FORMOF 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	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. By order of the Chairman REGISTRAR

(1)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

CM No. 1296/2024

in

Service Appeal No. 115 of 2024

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.

Petitioner/Appellant

Through

Dated: 25/10/2024

Syed Roman Shah

Advocate High Court

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.

Deponent

Gul Daraz Khan
Oath Commissioner
Advocate High Court 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

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 Pakhtukhwa
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.

KALIM ARSHAD KHAN
Chairman

FAREEHA PAUL
Member (Executive)

Certified to be ture copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar
24-10-24

Mutazem Shah

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Date of Presentation No. 09-10-24
Date of Application 3-10-24
Number of Words/Pages 15/-
Copying Fee 15/-
Urgent/Ordinary 15/-
Total Name & Sign of Copyist Zeeshan
Date of Completion of Copy 24-10-24
Date of Delivery of Copy 24-10-24

(6)

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.

(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.*

(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

Mutazem Shah

Certified to be ture copy

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Application
Number of Words
Copying Fee
Urgent/Ordinary
Total
Name & Signature of Copyist
Date of Delivery

(7)

MEMO OF COSTS
KHYBER PAKHTUNKHKWA 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. Pleader's fee	Rs. Nil	4. Pleader's 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.

Fareeha Paul
Member (Executive)

Kalim Arshad Khan
Chairman