


FORM OF ORDERSHEET

Court of _____

Misc. application No. 1296/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25/10/2024	<p data-bbox="539 682 1469 996">The Misc. application in appeal no. 115/2024 submitted today by Syed Roman Shah Advocate. It is fixed for hearing before Division Bench at Peshawar on 01.11.2024. Original file be requisitioned. Parcha Pesi given to the counsel for the applicant.</p> <p data-bbox="1007 1029 1401 1065">By order of the Chairman</p> <p data-bbox="1091 1065 1310 1182"> REGISTRAR</p>

①

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

CM No. 1296/2024

in

Service Appeal No. 115 of 2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12203

Dated 25-10-24

Shaheed Ullah S/o Taj Ali Khan, Naib Qasid, District Public Prosecutor
Office, District Karak.....Petitioner/Appellant

Versus

1. Government of Khyber, Pakhtunkhwa, Home and Tribal Affairs
Department through its Secretary.
2. Director General, Directorate of Prosecution, Home and Tribal Affairs
Department Peshawar.
3. Director Administration, Directorate of Prosecution, Home and Tribal
Affairs, Peshawar
4. Assistant Director, Directorate of Prosecution, Home and Tribal Affairs
Department, Peshawar.....Respondents

**PETITION FOR RECTIFICATION OF JUDGMENT DATED 09/10/2024 IN
APPEAL NO. 115 OF 2024**

Respectfully Sheweth!

1. That the above mentioned appeal has been decided by
this Hon'ble Tribunal vide order and judgment dated
09/10/2024. (Copy of judgment is attached)
2. That it is worth mentioning that during the course of
argument the petitioner / appellant has just requested the
court to maintain his due seniority as per his longstanding
service, and accordingly this Hon'ble Tribunal agreed with
the same request and partially allowed the appeal and
order was announced to that extend.

3. That now the petitioner became shock on getting the attested copy of the judgment, wherein the appeal has been dismissed without allowing the petition to the extend of correction in the seniority list. Similarly the same fact and ground might be inadvertently left from the consideration of this Hon'ble Tribunal has been finalized on 24/10/2024.

It is, therefore, most humbly prayed that necessary correction may please be made in the Judgment passed by this Hon'ble Tribunal to the extend of placing the petitioner on his right place being senior most of all the employees.

[Signature]
Petitioner/Appellant

Through

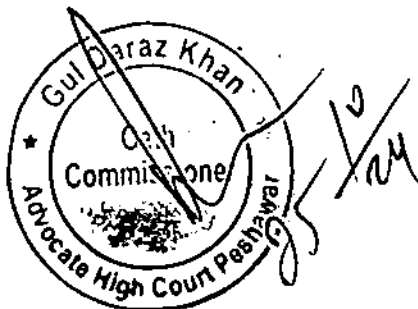
[Signature]
Syed Roman Shah
Advocate High Court

Dated: 25/10/2024

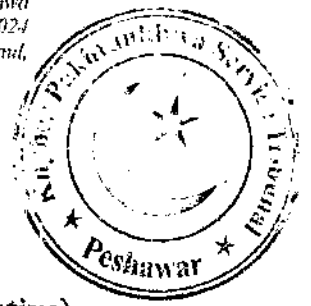
Affidavit

I do hereby solemnly affirm and declare on Oath that the contents of the above petition is true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.

[Signature]
Deponent



Service Appeal No.115/2024 titled "Shaheed Ullah versus Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department through its Secretary and others", decided on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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

Service Appeal No.115/2024

Date of presentation of appeal.....16.11.2023
Dates of Hearing.....09.10.2024
Date of Decision.....09.10.2024

Shaheed Ullah, son of Taj Ali Khan, Naib Qasid, District Public Prosecutor Office, District Karak.....(Appellant)

Versus

1. **Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department through its Secretary.**
2. **Director General Directorate of Prosecution, Home Tribal Affairs Department, Peshawar.**
3. **Director Administration, Directorate of Prosecution, Home & Tribal Affairs Department, Peshawar**
4. **Assistant Director Directorate of Prosecution, Home & Tribal Affairs Department, Peshawar.....(Respondents)**

Present:

Mr. Shahid Qayyum Khattak, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE SENIORITY LIST ISSUED ON 09.08.2023 AND AGAINST THE ORDER DATED 17.10.2023 WHEREBY THE DEPARTMENTAL APPEAL HAS BEEN FILED.

JUDGMENT

KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case in brief, as per averments of appeal, is that he was appointed as Naib Qasid in the respondent Department in the year 1994, having matric qualification; that he filed application for correction of his seniority in the seniority list and accordingly, he was placed at Serial No.2

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
24-10-24

4

Service Appeal No.115.2024 titled "Shahzad Ullah versus Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department through its Secretary and others", decided on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Farzana Paul, Member Executive Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

in the seniority list issued on 17.02.2023; that another seniority list was issued on 09.08.2023, whereby, he was placed at Serial No.86; that feeling aggrieved, he filed departmental appeal in order to get promotion on that very seniority list but the same was filed vide order dated 17.10.2023, hence, the instant service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

05. In the present case, the Appellant, who has been employed as a Naib Qasid since 1994, contends that his placement in the seniority list was unjustly altered. Initially listed at Serial No. 2 in the seniority list dated 17.02.2023, he experienced a significant demotion to Serial No. 86 in a subsequent list issued on 09.08.2023. Following this alteration, the Appellant filed a departmental appeal on 17.10.2023, expressing his dissatisfaction with the change in seniority ranking. This appeal serves as the basis for the current service appeal.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

Service Appeal No. 115/2024 titled "Shaheed Ullati versus Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department through its Secretary and others", decided on 09.10.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member Executive Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

06. The appellant claims tentative seniority list and prayed for promotion on the basis of that very tentative seniority list. promotion may be granted from the date of acquiring qualification, however, seniority for promotion shall be considered on the basis of final seniority list.

07. Appellant's claims regarding alteration of his seniority ranking are grounded in his long-standing service and the initial favorable placement in the seniority list. However, the governing principles dictate that promotions must be based on the final seniority list rather than a tentative one. As such, while the Appellant may have the requisite qualifications for promotion, his current ranking in the final seniority list must be adhered to.

08. Therefore, the appeal lacks merit in seeking promotion based on the tentative list, and the appeal stands dismissed with costs. Consign

09. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9th day of October, 2024.

Certified to be true copy

EXCISE OFFICER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
24-10-24

Mutozaun Sindh


KALIM ARSHAD KHAN
Chairman


FAREEHA PAUL
Member (Executive)

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Registration No. 09-10-24
Date 09/10/24
Number of Applicant 3-9
Number of Words/Pages 15/-
Filing Fee 15/-
Amount Ordinary 2000/-
Name & Sign of Cypelist 2000/-
Date of Completion of Copy 24-10-24
Date of Delivery of Copy 24-10-24

26th July, 2024

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. We deem it appropriate to direct the appellant to array the civil servants who might be affected, in case his appeal is accepted. The needful is directed to be done within a fortnight. To come up for arguments on 09.10.2024 before D.B. P.P given to the parties.

RECEIVED
PESHAWAR
DISTRICT ATTORNEY
26/7/2024

(Aurangzeb Khattak)
Member (J)

(Kalim Arshad Khan)
Chairman

Mutazem Shah

S.A #. 115/2024

ORDER

9th Oct. 2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for respondents present. Heard.

2. Vide our detailed judgment of today, placed on file, the appeal lacks merit in seeking promotion based on the tentative list, and the appeal stands dismissed with costs. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9th day of October, 2024.*

(Farzeha Parak)
Member (E)

(Kalim Arshad Khan)
Chairman

Mutazem Shah

Certified to be true copy

EMERGENCY
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. _____ Date _____

Name of Appellant _____


Name of Respondent _____

Copying Fee _____

Appellate/Judicial _____

Name & Signature of Officer _____

Date of _____



7

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.115/2024

Date of presentation of Appeal 16.11.2023
Date of hearing 09.10.2024
Date of Decision 09.10.2024

Shaheed Ullah, son of Taj Ali Khan, Naib Qasid, District Public Prosecutor Office,
District Karak.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department through its Secretary.
2. Director General Directorate of Prosecution, Home Tribal Affairs Department, Peshawar.

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE SENIORITY LIST ISSUED ON 09.08.2023 AND AGAINST THE ORDER DATED 17.10.2023 WHEREBY THE DEPARTMENTAL APPEAL HAS BEEN FILED.

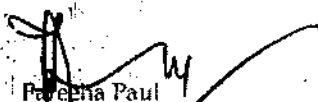
PRESENT

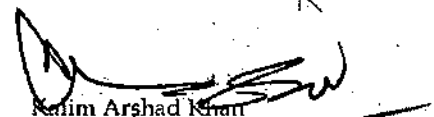
1. Mr. Shahid Qayyum Khattak, Advocate, for the Appellant
2. Mr. Muhammad Jan, District Attorney, for respondents.

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleadings fee	Rs. Nil	4. Pleadings fee	Rs. Nil
4. Security Fee	Rs. 100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	Rs. Nil	Total	Rs. Nil

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 9th day of October 2024.


Parvina Paul
Member (Executive)


Raees Arshad Khan
Chairman