowshera | SSC | 07-03-1960 Peshawar-II | 06-03-1979 Naib Qasid BS-01 | 01-06-2012 Jr. Clerk BS-11 | 07-12-2018 Senior Clerk (BPS-14) | By Promotion | |
| 12 | Asad Ullah, Sr. Clerk (BPS-14) DA&L, Peshawar | F.A/Shaheed ul Alamir (Equal to M.A (Librarian) | 19-09-1976 Peshawar-II | 01-07-2012 Jr. Clerk BS-07 | 01-07-2012 Jr. Clerk (BS-11) | 07-12-2018 Senior Clerk (BPS-14) | By Promotion | Case for regularization of previous contract service period is under trial in court. |
| 13 | Asad Ullah, Sr. Clerk (BS-14), Timergara Public Library, Dir lower | F.Sc. | 23-01-1992 (Peshawar-II) | 16-07-2012 Jr. Clerk BS-07 | 16-07-2012 Jr. Clerk BS-11 | 07-12-2018 Senior Clerk (BPS-14) | By Promotion | |
| 14 | Adnan Ishaq, Sr. Clerk (BS-14), RBC, Peshawar | BBA(H) | 31-01-1990 Peshawar-II | 28-01-2014 Jr. Clerk (BPS-07) | 28-01-2014 Jr. Clerk BS-11 | 07-12-2018 Senior Clerk (BPS-14) | By Promotion | |
| 15 | Sumera Naz, Sr. Clerk (BS-14), Public Library, Abbottabad | M.A (P.S) | 06-04-1988 Abbottabad- V | 28-01-2014 Jr. Clerk (BS-11) | 28-01-2014 Jr. Clerk BS-11 | 07-12-2018 Senior Clerk (BPS-14) | By Promotion | |
| 16 | Maaz Ullah, Sr. Clerk (BS-14), Bannu Public Library, Bannu | B. A | 17-03-1989 Mohmand -I | 28-01-2014 Jr. Clerk BS-11 | 28-01-2014 Jr. Clerk BS-11 | 18-04-2019 Senior Clerk (BPS-14) | By Promotion | |
| 17 | Abdullah, Sr. Clerk (BS-14), Bannu Public Library, Bannu | F.A | 12-05-1972 Charsadda-II | 01-01-1993 N. Qasid BS-01 | 27-05-2014 Jr. Clerk BS-11 | 18-04-2019 Senior Clerk (BPS-14) | By Promotion | |
| 18 | Abid Ullah, Senior Clerk (BPS-14) Haripur | SSC | 04-04-1974 Peshawar-II | 05-01-1993 N. Qasid BS-01 | 30-08-2015 Jr. Clerk BS-11 | 18-04-2019 Senior Clerk (BPS-14) | By Promotion | |



Director, Archives & Libraries
Hyderabad

- 01- District Accounts Officer, Lakkal Marwar
- 02- Deputy Director, Directorate of Archives & Libraries
- 03- Section Officer (Lit.), Higher Education, Archives & Libraries Department
- 04- Incharge, Public Library, Lakkal Marwar
- 05- Mr. Hidayat Ullah, Senior Clerk, Public Library, Lakkal Marwar

Copy forwarded to:-

Encl: No. & Date Even.

(Rabeela Hafeez)
Director, Archives & Libraries
Hyderabad

WHEREAS, major penalty of reduction to lower post of Junior Clerk for five years was imposed upon Mr. Hidayat Ullah, Senior Clerk, Public Library, Lakkal Marwar. On acceptance of appeal the said penalty was modified/reduced to one year by the appellate authority vide notification dated 01-01-2021.

02- WHEREAS, on completion of the above referred modified penalty, the official was required to the post of Senior Clerk from 30-07-2021 vide order dated 29-07-2021.

03- WHEREAS, the official filed service appeal No. 1619/2021 against the modified penalty dated 01-01-2021 which was accepted with setting aside of the penalty order vide Khyber Pakhtunkhwa Service Tribunal judgment dated 23-02-2024.

04- WHEREAS, prior to imposition of the modified penalty, the official was standing at S.No. 08 of the then seniority list of Senior Clerks, as it stood on 12-02-2020 and was senior to the then incumbents placed at S.No. 09 and below.

05- WHEREAS, two comparable juniors of the official, namely Mr. Shams Ullah, Senior Clerk and Mr. Ghulam Mubshid, Senior Clerk, placed at S.No. 09 and 10 of the said list, were promoted to the posts of Assistant (B5-16) in supersession of the official on 29-07-2021, i.e. one day before restoration of the official to the post of Senior Clerk from 30-07-2021, whereby, seniority of the said Senior Clerks over the official, became protected under the amendment notified in Khyber Pakhtunkhwa Government Services (Efficiency & Discipline) Rules, 2011 dated 16-01-2023 which states that "Provided that on restoration to the original post scale or post, the penalized Government servants shall be placed below the erstwhile juniors promoted to higher post during subsistence of the period of penalty."

06- WHEREAS, as result of another departmental proceedings, second penalty of withholding promotion for three years was imposed on the said official vide order dated 11-04-2022 which is effective till 10-04-2025.

07- WHEREAS, the official has filed service appeal No. 1239/2022 against the second penalty which is subjudice in Khyber Pakhtunkhwa Service Tribunal at present.

08- WHEREAS, four more Senior Clerks, then placed at S. No. 12 to 16 of the said seniority list of Senior Clerks, as it stood on 12-02-2020, were also promoted to the posts of Assistant (B5-16) in supersession of the official during the period of second penalty to be completed on 10-04-2025, and thereby, promotion of the last incumbent was made conditional to the final outcome of the service appeal mentioned under para-06.

09- NOW THEREFORE, in light of judgment of Khyber Pakhtunkhwa Service Tribunal in appeal No. 1619/2021, the competent authority is pleased to order:-

1)- Withdrawal of the modified penalty order ab-initio and subsequently restore seniority of the official as Senior Clerk from 30-07-2020 with back benefits on account of less drawl of pay & allowance by the official as Junior Clerk during the modified penalty period from 30-07-2020 to 29-07-2021.

2)- Restoration of seniority of the official over the then incumbents placed at 12 to 16 of the said seniority list of Senior Clerks subject to final outcome of the appeal No. 1239/2022, presently subjudice.

ORDER

Director, Archives & Libraries
KHYBER PAKHTUNKHWA PESHAWAR
Phone: (01-921010) Peshawar - www.kalim.com
www.kalim.com Peshawar
No. 107/310 DA dated 17.06.2024



Handwritten signature and date: 18-11-24

To

03/07

The Secretary Higher Education Archives & Libraries
Department, Peshawar

ANNEX 5² -19-

THROUGH PROPER CHANNEL

SUBJECT: DEPARTMENTAL APPEAL/ REPRESENTATION AGAINST THE PROMOTION ORDERS DATED 29-07-2021, 03-08-2022 AND 17-10-2023, WHEREBY JUNIORS TO APPELLANT GOT PROMOTED TO THE POST OF ASSISTANTS (BS-16).

Respected Sir,

1. That appellant is a senior clerk of your good office. Appellant was proceeded against departmentally which was modified/ reduced to one year vide Notification dated 01-01-2021. Appellant being aggrieved preferred service appeal no 1619/2021 before the Hon'ble Khyber Pakhtunkhwa service tribunal Peshawar which was allowed on 23-02-2024. (copy of judgment attached)
2. That after obtaining the judgment appellant submitted the same to your good office for implementation in letter and spirit as appellant was reinstated with all back benefits. It is mentioned that the judgment was not assailed before the Supreme Court of Pakistan.
3. That during pendency of the service appeal no 1619/2021 numerous juniors to appellant were promoted against the post of Assistants (BPS-16) while appellant was not considered for the subject promotion obviously to the penalty which was later on set aside.
4. That appellant submitted a representation to the concerned authorities for considering his case for subject promotion but no heed was paid. *Appellant got cause of action on 10-06-2024 (Order attached)*
5. That appellant being aggrieved from the acts and omissions and impugned promotion orders dated 29-07-2021, 03-08-2022 and 17-10-2023, files this departmental appeal/ representation inter-alia on the following grounds;

Grounds:

- A. That appellant was not treated in accordance with law and rules and unlawfully refused to promote him against the post of Assistant (BPS-16) with effect from the due date i.e. when his juniors offered promotion against the subject post, therefore, the impugned orders are not sustainable in the eye of law and liable to be set aside.

- B. That admittedly appellant was re-instated into service with all back benefits by the worthy KP Service Tribunal against which no CPLA has been preferred, hence, the same has attained finality. Section-17 of the Khyber Pakhtunkhwa civil servants act, 1973, provides that that civil servant shall be entitled to all back benefits include arrears of his salaries whenever his penalty is set aside by the competent court of law. Therefore appellant was supposed dealt in accordance with the subject law but to no avail.
- C. That under the promotion policy of the provisional Government which states that if original seniority of a civil servant is restored in pursuance of the court verdict then he shall be entitled for his promotion when juniors to him were promoted. This fact cannot be denied that the penalty awarded to appellant is no more infield therefore, department was required to promote petitioner from the due date and placed him ahead to juniors in the seniority list of the Assistants (BPS-16).
- D. That it is also an admitted position that appellant was differed from promotion against the next higher grade owing to imposition of penalty which was later on, set aside, therefore, in case of deferment a civil servant cannot lost his actual position but his promotion is delayed owing to such a deficiency for which at the time of promotion he is not eligible and after removing the deficiency he shall be promoted when his juniors were offered promotions against the next higher grade.
- E. That under Article-13-a of the constitution of Islamic republic of Pakistan-1973, appellant was subjected to double jeopardy which stipulates that no person shall be treated for the same offense more than once. Therefore, appellant was re-instated into service with all back benefits by the Khyber Pakhtunkhwa service tribunal which remains no room to any confusion in respect of appellant's promotion to next high grade.

It Is Therefore, most humbly prayed that on acceptance Of this departmental appeal/ representation the impugned promotion orders dated 29-07-2021, 03-08-2022 and ~~17-10-2023~~ may kindly be set aside and appellant be promoted to the post of assistant (BPS-16) when his juniors got promoted against the subject post with all consequential back benefits.

Any other relief which has not specifically been asked may also be granted to appellant in the best interest of justice.

Appellant *F. Shah*
Hidayat Ullah
Senior Clerk, public library
Lakki Marwat

بخدمت جناب سیکرٹری صاحب ہائیر ایجوکیشن، آرکائیوز اینڈ لائبریری ڈیپارٹمنٹ پشاور

جناب عالی!

گزارش کی جاتی ہے کہ من سائل نے ایک ڈیپارٹمنٹل اپیل برخلاف پروموشن آرڈر مورخہ 03.7.2024 کو جمع کی تھی۔ جس میں مسیٰ محرز اللہ

کی پروموشن آرڈر بھی چیلنج کیا گیا تھا کیونکہ مذکورہ پروموشن آرڈر نہیں تھا۔ اور دفتر والوں کی زبانی معلومات تھی اس لیے اپیل جمع کر دی کیونکہ مقررہ وقت اپیل کا

گزر رہا تھا۔ اس کے بعد سائل نے بذریعہ RTI ایکٹ مذکورہ آرڈر کے لیے درخواست دی جس کے ذریعے مذکورہ آرڈر مہیا کیا گیا۔

لہذا استدعا ہے کہ مذکورہ آرڈر نمبر 17.10.2023 اپیل کا حصہ گردانہ جائے۔

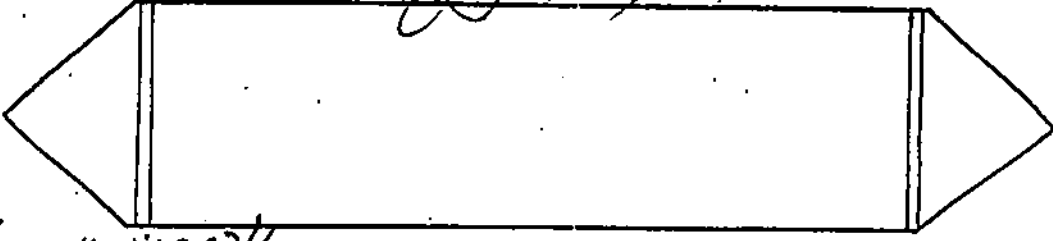
نوٹ: درخواست کے ساتھ تمام دستاویزات لف ہیں۔

مورخہ: 15.07.2024

العارض

ہدایت اللہ سینئر کلرک، پبلک لائبریری اکی مروت

بعد الت سرور سرور سرور سرور



2022ء منجانب سرور سرور
حوادث اللہ بنام سرور سرور

موزعہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی و جواب کو ہی دکن کاروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثبات فیصلہ برحلف دیے جواب دی اور اقبال دعویٰ اور
بسورت ڈگری کرنے اجراء اور صولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور دکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ در جانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا جد سے باہر ہو تو دکیل صاحب پابند ہوں گے۔ کہ پیردی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم 28
ہا اکتوبر 2022ء

واہ الب

کے لئے منظور ہے۔

Accepted
[Signature]

بمقام