

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.



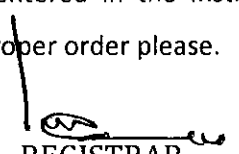
(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 641/2022

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. Muhammad Zeeshan Durrani 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> <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>
2-		

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. 641 /2022

Muhammad Zeeshan Durrani

versus

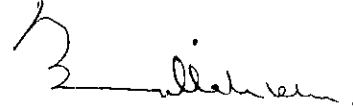
Secretary & Others

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Appellant

Through



Saadullah Khan Marwat
Advocate

21-A, Nasir Mansion,
Shoba Bazaar, Peshawar

Ph: 0300-5872676

Dated 23-04-2022

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2022

Muhammad Zeeshan Durrani,
 Computer Operator,
 Directorate of Public
 Safety Commission,
 Home Department,
 Peshawar..... 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 on 30-06-2005. 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.

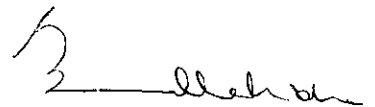
- b. That in each department in the rules of the Government, first, priority was given to the promotion quota and second by way of transfer to fill up the required post with at least five years in lower grade while in the rules, the same was perverted and 65% quota was given to PMS Officers B-17 and 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

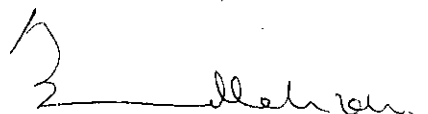
AFFIDAVIT

I, Muhammad Zeeshan Durrani, Computer Operator, Directorate of Public Safety Commission, Home Department, Peshawar (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. P.III
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.			<p>(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</p> <p>(ii) fifty percent (50%) by transfer from amongst the PAS/PCS/PMS Officers.</p>
3.	Deputy Director.			<p>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.</p> <p>Note: For the purpose of promotion to Deputy Directors, a joint seniority list of Assistant Directors and Secretaries shall be maintained by the Department.</p>
4.	Assistant Director (Admn/Legal)/ Assistant Director (M&P)/ Assistant Director.	<p>(i) At least Second Class Master's Degree in Public Administration, Business Administration, Economics, Statistics or equivalent qualification from a recognized University; or</p> <p>(ii) at least Second Class LLB Degree or its equivalent qualification from a recognized University.</p>	21 to 35 years.	<p>(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</p> <p>(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</p> <p>(iii) thirty three percent (33%) by initial recruitment.</p>

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.

		(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.

B

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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 posts 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)

The Secretary,
Home & Tribal Affairs Department,
Government of Punjab, Patiala.

DEPARTMENTAL APPEAL ON SERVICE RULES DATED 14TH DECEMBER 2021, PUBLISHED
ON 22ND DECEMBER, 2021 FOR AMENDMENT OR RELAXATION TO ADDRESS A
QUERENT DETERMINATION WITH THE APPLICANTS.

THROUGH PROPER CHANNEL

Respectfully Sir

With due regard, it is submitted that the applicants are
adversely affected by the provisions from above cited rules &
discriminating treatment of the service rules in the following
manner:-

1. The FIVE YEARS qualifying service for promotion are required for all the departmental positions, specially promotions from BPS-16 to BPS-17 under the above subject rules. Personal Assistant & Assistant DCS is also a uniform method of Five Years' service in view of proper para which a service rules of other departments, while the promotion of the applicants SEVEN YEARS SERVICE IN BPS-16 is compulsory to the said applicants. Hence, it is requested, please put (discriminatory) obstacle and hindrance 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 in the posts of Director BPS-18, Personal Assistant BPS-16 to the promotion of Assistant Directors BPS-17, & Assistant BPS-16 in the promotion of Superintendent BPS-17 under the Computer Operators BPS-16 are given only 25% (Twenty-five Percent) departmental quota to the promotion of Secretary BPS-17, which is also partial & have the discriminating influence wherein a considerable number of junior computer operators shall be passed for promotions, whereas a lot of staff for a considerable time for their promotion & some of them may be letted without getting a share of promotion in the same basic pay scale.

Pray: In view of above cited circumstances/facts, your kind
favor is humbly requested to please, amend or relax the said
service rules 1977, from 5 to 7.

1. Fifty percent (50%) transfer from amongst the holders of the post of JMS Officers and
2. Fifty percent (50%) promotion, on the basis of seniority-merit basis, amongst the holders of the post of Computer Operator, with at least three years' service on such of Five years in BPS-16.

Dated: 25TH December, 2021.

Your Obediently Applicant's Junior Computer Operator
(1) RAFAQI ULLAS,
COMPUTER OPERATOR (BPS-16)
DISTRICT PUBLIC SAFETY COMMISSION, SWA.

(3)

Dir: PSC

For file page
Sd/-
UPDE-53

(4)

Public Secy

(5) (6)

1478/25/1202

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 clausés;

- 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

Abdul Gh

یعدالت جناب سرسٹریٹ ٹریبیونل صوبہ سندھ پشاور

متجانب اعلیٰ عدالت
مگر ذیشان دورانی بنام
دعویٰ اپیل

باعضرت سرسٹریٹ ٹریبیونل

مسترد مندرجہ عنبران بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ آن مقام پشاور
کیسٹ میں استعدا اٹلسا حضانہ سے دئے ایڈوکیٹ ہائی کورٹ کو وکیل مسترد کر کے انڈیکر کیا جانا ہے کہ صاحب
موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے دہنی نامہ و آفیشز ٹالسٹ و انیشہہ برتلاف
دینے جواب دہی اور قبالی دعویٰ اور بھرتوز ڈگری کرنے اجراء اور وہ بولی چیک و رڈ پیہ اور مرضی دعویٰ اور در خواست
برہنہم کی تعلیق ان اجراء میں برہنہم کو نظر کرنے کا اختیار ہوگا نیز بھرتوز عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی
اور نہ ہی پیروی کی طرف یا اپیل کی طرف یا پیروی کرنے کا اختیار ہوگا اور بھرتوز ضروریات متعلقہ متعلقہ
کے کل یا جزوی کاروائی سے واسطے اور وکیل یا مندر قانونی کو اپنے ہمراہ یا اپنی بجائے تفرک کا اختیار ہوگا
اور اجزیہ مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیار ہوں گے اور اس کا ساختہ پیرا ساختہ متعلقہ اور
قبول ہوگا و دوران مقدمہ میں جو فرجیہ نہ ہو جانہ التوا مقدمہ کے مناسب ہوگا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا و فرجیہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روبرو
پر ہو یا عدالت باہر ہو تو وکیل صاحب یا ہر نہ ہوں گے کہ پیروی مذکور کریں۔
لہذا وکالت نامہ دیکھ دیا کہ مسترد ہے۔

المرقوم 23-4-22

التعبید التعبید التعبید

ارباب سید انکمال
ایڈوکیٹ

سید انیس جمال
ایڈوکیٹ

مگر ذیشان دورانی

انجمن کونز
ایڈوکیٹ