

13.05.2022

Learned counsel for the appellant present and requested for adjournment in order to further prepare the brief. To come up for preliminary hearing before the S.B on 20.07.2022.



(Kalim Arshad Khan)
Chairman

14th June, 2022

Clerk of counsel for the appellant present.

Counsel are on strike. To come up for preliminary hearing on 02.08.2022 before S.B.



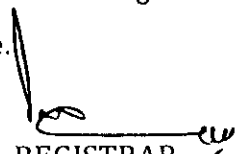
(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 638/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/04/2022	<p>The appeal of Mr. Saeedullah presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>13-05-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p>

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. 638 /2022

Saeed Ullah

versus

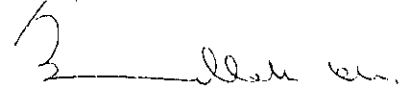
Secretary & Others

I N D E X

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2:-	Notification dated 14-02-2021	"A"	5-9
3.	Representations dated 25-12-21 & 17-02-22	"B"	10-11

Appellant

Through



Saadullah Khan Marwat
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar

Dated 23-04-2022.

Ph: 0300-5872676

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2022

Saeed Ullah S/O Fazale Qamar,
 Computer Operator,
 District Public Safety
 Commission, Charsadda Appellant

VERSUS

1. Secretary, Govt. of KP,
 Home and Tribal Affairs
 Department, Peshawar.
2. Standing Service Rules
 - Committee (SSRC)
 through Chairman
 Provincial Safety
 Commission, Home
 - Department, Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE NOTIFICATION NO. E & A (HD) 10-10 / 2021 DATED 14-12-2021 OF R. NO. 01 WHEREBY POST OF SECRETARY B-17 WAS FIXED TO BE FILLED (I) 65% BY TRANSFER FROM AMONGST THE HOLDER OF THE POST OF PMS OFFICERS B-17 AND (II) 35% BY PROMOTION ON THE BASIS OF SENIORITY CUM FITNESS AMONGST THE HOLDERS OF THE POST OF COMPUTER OPERATORS WITH AT LEAST SEVEN (07) YEARS SERVICE IN B-16 BY FIXING LESS QUOTA IN THE CATEGORY OF COMPUTER OPERATORS.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respected Sir:

1. That appellant was initially appointed as Computer Operator B-12 on 02-08-2013. In the year 2016, post of Computer Operator was upgraded to B-16.
2. That since the date of appointment of appellant as such, dedicated performances were given to the department and in this respect, his services were highly appreciated.
3. That prior to the rules in hand, the Government of KP, Home and Tribal Affairs Department issued Notification dated 14-02-2021 wherein in column No. V, post of Secretary B-17 is to be filled in:-
 - i. 65% by transfer from amongst the holders of the post of PMS Officers B-17; and
 - ii. 35% by promotion on the basis of seniority-cum-fitness amongst the holders of the post of Computer Operators with at least seven (07) years in B-16. (Copy as annex "A")
4. That in every rule of the each department, promotion quota was figured at S. No. 01, while Transfer quota was figured at S. No. 02 but in the case in hand, transfer quota was figured at S. No. 01 and that too with 65% by transfer to the post of Secretary B-17 amongst the holders of the post of PMS Officers B-17, while 35% quota was figured at S. No. 02 by promotion from the post of Computer Operators with at least seven years in B-16, thus discrimination was meted out in the rules.
5. That on 25-12-2021 and 17-02-2022, appellant submitted representations before R. No. 01 to enhance 35% up to 50% or above and to fix five years service as such instead of seven years service but no heed was paid to the same till date. (Copy as annex "B")

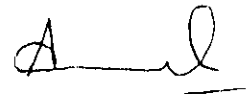
Hence, this appeal, inter alia on the following grounds:

GROUND S.

- a. That in the body of appeal, the position of the PMS Officers B-17 to the post of Secretary B-17 by transfer while to the post of Computer Operator B-16 by promotion has been elaborated.

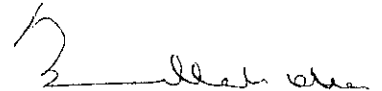
- b. That in each department in the rules of the Government, first, priority was given to the promotion quota and second by way of transfer to fill up the required post with at least five years in lower grade while in the rules, the same was perverted and 65% quota was given to PMS Officers B-17 and 35% quota was given to computer Operators B-16 with of seven years service as such and not five years.
- c. That such ratio of 65% and 35% for filling up the required post is against the rules and violation of quota of appellant category.
- d. That to fill up the post of Secretary amongst the holders of the post of PMS Officers, 35% quota of Computer Operators is not based on sound and legal reason but is based on discrimination and malafide.
- e. That by keeping in view such ratio of both the categories, it could be safely said that Computer Operator will not see promotion to the post of Secretary till his retirement from service.

It is, therefore, most humbly prayed that on acceptance of the Appeal, the said Rules dated 14-12-2021 be set aside / modified and quota ratio to the post of Secretary B-17 in the category of Computer Operator be enhanced up to 50% or to 75%, instead of 35% by decreasing the quota of PMS Officers being B-17 employees to 50% or 35%, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

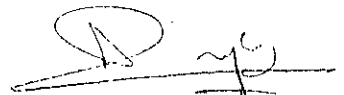
Through



Saadullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz

Advocates

Dated: 23-04-2022

AFFIDAVIT

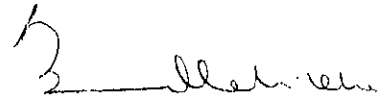
I, Saeed Ullah, Computer Operator, District Public Safety Commission, Charsadda (Appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.



DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.



ADVOCATE

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 22ND DECEMBER, 2021.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 14th December 2021.

No. E&A (HD) 10-10/2021 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, and in supersession of all previous Notifications, issued in this behalf, the Home and Tribal Affairs Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in Columns No. 3 to 5 of the Appendix to this Notification, which shall be applicable to the posts in the Provincial Public Safety Commission Khyber Pakhtunkhwa, as specified in Column No. 2 of the said Appendix:

APPENDIX

S.No.	Nomenclature of post.	Minimum qualification for initial recruitment.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Director General.	--	--	By transfer from amongst the PAS/PCS/ PMS Officers.

2.	Director.	--	--	(i) Fifty percent (50%) by promotion, on the basis of Seniority-cum-fitness, from amongst the holders of the post of Deputy Directors, with at least seven years service as such or twelve years service in BPS-17 and above; and (ii) fifty percent (50%) by transfer from amongst the PAS/PCS/PMS Officers.
3.	Deputy Director.	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Directors and Secretaries, having five years' service as such. Note: For the purpose of promotion to Deputy Directors, a joint seniority list of Assistant Directors and Secretaries shall be maintained by the Department.
4.	Assistant Director (Admn/Legal)/ Assistant Director (M&P.)/ Assistant Director.	(i) At least Second Class Master's Degree in Public Administration, Business Administration, Economics, Statistics or equivalent qualification from a recognized University; or (ii) at least Second Class LLB Degree or its equivalent qualification from a recognized University.	21 to 35 years.	(i) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Personal Assistants, with at least five years service as such; and (ii) seventeen percent (17%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Superintendents, with at least two years service as such or seven years service in BPS-16 and above; and (iii) thirty three percent (33%) by initial recruitment.

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5.	Secretary.		--	(i) Sixty five percent (65%) by transfer from amongst the holders of the post of PMS Officers; and (ii) thirty five percent (35%) by promotion, on the basis of seniority-cum-fitness, amongst the holders of the post of Computer Operators, with at least seven years service in BPS-16.
6.	Accounts Officer.	--	--	By transfer from Government Departments.
7.	Superintendent.	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistants, with at least five years service as such.
8.	Personal Assistant.	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Stenographers, with at least five years service as such.
9.	Assistant.	(i) At least Second Class Bachelor Degree or equivalent qualification from a recognized University; or (ii) At least 2.5 GPA in Bachelors of Sciences or its equivalent qualification from a recognized University.	21 to 32 years.	(i) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Senior Clerks, with at least two years service as such; and (ii) fifty percent (50%) by initial recruitment.
10.	Stenographer.	(i) At least Intermediate in second division or its equivalent qualification from a recognized Board;	18 to 30 years.	By initial recruitment.

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		(ii) a speed of fifty words per minute in short-hand in English and thirty-five words per minute in typing; and – (iii) knowledge of Computer in using MS Word and MS Excel.		
11.	Computer Operator.	(i) At least Second Class Bachelor's /BS Degree (Hon's) in Computer Science/Information Technology, from recognized university; or (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 30 years.	By initial recruitment.
12.	Senior Clerk.	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Junior Clerks, with at least two years service as such.
13.	Junior Clerk.	At least Second Division Intermediate or its equivalent qualification from a recognized Board.	18 to 30 years.	(i) Thirty three percent (33%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Naib Qaids and Chowkidars in the Directorate, with two years services as such, having Secondary School Certificate from a

				recognized Board; and (ii) sixty seven percent (67%) by initial recruitment. Note:- For the purpose of promotion, there shall be maintained a common seniority list of Naib Qasids and Chowkidars in the Directorate-with reference to the-dates-of their acquiring the Secondary School Certificate and regular date of appointment whichever is later.
14.	Driver.	At least Matric pass having valid LTV license.	18 to 40 years.	By initial recruitment.
15.	Naib.Qasid.	At least Middle pass.	18 to 40 years.	By initial recruitment.
16.	Chowkidar.		18 to 40 years.	By initial recruitment.

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.

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Better copy

To

The Secretary,
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

Sub: DEPARTMENTAL APPEAL ON SERVICE RULES DATED 14TH DECEMBER 2021, PUBLISHED ON 22ND DECEMBER, 2021 FOR AMENDMENT OR RELAXATION TO REDRESS & OVERCOME DECREMINATIOIN WITH THE APPLICANTS.

THROUGH PROPER CHANNEL

Respectable Sir

With due regard, it is submitted that the applicants are adversely affecting/suffering from above cited harsh & discriminating treatments of the Service Rules in the following manners:

1. That FIVE YEARS qualifying service for promotion are required for all the designations/positions, specially promotions from BPS-16 to BPS-17 under the above subject rules i.e., Personal Assistants & Assistant BPS-16 (also a uniform method of Five Years' Service is given in Khyber Pakhtunkhwa service rules of other departments), while the promotion of the applicants SEVEN YEARS SERVICE IN BPS-16 is compulsory to the said effects which is unrepresented, clear cut discrimination, obstacle and maltreatment with the applicants/Computer Operators.
2. Furthermore, On the other hand, 50% (Fifty Percent) departmental promotion quota is reserved for Deputy Director's BPS-17 promotion to the post of Director BPS-18, Personal Assistant BPS-16 to the promotion of Assistant Directors BPS-17, & Assistant BPS-16 to the promotion of Superintendent BPS-17 whereas the Computer Operators BPS-16 are given only 35% (Thirty-Five Percent) departmental quota to the promotion of Secretary BPS-17, which is also painful & have the discrediting effects because a considerable number of junior computer operators shall deprived for promotions, suffered a lot & wait for a considerable time for their promotions & some of them may be retired without getting a chance of promotion in the same basic pay scale.

Pray: In presence of above cited circumstances/facts, your kind honor is humbly requested to please, amend or relax the said service rule's S.NO.5 Colom 5 as;

- i. Fifty percent (50%) by transfer from amongst the holders of the post of PMS Officers; and
- ii. Fifty percent (50%) by promotion, on the basis of seniority-cum fitness, amongst the holders of the post of Computer Operator, with at least Seven years' service as such or Five years in BPS-16.

Dated: 25TH December, 2021.

Your Obediently Applicants Senior Computer Operators

(1)

RAFAQIT ULLAH,
COMPUTER OPERATOR (BPS-16)
DISTRICT PUBLIC SAFETY COMMISSION, SWABI.

(2)

(3)

(4)

(5) (6)

To: The Honorable
Chief of Police
Department of Public Safety, Washington, D.C.

Subject: **DEPARTMENTAL APPEAL ON SERVICE RULES DATED 14TH DECEMBER 1971 FURNISHED ON 22ND DECEMBER 1971 FOR AMENDMENT OR RELAXATION TO PERMIT TO OVERCOME DISCRIMINATION WITH THE APPLICANTS**

THROUGH PROPER CHANNEL

Respectfully Sir

With due respect, it is submitted that the applicants are adversely affected/discriminated from above cited harsh & discriminatory treatment of the Service Rules in the following manner:

1. That FIVE YEARS qualifying service for promotion are required for all the designated/positions, specially promotions from BPS-10 to BPS-17 under the above cited harsh & Arbitrary & Accidental JES in which a uniform method of Five Years' Service (in terms of higher posts) under service of other departments, while the promotion of the applicants SEVEN YEARS SERVICE IN BPS-16 is required to be said strictly where it is implemented, clear cut discriminatory obstacle and unfairness with the applicants/Computer operators.

2. Furthermore, on the other hand, 50% Fifty Percent Departmental promotion quota is reserved for Deputy Director's BPS-17 promotion to the posts of Director BPS-19, Regional Assistant BPS-16 to the promotion of Assistant Directors BPS-17, Assistant BPS-16 to the promotion of Superintendent BPS-17 whereas the Computer Operators BPS-10 are given only 20% Twenty Percent Departmental quota to the promotion of Secretary BPS-17, which results in partial have the discriminating nature because a considerable number of junior computer operators shall be eligible for promotion after 10 years for a considerable time in their promotion & some of them may be eligible without getting a share of promotion in the same basic pay scale.

Pray: In view of above cited circumstances, your kind favor is humbly requested to please, amend or relax the said service rules above.

- 1. Fifty percent (50%) promotion from amongst the holders of the post of JMS Officers and
- 11. Fifty percent (50%) promotion, on the basis of seniority-cum-fitness, amongst the holders of the post of Computer operators, with at least seven years' service on such or five years in BPS-10.

Dated: 15TH December, 1971.

Your Obediently Applicant's Mentor Computer Operators

(1) RAFAAT ULLAH,
COMPUTER OPERATOR (BPS-10)
DISTRICT PUBLIC SAFETY COMMISSION, SWA.

[Handwritten Signature]
(2)
1478 25.1.1972

(3)

Dir: PSC
For via place
1478

(5) (6)

To

The Secretary,
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

Sub: APPLICATION FOR S.S.R.C MEETING WITH YOUR KIND RECOMANDATIONS TO ADDRESS/RESOLVE THE PROBLEMS OF THE APPLICANTS/COMPUTER OPERATORS.

Respectable Sir,

With due regard, It is submitted that the applicants are adversely affecting/suffering very badly due to harsh & discriminating treatment of the Khyber Pakhtunkhwa Provincial Public Safety Commission's Service Rules. (Copy Attached)

Your kind office has issued above cited Service Rules for recruitment, qualification and other conditions of service, whereby the applicants are adversely effecting by the following discriminating & harsh clauses;

- a. Thirty-Five Percent (35%) quota is reserved for departmental promotion of Computer Operators BPS-16 to BPS-17, whereas 50% or in somewhere 100% departmental promotion quota is reserved for almost all the other designations/positions, i.e., Director, Deputy Directors, Assistant Directors, Superintendent, Personal Assistants, Assistant Senior Clerks etc.
- b. The Computer Operators are required to complete Seven Years qualifying service in BPS-16 for promotion to BPS-17, while on the other hand majority of the posts/designations are just needed Five Years or in some cases Two Years qualifying service for their promotions i.e., Deputy Directors, Assistant Directors, Superintendent, Personal Assistants, Assistant Senior Clerks & Junior Clerks.

In presence of above cited circumstances/facts, your kind honor is humbly requested to please:

- i. Call the meeting of S.S.R.C & place the request of the applicants before them with your kind recommendations to amend the said rules as;
- ii. Enhance the Departmental Promotion Quota of the Applicants from Thirty-Five Percent (35%) to Fifty Percent (50%).
- iii. The clause of Seven Years qualifying service for Promotion of Computer Operators in BPS-16 may please be replaced/amended with Five or Seven Years qualifying service as Computer Operator.

In presence of above cited circumstances, your kind honor is requested to please consider the problem of the applicants sympathetically. If your kind honor shall ignore it, a number of Computer Operators shall deprive from promotion in their entire service & may be retired in the same grade.

A detailed previous Departmental Appeal is also attached for your kind perusal, please.

Thanking you anticipation

*Senior Computer Operators on behalf of all the Computer Operators Khyber Pakhtunkhwa,
Director General of Provincial Public Safety Commission*

Dated: 17th February, 2022

1. Muhammad Zeeshan Durrani

3. Qaiser Rehman

2. Rafaqat Ullah Khan

4. Dil Jan

Received by
Abzal Ss

یعدالت چٹاپ سروس ٹریڈ یونٹل صورت پورے پشاور

منجانب ایڈوائس
صداقت نامہ
دعویٰ اپیل

پا سروس ٹریڈ یونٹل

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آلہ مقام پشاور
کیسٹم ایجنٹس خان سردوستے ایڈووکیٹ، ہائی کورٹ کو وکیل مقرر کر کے ایڈووکیٹ جانا ہے کہ صاحب
مذکورہ کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے واپسی نامہ و تقریر ثالثہ و ایضاً برتلاف
یہیے جواب دہی اور اقبال دعویٰ اور لٹریچر کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست
ہر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز لٹریچر عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی
اور دستخطی نیز دائر کرنے اپیل نمکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور لٹریچر و تصدیق نہ کرنے
کے کل یا تقریر کاروائی کے واسطے اور وکیل یا نمکرائی قانونی کو اپنے ہمراہ یا اپنی بجائے لٹریچر کا اختیار ہوگا
اور اس پر مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منشا و
قبول ہوگا و دوران مقدمہ میں جو خرچہ و تر جانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب
مذکورہ ہوں گے نیز لٹریچر و فرسبہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاخیر پیشی مقام روبرو
پڑے یا عدالت سے باہر ہو تو وکیل صاحب یا بند نہ ہوں گے کہ پیروی نہ کر کریں۔
لہذا رکالت نامہ دیکھ لیا کہ مستند ہے۔

الرقوم 23-4-22

القید القید القید

ارباب ایف ایم
ایڈووکیٹ

سیدہ الشہدات
ایڈووکیٹ

ل

امجد نواز
ایڈووکیٹ

ATTESTED

3/