

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.1495/2024.

Wajid Ullah Khan

.....Appellant

VERSUS.

1. Departmental Promotion Committee through District & Sessions Judge
Bannu & Others.

.....Respondents

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Deponent


(Respondent No. 1)

BEFORE THE HON'BLE
PROVINCIAL SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

SERVICE APPEAL NO. 1495/2024

Wajid Ullah Khan, **(Appellant)**

- VERSUS -

Departmental Promotion Committee
Through District & Sessions Judge, Bannu & others
(Respondents)

Subject: REPLY / PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1

Respectfully submitted,

Preliminary Objections:-

1. That the appellant has no locus standi to file the instant appeal.
2. That the appellant has not referred to/and nor pointed out violation of any statutory provision which has not been followed by respondents. The appellant is not an aggrieved person.
3. That the Appeal is bad for misjoinder of necessary parties.
4. That the Appellant is estopped by his own conduct from instituting the Appeal.
5. That the appellant has not come to the honorable Tribunal with clean hands. Apart from other infirmities the appeal suffers from grass concealment and misstatements of facts, the appellant is therefore, not entitled to any relief.
6. That the titled appeal and the departmental appeal as well are badly time barred.
7. That the respondents vehemently deny all the allegations made in the titled appeal and reiterate that the impugned order of promotion was issued in accordance with the relevant rules.

Handwritten signature and date: 6.11.24

Reply to Facts:-

1. That Para "1" of Appeal pertains to record, hence need no reply.
2. That Para "2" of the Appeal also pertains to record, needs no reply.
3. That Para "3" of the Appeal relates to record, hence needs no reply.
4. That Para "4" of the Appeal also relates to record. In reply to this Para, it is submitted that order of promotion was made after careful consideration of the ibid latter, and procedure outlined in the relevant rules.
5. That Para "5" of the Appeal also pertains to record. However, it is submitted that order of promotion of the said employees were made after careful consideration of the procedure outlined in the relevant rules
6. That Para "6" of the Appeal relates to record. However, the appellant was aware of the departmental order well within time.
7. Para "7" of the appeal is incorrect as laid. The appellant has no right to invoke the jurisdiction of this honorable Tribunal through the titled appeal which is not maintainable in the eye of law.

Reply to Grounds:

- 1) Para No. (a) is wrong and baseless, the promotion order bearing Endst: No.4033-39/DSJ, dated: 19-12-2022, is in its true essence of Hon'ble Peshawar High Court, Peshawar (Subordinate Courts Staff) Recruitment Rules, 2003 & letter No. 19657-19706/DSC-DPC/ADMN, dated 09-12-2017, wherein it has clearly been directed that:-

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“The Competent Authority has been pleased to direct that henceforth promotion of Class-IV employees to the post of Junior Clerk shall be made in accordance with rules on the basis of “Seniority-cum-Fitness”. In order to sift competent from incompetent, a test may be taken from Class-IV employees like dictation and few essay questions like abbreviations and common general knowledge about Pakistan”.

(Copy of letter No. 19657-19706/DSC-DPC/ADMN, dated 09-12-2017 of Hon’ble Peshawar High Court, Peshawar is annexed as annexure-“A” also published in PESHAWAR HIGH COURT Judicial Estacode Third Edition Revised & Enlarged 2021, Volume-II and reflected at page No.503)

- 2) Para No. (b) Partially admitted only to the extant that the appellant was senior most employee/official appearing at Serial No. 1 of the Working Papers prepared for promotion by this office. Rest the appellant does not fulfill the criteria i.e. seniority-cum-fitness for the purpose of promotion to the post of Junior Clerk/Muharrir (BPS-11) as he has failed to qualify the written test, where it has been clearly mentioned by the Departmental Promotion Committee in its minutes of the meeting bearing Endst No. 4014-16/DSJ, Bannu dated: 19-12-2022.

(Copy of minutes of the DPC meeting is annexed as annexure-“B”) (Relevant paragraph #2 of page #2)

- 3) Para-No. (c) as drafted is denied. The appellant/official has no locus standi to claim his promotion according to promotions from the post of Junior Clerks (BPS-11) to post of Senior Clerks (BPS-14) & from the post of Senior Clerks (BPS-14) to the post of Assistants/Readers (BPS-16) because each category of post have separate rules & orders. However all the promotions have been made correctly in accordance with direction of Hon’ble Peshawar High Court (Subordinate

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Courts Staff) recruitment Rules, 2003 and no discrimination whatsoever was made with the appellant.

- 4) Para No. (d) being lacking legal and jurisprudential substance, thus denied.
- 5) Para No. (e) pertains to appellant service record. In reply it is submitted that services of the appellant is not above the board.

It is, therefore, requested that on acceptance of this written reply / comments, appeal of the appellant being incorrect, baseless, frivolous, illegal, without any substance and against the record, be dismissed.

Dated: 06.11.2024

Faithfully Yours'

(Muzzamil Shah Khattak)
District & Sessions Judge,
Bannu.

Respondent No. 1

6.11.24

BEFORE THE HON'BLE
PROVINCIAL SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

SERVICE APPEAL NO. 1495/2024

Wajid Ullah Khan, (Appellant)
- VERSUS -

Departmental Promotion Committee
Through District & Sessions Judge, Bannu & others
(Respondents)

AFFIDAVIT

It is declared on oath that all the contents of written reply / comments are true and correct to the best of my knowledge & belief and nothing has been concealed from this

Hon'ble Tribunal. *It is further stated on oath that the answering respondent have neither been placed ex-parte nor their defense has been struck off, also no cost is imposed.*

NAZIB-ULLAH KHAN
Advocate
Oath Commissioner
Distt: Court Bannu

DEPONENT
6.11.24
Respondent No. 1
Muzzamil Shah Ichattak



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.



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19657-19706

No. _____ /DSC-DPC/Admin:

Dated Pesh the 9 / 12 / 2017

To:

1. All the District & Sessions Judges/Zilla Qazis
2. All the Senior Civil Judges/A'ala Illaqa Qazis

} in the Khyber
Pakhtunkhwa.

Subject: PROMOTION OF CLASS-IV TO JUNIOR CLERK IN DISTRICT
JUDICIARY.

Dear Sir,

The Competent Authority has been pleased to direct that henceforth promotion of Class-IV employees to the post of Junior Clerk shall be made in accordance with rules on the basis of "seniority-cum-fitness". In order to sift competent from incompetent employees, a test may be taken from Class-IV employees like dictation and few easy questions like abbreviations and common general knowledge about Pakistan.

This is for compliance please.

Sincerely yours,

REGISTRAR

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Attested

Hamid Khan,
Senior Clerk,
DSJ, Bannu.

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE
HELD ON 19TH DECEMBER, 2022 IN THE OFFICE OF THE DISTRICT & SESSIONS JUDGE, BANNU
(CHAIRMAN).

(7)

Meeting of Departmental Promotion Committee was held to consider the promotions against Posts of Assistant (BPS-16), Senior Clerk (BPS-14), Junior Clerks (BPS-11) and Record Lifter (BPS-04) falling vacant in the establishment of District & Sessions Judge, Bannu.

The following attended the meeting:

Mr. Muzzamll Shah Khattak,
District & Sessions Judge, Bannu (Chairman)

Mr. Tufail Ahmad,
Additional District & Sessions Judge, Karak, (Member)
(Nominee of the Hon'ble PHC, Peshawar)

Mr. Shabbir Muhammad Durrani,
Additional Sessions Judge-VI/JJC/JCPC, Bannu. (Member)
(Nominee of the Chairman of DPC, Bannu)

The proceedings of meeting started with recitation from the Holy Quran.

PROMOTIONS AGAINST THE POST OF ASSISTANTS (BPS-16)

Six Senior Clerks (BPS-14) were considered for promotion to fill up two (02) vacant posts of Assistant (BPS-16) as per working paper. (Working paper Annexure-A)

After taking into account the service record of officials as per working paper, the Committee unanimously recommended two officials named below for promotion against the vacant posts of Assistant (BPS-16) on the basis of seniority-cum-fitness.

S.No	Name of Official	With Effect From
1	Hamayun Khan	Immediately
2	Muhammad Ayub	Immediately

PROMOTION AGAINST THE POST OF SENIOR CLERK (BPS-14)

Nine Junior Clerks (BPS-11) were considered for promotion to fill up three (03) vacant posts of Senior Clerk (BPS-14) as per working paper. (Working paper Annexure-B)

After taking into account the service record of officials as per working paper, the Committee unanimously recommended three (03) officials named below for promotion against the vacant posts of Senior Clerk (BPS-14) on the basis of seniority-cum-fitness.

S.No	Name of Official	With Effect From
1	Saif Ullah Khan	Immediately
2	Sarhad Ali Khan	Immediately
3	Irfan Ullah Khan	Immediately

Attested
Hamid Khan
Senior Clerk
DSJ, Bannu.

PROMOTIONS AGAINST THE POST OF JUNIOR CLERKS (BPS-11)

Nine officials including Record Lifter, Naib Qasid, Chowkidar, Mali & Sweeper (BPS-03 & 04)) were considered for promotion to fill up three (03) vacant posts of Junior Clerk (BPS-11) as per working paper. (Working paper Annexure-C)

As per compliance of PHC letter No. 19657-19706/DSC-DPC/ADMN: dated 09.12.2017 and keeping in view their seniority cum fitness, as mentioned in working paper Annexure-C, a written test was conducted to sift competent from incompetent. As a result of test, Mr. Wajid Ullah Khan at Serial No. 01 and Mrs. Sheeba Sultana at Serial No. 03 of the Working Paper Annexure-C, were dropped and the following three (03) officials were recommended for promotion to the post of Junior Clerk (BPS-11).

S.No	Name of Official	With Effect From
1	Zahid Ullah Khan	Immediately
2	Naseer Ullah Khan	Immediately
3	Kashif Khan	Immediately

PROMOTION AGAINST THE POST OF RECORD LIFTER (BPS-04)

As Wajid Ullah Khan, Record Lifter (BPS-4) was dropped from promotion to the post of Junior Clerk (BPS-11); therefore, the post of Record Lifter (BPS-4) remained occupied.

The meeting ended with a vote of thanks to and from the Chair.

Mr. Tufail Ahmad
Addl: District & Sessions Judge, Karak
(Nominee of Hon'ble PHC, Peshawar)

Mr. Shabbir Muhammad Durrani,
Addl: District & Sessions Judge-VI, Bannu
(Nominee of the D&SJ, Bannu)

(Muzamil Shah Khattak)
District & Sessions Judge, Bannu.
(Chairman)

Endst: No. 4014-16 /D&SJ, Bannu

Dated: 19/ 12 /2022

Copies forwarded for information to the:

1. The Registrar, Hon'ble Peshawar High Court, Peshawar.
2. All Members of the Committee.
3. Office Record.

(Muzamil Shah Khattak)
District & Sessions Judge, Bannu.
(Chairman)



DISTRICT JUDICIARY KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT & SESSIONS JUDGE, BANNU

Phone: 0928-9270057
Fax: 0928-9270057
E-mail: dsj_bannu@yahoo.com

No. 5319 / D & SJ BANNU, DATED AT BANNU THE 07 / 11 / 2024

AUTHORITY LETTER

Mr. Hamid Khan, Senior Clerk of this Sessions Division, is hereby authorized to appear and submit written reply/comments in the Khyber Pakhtunkhwa Service Tribunal, Peshawar in connection with Service Appeal No. 1495 of 2024 titled "Wajid Ullah Khan VS Departmental Promotion Committee through District & Sessions Judge, Bannu & others, fixed on 08.11.2024.

District & Sessions Judge,
Bannu.

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