

12/11/2024

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

Service Appeal No. 108/2024

Khalid Shah son of Syed Ali Shah, Ex-Naib Qasid BPS-3, Office of District Public Prosecutor, Battagram, resident of Maidan near Sub-Jail, Post Office Tehsil & District Battagram.

...APPELLANT

VERSUS

1. Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
2. District Public Prosecutor Battagram.
3. Govt. of Khyber Pakhtunkhwa through Secretary Home and Tribal Affair Civil Secretariat, Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 18001

Dated 18-11-24

...RESPONDENTS

AMENDED SERVICE APPEAL UNDER
SECTION 4 KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974, AGAINST
THE IMPUGNED ORDER DATED 07/12/2023,
PASSED BY RESPONDENT NO.2, AND
ORDER DATED 27/6/2024, PASSED BY
RESPONDENT NO.3 WHEREBY APPEAL OF
APPELLANT IS REGRETTEED BY
RESPONDENT NO.2 WHICH IS ILLEGAL,
AGAINST THE LAW, FACTS, PERVERSE,
ARBITRARY, DISCRIMINATORY, HENCE
INEFFECTIVE UPON THE RIGHTS OF THE
APPELLANT.

PRAYER: ON ACCEPTANCE OF THE INSTANT AMENDED APPEAL, THE IMPUGNED ORDER DATED 07/12/2023 AND ORDER DATED 27/06/2024 PASSED BY RESPONDENTS NO.2 & 3 MAY GRACIOUSLY BE SET-ASIDE AND APPELLANT BE RESTORED HIS ORIGINAL POST OF NAIB QASID. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE.

Respectfully Sheweth;-

Brief facts of the amended instant appeal are as under;-

1. That the appellant was inducted in the respondents Prosecution Department as Naib Qasid (BPS-03). Copy of appointment letter is already attached as Annexure "A".
2. That the appellant is a highly qualified person and also continued his efforts to apply to other posts proportionate to his qualification and the appellant got succeeded in applying to the NADRA, where he has appointed as Deputy Assistant Director on contract basis.
3. That the appellant submitted an application before the respondents on 18/09/2023 seeking grant of lien extension for one year.

Copy of application dated 18/09/2023 is already attached as Annexure "B".

4. That receiving no response and reply of the application in the required period, the appellant submitted an appeal through proper channel on 20/11/2023 before the relevant respondent, which was duly processed and finally it was disposed off on 07/12/2023. Copy of impugned order dated 07/12/2023 is already attached as Annexure "C".
5. That similarly, on 27/06/2024 respondent No.3 pass another order whereby request of the appellant was regretted.
6. That feeling from aggrieved from the above aforesaid situation, appellant seeks indulgence of this Honourable Tribunal, inter-alia, on the following amongst many other grounds through this amendment appeal.

GROUND:-

- a. That both the impugned orders are against the law fact, have liable to be set-aside.
- b. That all proceedings were conducted with malafide intention, against the principle of natural justice.

- c. That respondents are miserably failed to proved allegation against the appellant.
- d. That at the time of passing impugned orders respondents ignored all basic principle of natural justice and equity.
- e. That in the above mentioned case, appellant has discharged his duty with dexterity, care, caution and honesty. There is nothing wrong on his part. Hence, the allegations are totally incorrect and baseless. Hence, impugned orders are liable to be set-aside.
- f. That in the impugned orders of authority, it is held that the appellant was in probation period but this reason given is against the law as an employee of Class-IV, could not be appointed on probation basis and even if, there is any condition mentioned in the appointment orders, it is against the law and norms of justice and is not practicable.
- g. That the appellant is entitled for grant of lien and re-adjustment as per law and rules on the subject and hence the refusal of the authority is not understandable.
- h. That when a right has been given and created by the law and developed in the case law of the superior courts, then such right is required to be extended in favour of the employee and as such refusal on the part of

the respondents is discrimination and against the provisions of law.

- i. That the appellant has not been treated in accordance with law and such behavior of the respondents creates anguish, acrimony, hate and despondency as the rights being bestowed by law is refused without any legal justification.
- j. That the other points shall be argued at the time of arguments.

It is therefore, most humbly prayed that on acceptance of the instant amended appeal, the impugned order dated 07/12/2023 and order dated 27/06/2024 passed by respondents No.2 & 3 may graciously be set-aside and appellant be restored his original post of Naib Qasid. Any other relief which this honourable tribunal deems fit and proper in the circumstances of the case.

...APPELLANT

Through

Dated: 3/11 /2024


(HAMAYUN KHAN)

&


(FAZLULLAH KHAN)

Advocates High Court, Abbottabad

VERIFICATION/ AFFIDAVIT:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT