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	Mushtaq Ahmad Vs. The Deputy Commissioner, Bhakkar etc.	
21.08.2025		<p><b>PRESENT</b></p> <p>Allah Nawaz Khosa</p> <ol style="list-style-type: none"> <li>1. Learned counsel for the appellant</li> <li>2. Mr. Mazhar Hayat Dogar, D.A</li> <li>3. Mr. Mohsin Ehsaan, D.D.A.</li> </ol> <p>This appeal has been preferred against the order dated 18.08.2025 whereby the appellant/Head Clerk BS-16 office of Executive Office DHA, Bhakkar has been demoted to the rank of senior clerk (BS-14) and adjusted against vacant post of senior clerk in the office of Deputy District Health Office Kallur Kot.</p> <p>2. The appellant was inducted into the service as junior clerk in Health Department (BS-5); was promoted in BS-9 as senior clerk and thereafter orders dated 28.02.2014 and 25.02.2015 were passed by Competent Authority i.e. Executive District Officer, Health Bhakkar vide letter dated 28.02.2014 he was given the current charge of the post of Assistant (BS-14) and ultimately vide office order dated 31.12.2016 he was regularized as Assistant (BS-16) by Executive District Officer (Health), Bhakkar.</p> <p>3. One Nigah Hussain S/o Ameer Hussain moved an application against alleged illegal appointments and promotions made by Executive District Officer (Health), Bhakkar from time to time, upon which a probe committee was constituted who formulated its report dated 12.12.2024, in consequence of which the impugned order of demotion of the appellant was passed.</p> <p>4. During the course of his arguments learned District Attorney has stated that order of promotion of the appellant from BPS-5 to BPS-9 is not accompanying memorandum of appeal and that any such order in favour of the appellant was never passed prior to the year of 2011. The appellant has however asserted that he is capable to provide his promotion order from BPS-5 to BPS-9, for which learned counsel for the appellant has intended to move civil miscellaneous application to supply the documents. Learned District Attorney has further pointed out that office of D.G Health Punjab has not been impleaded as necessary party and therefore draft of memo of appeal is defective as according to learned Deputy District Attorney the findings of probe committee were formulated by said office. Learned Deputy District Attorney further assisted the court that the appellant vide order dated 28.08.2014 and 25.02.2015 was appointed as Assistant only on the current charge basis, in view of which his promotion in the next grade i.e. BPS-16 could not have been legally regularized because of absence of regularized service in BPS-14. He has maintained that no case of balance of convenience in favour of the appellant to grant him temporary relief to suspend the impugned order dated 18.08.2025 was made out.</p> <p>5. Arguments on the companying civil miscellaneous application No.2 for order u/o 31 rule 12 CPC has been heard and available record perused.</p> <p>6. As far as promotion of the appellant from BPS-5 to</p>

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		<p>BPS 9 is concerned, the appellant has a avowed to move separate application for the provision of said order. Record is however establishing that since 28.02.2014 the appellant was performing the duties as Assistant in BPS-14, although the arrangement was on the officiating basis only. In view vide notification dated 04.01.2016 Finance Department upgraded the post of Assistant from BPS-14 to BPS-16, copy of the notification has been provided by the learned counsel for the appellant during the course of his arguments. In view of the above this court is in disagreement with the arguments of learned Deputy District Attorney that prior to his regularization in BPS-16, the appellant was required to be regularized in BPS-14. The appellant performed his services against the post of Assistant for a period of more one decade and apparently principle of locus penitentie, vested right, of past and closed transaction are leaning in favour of applicant. Reliance is placed upon Muhamad Zahid Saleem Vs. Secretary Government of the Punjab etc. passed by Hon'able Lahore High Court, Lahore in writ petition No.66980/2017 wherein material paragraph No.7 is reproduced hereunder:-</p> <p>"In crux, the law settled in aforesaid judgments is that when there are no allegations of fraud, misrepresentation or using of illegal means on part of the promotee and order is also passed by the Competent Authority then merely due to defect in the proceedings on part of the Department, the promotion order cannot be withdrawn at belated stage. In such situation, the promotion order is protected under the principles of "vested right", "past &amp; closed transaction" and "locus penitentie".</p> <p>In view of the referred notification about up-gradation of post of Assistant from BS-14 to BS-16, a demotion from BS-16 to BS-14 may be self destructive. The operation of impugned order dated 18.08.2025 shall remain suspended till the next date of hearing.</p> <p>7. Let notices be issued to the respondents for filing of their parawise comments/replies on the next date of hearing subject to deposit of process fee/registered AD etc within three days. Adjourned for filing of parawise comments on 22.10.2025.</p> <p>(MALIK EJAZ ASIF) D&amp;SJ/MEMBER-V</p> <p>CERTIFIED TO BE A TRUE COPY Registrar Punjab Service Tribunal Lahore</p> <p>21/08/25</p>

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**BEFORE THE HON'BLE PUNJAB SERVICE TRIBUNAL, LAHORE**

Service Appeal No. 2636 /2025

2760  
28.02.2025

**Mushtaq Ahmad** S/o Hussain Bakhsh, Head Clerk, Office of the Chief Executive Officer, District Health Authority, Bhakkar.

..... APPELLANT

**VERSUS**

1. The Deputy Commissioner, Bhakkar.
2. Chief Executive Officer, (DHA), Bhakkar.

..... RESPONDENTS

**SERVICE APPEAL U/S 4 OF THE  
PUNJAB SERVICE TRIBUNAL ACT,  
1974.**

**RESPECTFULLY SHEWETH.**

1. That the Appellant, Muhammad Mushtaq Ahmad, is a lawfully appointed civil servant and is presently working as Head Clerk in the Office of the Chief Executive Officer, District Health Authority, Bhakkar. That the Appellant has served the department for over two decades with an unblemished record, honesty, diligence, and efficiency. That the Appellant was earlier working as a Senior Clerk and was promoted to the post of Assistant (BS-14) under the applicable rules vide office order dated 28.02.2014, duly issued by the competent authority under Rule 10-B

**PRAYER:**

In the facts and circumstances, it is, therefore, respectfully prayed that the order dated 18/08/2025 (**annex-E**) passed by the respondent no. 2 may kindly be set aside being against the law, without jurisdiction and arbitrary.

It is further prayed that the operation of the impugned order may also be suspended till the final decision of the main petition.

Any other relief which this Hon'ble Tribunal deems fit and necessary may also be awarded to the Appellant.

..... APPELLANT

THROUGH: -

Dated: 19-08-2025

**ALLAH NAWAZ KHAN  
KHOSA**

Advocate High Court  
33/A Queens Road, Lahore  
03336073636

**CERTIFICATE:**

As per instructions of the client this is the 1<sup>st</sup> appeal against the impugned order 18/08/2025 the subject matter before this Hon'ble Tribunal.

ADVOCAT