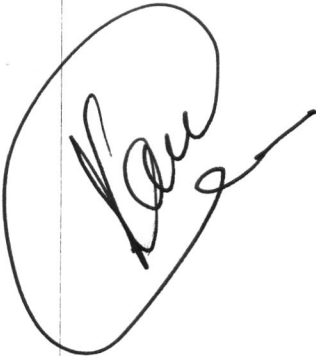


**PESHAWAR HIGH COURT, ABBOTTABAD BENCH.**

**FORM OF ORDER SHEET**

Date of Order of Proceedings 1	Order or other Proceedings with Signature of Judge (s) 2
09.05.2023	<p><b><u>WP No. 485-A/2023.</u></b></p> <p>Present: Mr. Muhammad Arshad Khan Tanoli, Advocate, for the petitioner. ****</p> <p><b><u>KAMRAN HAYAT MIANKHEL, J.-</u></b> Through the petition in hand petitioner has challenged judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar passed in Service Appeal No. 739-A/2019, which was dismissed vide judgment dated 22.09.2022, and has prayed for the following relief:-</p> <p><i>“It is, therefore, humbly prayed that, on acceptance of the instant writ petition, impugned judgment / decree of learned KP Service Tribunal dated 22.09.2022 may be set aside and respondent No.1 to 4 may graciously be ordered to revise seniority list dated 14.04.2019 after placing the name of the petitioner at serial No.8 of the seniority list of assistants after taking into account the turn of the petitioner for promotion as senior clerk in 2004 with all back benefits and respondents may also be directed to revise seniority list of assistants accordingly. Any other relief which this Hon’ble Court deem appropriate in the circumstances of the case may also be granted to the petitioner.”</i></p> <p>2. Learned counsel for the petitioner argued that</p>



under proviso to Article 212 (2) of Constitution of Islamic Republic of Pakistan, 1973 (hereinafter to be referred as the Constitution) provides that direct appeal to the Supreme Court can only be made when *Majlis-e-Shoora* (Parliament) extends the provisions of Article 212(2) of the Constitution to such a Court or Tribunal established under an Act of a Provincial Assembly. Placed his reliance on Apex Court judgment in Civil Appeal No. 1474 of 2021 decided on 15.11.2022. He further argued that as the Khyber Pakhtunkhwa Service Tribunal is formed under the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and as no request has been made by the Provincial Assembly in the form of resolution to *Majlis-e-Shoora* (Parliament) under proviso to Article 212 (2) of the Constitution, so this court has the power to hear the instant writ petition.

3. We have heard preliminary arguments of learned counsel for the petitioner and gone through the record.

4. It will be convenient to begin by reproducing Article 212 of the Constitution, which provides as follows: -

***“212. Administrative Courts and Tribunals.***

*(1) Notwithstanding anything hereinbefore contained the appropriate Legislature may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of:-*

*(a) matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters;*

