

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1254/2024

Muhammad Yousaf Naib Qasid Deputy Commissioner, office Haripur.....Appellant

**V E R S U S**

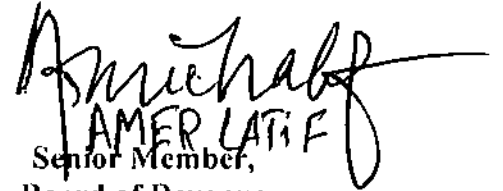
Senior Member Board of Revenue & others.....Respondent

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Dated /11/2024

**RESPONDENT**

  
**AMER LATIF**

Senior Member,  
Board of Revenue  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

## VERSUS

Senior Member, Board of Revenue Khyber Pakhtunkhwa &amp; other.....Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO 1 to 4 :-RESPECTFULLY SHEWETH.PRELIMINARY OBJECTIONS:

2. The no cause of action or locus standi lies with appellant for filing of the instant appeal.
3. That the appellant is estopped by his own conduct to file the appeal.
4. That the appeal is barred by law and limitation.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from the Hon'ble Court

Khyber Pakhtunkhwa  
Service TribunalDiary No. 17684Dated 06-11-24ON FACTS.

1. Pertains to record.
2. No Comments.
3. As defined in District Cadre Ministerial Service Rules 2015 (Annexure-A).
4. As defined in Notification No.SOE.IV(E&AD)/1-35/2014 (Annexure -B)
5. In-Correct. After issuance of Notification dated 18.07.2019, this Department taken up the case with Establishment Department for the said amendment in Divisional / District Cadre Ministerial Service rules 2015 and after conducting Standing Service Rules Committee meeting the said amendment was approved with the provision that:- *“condition of FA/FSc or its equivalent qualification from a recognized Board as laid above, shall not apply till expiration of the period specified in the second proviso of Column 5 against serial No. 4 of the Establishment Department 's Notification No. SOE.IV (E&AD)/1-35/2014 dated 18.07.2019, the existing matriculate incumbents of the post of Qasids, Naib Qasids and Process server including holders of other equivalent posts in the district concerned for promotion to the post of Junior Clerk (BPS-11)”*. (Annexure -C).
6. In-correct. Detailed discussion was made during the Standing Service Rules Committee meeting and it was unanimously decided that the cushion period will be the same i.e (18.07.2019). Furthermore, in a similar nature case the Establishment Department has tendered its advice in the following terms:- *“in order to ensure quality and efficiency in the disposal of official business, merit and qualification should be preferred. This will ensure uniformity and would help avoid anomalies in qualification/education for certain stereotypical posts such as Junior Clerk. Hence, the proposed exemption from intermediate*

as the grace period given by Establishment Department has already expired and any further extension therein is not legally tenable. Law Department in another case.

"The instant case has been examined It is rightly pointed out that Standing Service Rules Committee is the body competent to recommend new service rules and amendments therein, however, Law Department has the statutory mandate under rule 12 of the Khyber Pakhtunkhwa "Government Rules of Business, 1985 to vet, examine and analyze any proposed legislation, rules, regulations or other statutory or legal instruments to be made by or on behalf of the provincial Government. In terms of the above said overall mandate, Law Department is empowered to legally examine any legislation or subordinate legislation and point out any issue involved therein.

Having said the above, it is pertinent to mention here that the qualification for the post of Junior Clerk was enhanced from Matric to Intermediate for appointment by initial recruitment and exempted the existing matriculate class-IV employee from intermediate qualification for promotion to the post of Junior Clerk in the backdrop of up-gradation of the post of Junior Clerk from BS-07 to BS-11. As far as the grace period of four year is concerned, it is worthwhile to highlight that the same was only intended to accommodate those class-IV employees for promotion who were either at the verge of retirement or in the promotion zone at the time.

In view for the forgoing, Law Department believes that if the practice of giving grace period is maintained /continued, it would set a bad precedent on the one hand and on the other hand the enhancement in qualification for the post of Junior Clerk will be rendered futile. In order to ensure quality and efficiency in the disposal of official business, merit and qualification should be preferred. This will ensure uniformity and would help avoid anomalies in qualification/education for certain stereotypical posts such as Junior Clerk. Keeping in view the foregoing discussion, the Law Department is of the considered view that the proposed exemption from Intermediate as the grace period given by Establishment Department has already expired and any further extension therein is not legally tenable. Therefore, the Standing Service Rules Committee need to reconsider its decision on the proposed grace period."

The Establishment Department also forwarded of opinion of Law Department which is reproduced below (Law Department) (Annexure -D).

7. Incorrect. As mentioned in para-6 of facts.
8. No Comments

#### GROUND.

- a. Incorrect. The amendments were made after conducting proper (SSRC) Standing Service Rules Committee meeting.
- b. Incorrect. As mentioned in para-6 of facts.
- c. Incorrect. As mentioned in para-6 of facts.
- d. Incorrect as replied above.

e.

Incorrect as replied above.

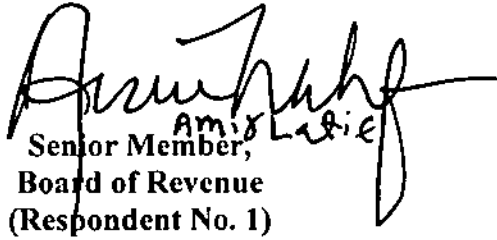
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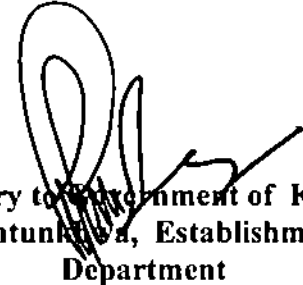
Incorrect as replied above.


3

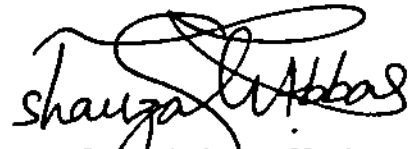
The respondents will also submit additional grounds at the time of arguments.

Keeping in view the above, Appeal of the appellant having no legal grounds may graciously be dismissed with costs.

  
Amir Latif  
Senior Member,  
Board of Revenue  
(Respondent No. 1)

  
Secretary to Government of Khyber  
Pakhtunkhwa, Establishment  
Department  
(Respondent No. 2)  
Syed Zulfiqar Ali Shah

  
Secretary to Government of Khyber Pakhtunkhwa,  
Finance Department  
(Respondent No. 3)  
Iqbalullah Khan

  
Deputy Commissioner, Haripur  
(Respondent No. 4)  
Shauza Abbas

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

Peshawar Dated the 23/01/2015

NOTIFICATION

No. 2074/Estt:III/135/SSRC. In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department, in consultation with Establishment Department and the Finance Department, hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

APPENDIX

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Superintendent (BPS-17)	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioner and Political Agents.

Attested  
Abdul Rashid

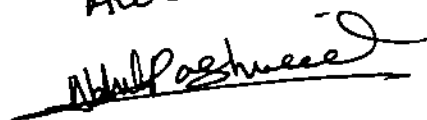
2.	Senior Scale Stenographer (BPS-16)	(i) At least Second Class Bachelor's Degree, from a recognized university; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and (iii) Knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; and  (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents:  Provided that if no suitable person is available for promotion then by initial recruitment.
3.	Assistant (BPS-16)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 years	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with atleast five years service as Junior and Senior Clerk in the Offices of Deputy Commissioners and Political Agents of district concerned; and  (b) twenty five percent by initial recruitment from amongst the candidates of the district concerned.
4.	Head Clerk (BPS-14)	....	....	By transfer from amongst Senior Clerks (BPS-14) of the district concerned.
5.	Stenographer (BPS-14)	(i) At least Second Class Intermediate or equivalent qualification from a recognized Board;	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.

Attested  
Muhammad Daghmash

5

		(ii) a speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and (iii) knowledge of computer in using MS Word, MS Excel.		
6.	Senior Clerk (BPS-14)	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the district concerned with atleast two years service as such.
7.	Computer Operator (BPS-12)	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology(BCS/BIT four years), from a recognized university; (ii) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-to 28 years	By initial recruitment from amongst the candidates of the district concerned.
8.	Pesh Imam (BPS-12)	Sanad in Dars-e- Nizami or a Sanad of Fazail-e-Arabi  <b>Note:</b> Preference will be given Hafiz-e-Quran.	18-to 32 years	By initial recruitment from amongst the candidates of the district concerned.
9.	Sub Engineer (BPS-11)	Diploma in Associate Engineering in Civil Technology from Board of Technical Education with certificate in Computer Aided Design (CAD) from recognized Institution.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
10.	Junior Clerk (BPS-11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing.	18 to 30 years	(a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the district concerned with two years service as such, who have passed Secondary School Certificate Examination; and  (b) sixty seven percent by initial recruitment from

Attested



				<p>the candidates of the district concerned.</p> <p><b>Note:</b> For the purpose of promotion there shall be maintain a common seniority list of Qasid and Naib Qasid etc with reference to the date of their appointment:</p> <p>Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment:</p> <p>— Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possession the requisite qualification shall be promoted in preference to the senior official or officials.</p>
11.	Reader/Record Keeper (BPS-7)	At least second division in Secondary School Certificate or equivalent qualification from a recognized Board.	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.
12.	Alhamad (BPS-5)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
13.	Driver (BPS-4)	Literate having LTV driving license issued by the competent authority. Preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
14.	Khadim (BPS-4)	Literate. <b>Note:</b> Preference will be given to Hafiz-e-Quran	18-32 years	By initial recruitment from amongst the candidates of the district concerned.

Attested

*M. Ashraf*



15.	Process Server (BPS-2)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
16.	Qasid (BPS-2)	---	---	By promotion on the basis of Seniority-cum-fitness, from amongst the Naib Qasids with two years as such.
17.	Naib Qasid/ Chowkidar/Sweeper/ Mali (BPS-1)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.”.

Sd/-  
**SECRETARY TO GOVERNMENT OF  
 KHYBER PAKHTUNKHWA  
 REVENUE & ESTATE DEPARTMENT**

*Attested*  
*W. A. P. S. M. S. S.*

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All Deputy-Commissioners, in Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 printed copies thereof to the undersigned for record.

*Attended*

*M. D. Shueel*

  
DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar, the 18<sup>th</sup> July, 2019

**NOTIFICATION**

**No.SOE.IV(E&AD)/1-35/2014:-**

In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Establishment and Administration Department, in consultation with the Finance Department, is hereby directs that in this Department's Notification No.SOE.IV (E&AD)/1-35/2012 dated 6<sup>th</sup> December, 2012, the following amendments shall be made, namely:

**AMENDMENTS**

In the APPENDIX, for Serial No.4, the following shall be substituted, namely:

1.	2.	3.	4.	5.
4.	Junior Clerk.	(i) FA/ F.Sc with second division or equivalent qualification from a recognized Board; and  (ii) a speed of thirty (30) words per minute in typing.	18 to 30 years.	(a) Forty per cent by promotion, on the basis of seniority-cum-fitness, from amongst Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts in the Secretariat with two years service as such, who have passed FA/F.Sc Examination or its equivalent qualification from a recognized Board; and  (b) sixty per cent by initial recruitment.  <b>Note:</b> For the purpose of promotion, there shall be maintained a common seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids etc. with reference to the dates of their acquiring the FA/ F.Sc qualification:

Attested  
M. Peshawar

1.	2.	3.	4.	5.
				<p>Provided that-</p> <ul style="list-style-type: none"><li>(i) if two or more officials have acquired the FA/F.Sc qualification in the same session, the inter se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;</li><li>(ii) where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials:</li></ul> <p><del>Provided further that The condition of FA/F.Sc or its equivalent qualification from a recognized Board, as laid down at clause (a) shall not apply for a period of four years from the date of commencement of this Notification to the existing matriculate incumbents of the post of Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts for promotion to the post of Junior Clerk (BS-11).</del></p>

Attested *M*

*Muhammad*

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Endst: No. SOE-IV(E&AD)/1-35/2014, dated 18<sup>th</sup> July, 2019

Copy forwarded for information and necessary action to: -

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. The Senior Member of Board of Revenue.
3. The Principal Secretary to Governor, Governor's Secretariat, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary, Khyber Pakhtunkhwa Public Service Commission.
7. Deputy Director (IT), Establishment & Administration Department with the request to upload on the official website.
8. PS to Chief Secretary Khyber Pakhtunkhwa.
9. PS to Secretary Establishment Department,
10. PS to Special Secretary (Estt), Establishment Department.
11. PS to Special Secretary (Reg), Establishment Department.
12. PA to Addl: Secretary (Estt/ Reg), Establishment Department.
13. PA to Addl: Secretary (HRD Wing) Establishment Department.
14. All the Deputy Secretaries in Establishment Department.
15. All Section Officers, Establishment Department, Khyber Pakhtunkhwa Peshawar.
16. The Manager Government Printing Press for publication in the Extra Ordinary Gazette with the request to provide 50 copies of Gazette.

  
**(HAZRAT JAMAE)**  
SECTION OFFICER (E-IV)

*Attended*  
*HAZRAT JAMAE*



General Diary  
No. 9912  
29-11-2023  
Revenue & Estate  
Dept. Peshawar

Government of Khyber Pakhtunkhwa  
ESTABLISHMENT DEPARTMENT  
(Regulation Wing)

No.SOR.IV(EI)14-1/2023  
Dated, Peshawar, the November 28<sup>th</sup>, 2023

Annex (D) 2 14

To  
The Senior Member Board of Revenue,  
Revenue & Estate Department, Peshawar.

**SUBJECT: APPLICATION IN LIGHT OF ORDER DATED 26.09.2023 PASSED BY PESHAWAR HIGH COURT ABBOTTABAD BENCH.**

Dear Sir,

I am directed to refer to your letter No.Estt:II/M.Yousaf/W.P/758-A/2023/24517 dated 7.11.2023 on the subject noted above and to inform that the Law Department in a similar nature case opined that if the practice of giving grace period is maintained/continued, it would set a bad precedent on the one hand and on the other hand the enhancement in qualification for the post of Junior Clerk will be rendered futile. In order to ensure quality and efficiency in the disposal of official bussiness, merit and qualification should be preferred. This will ensure uniformity and would help avoid anomalies in qualification/education for certain stereotypical posts such as Junior Clerk. Hence, the proposed exemption from Intermediate as the grace period given by Establishment Department has already expired and any further extension therein is not legally tenable. //

In view of the above, the subject case may be examined and decided at your own level in light of opinion of Law Department (copy enclosed).

Yours faithfully,

Section Officer (R-IV)

AS(E)  
MBR-II  
29/11

Attested



**GOVERNMENT OF THE PUNJAB  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT.**

**SUBJECT: AMENDMENTS IN THE JUNIOR CLERK (BS-11) AND SENIOR DRIVER (BS-07) SERVICE RULES IN BOARD OF REVENUE.**

Reference Para-11 of the Note.

The instant case has been examined. It is rightly pointed out that Standing Service Rules Committee is the body competent to recommend new service rules and amendments therein, however, Law Department has the statutory mandate under rule 12 of the Kyber Pakhtunkhwa Government Rules of Business, 1985 to vet, examine and analyze any proposed legislation, rules, regulations or other statutory or legal instruments to be made by or on behalf of the Provincial Government. In terms of the above said overall mandate, Law Department is empowered to legally examine any legislation or subordinate legislation and point out any issue involved therein.

Having said the above, it is pertinent to mention here that the qualification for the post of Junior Clerk was enhanced from Matric to intermediate for appointment by initial recruitment and exempted the existing matriculate class-IV employee from intermediate qualification for promotion to the post of Junior Clerk in the backdrop of up-gradation of the post of Junior Clerk from BS-07 to BS-11. As far as the grace period of four year is concerned, it is worthwhile to highlight that the same was only intended to accommodate those class-IV employees for promotion who were either at the verge of retirement or in the promotion zone at the time.

In view of the foregoing, Law Department believes that if the practice of giving grace period is maintained/continued, it would set a bad precedent on the one hand and on the other hand the enhancement in qualification for the post of Junior Clerk will be rendered futile. In order to ensure quality and efficiency in the disposal of official business, merit and qualification should be preferred. This will ensure uniformity and would help avoid anomalies in qualification/education for certain stereotypical posts such as Junior Clerk.

Keeping in view the foregoing discussion, the Law Department is of the considered view that the proposed exemption from intermediate is the grace period given by Establishment Department has already expired and any further extension therein is not legally tenable. Therefore, the Standing Service Committee need to reconsider its decision on the proposed grace period. //

12. //

Diary#: 411  
Date: 23/10/23

13.

50 (M-V) canu 292  
Diary No. 25-10-23  
Dated 25-10-23

14.

15.

PS/Soc'y EBAD KP  
Diary No. 1482  
FTS No. 1482  
Date: 26-10-23

Attested  
W. D. S. Mirza

(SHAGUNTA BAKARD)  
Secretary Law  
23/10/23

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

**Service Appeal No. 1254/2024**

Muhammad Yousf Naib Qasid Deputy Commissioner, office Haripur .....Appellant.

**VERSUS**

Senior Member, Board of Revenue Khyber Pakhtunkhwa & other.....Respondents.

**AFFIDAVIT**

I, Senior Member, Board of Revenue do hereby solemnly affirm and declare on oath that the contents of the accompanying Joint Parawise Comments in the subject Service Appeal noted above are true and found correct and noting has been concealed from the Honorable Service Tribunal. Hence, it is further stated that in the Service Appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off cost.

DEPONENT

*Amer Latif*  
Senior Member  
Board of Revenue  
Khyber Pakhtunkhwa



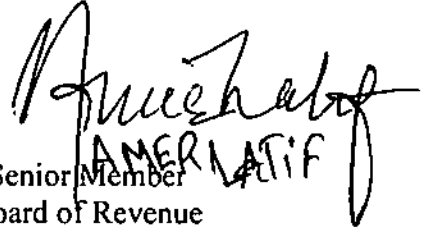


**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**REVENUE AND ESTATE DEPARTMENT**

17

**AUTHORITY LETTER**

Mr. Abdul Rasheed, Superintendent, Litigation-II (BS-17), Board of Revenue, is hereby authorized to attend and submit implementation report on the part of respondents No. 01 to 04 before the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 1254/2024 filed by Muhammad Yousaf Naib Qasid Deputy Commissioner, Haripur.

  
Senior Member  
Board of Revenue  
Khyber Pakhtunkhwa