

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.

Q

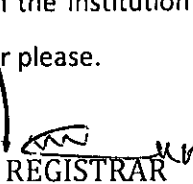

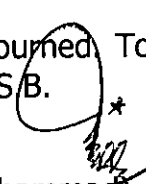

(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7793/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/11/2021	<p>The appeal of Mr. Muhammad Sajid presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>08/02/21</u>.</p> <p> CHAIRMAN</p>
	20.01.2022	<p>Clerk of counsel for the appellant present.</p> <p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 17.03.2022 before S/B.</p> <p> (Mian Muhammad) Member(E)</p>
	17.03.2022	<p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 14.06.2022 for the same as before.</p> <p> Reader</p>

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

SERVICE APPEAL NO. 7793 /2021

MUHAMMAD SAJID

V/S

L.G DEPARTMENT

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Dated: 11.2021

APPELLANT

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Mr. Muhammad Sajid, Junior Village Secretary (BPS-09),
VC Mubarak Kheil, Tehsil Batkhela, District Malakand.

..... **APPELLANT**

VERSUS

- 1- The Secretary Local Government and Rural Development Department Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director General Local Government and Rural Development Department Malakand, District Malakand.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 07-08-2018 OF THE RESPONDENTS WHEREBY THE APPELLANT WAS PROMOTED TO THE POST JUNIOR VILLAGE SECRETARY BPS-09 WITH IMMEDIATE EFFECT AND NOT W.E.F. 11.4.2015 I.E. WHEN THE POST OF VILLAGE SECRETARY WAS ADVERTISED FOR INITIAL RECRUITMENT AND ALSO AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 07/08/2018 may kindly be modify/rectify to the extent that the appellant may very kindly be promoted to the post of Junior village Secretary (BPS-09) with effect from the date when the post of junior secretary BPS-07 now BPS-09 has been advertised for initial recruitment i.e. w.e.f. 11-04-2015 with all back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise on the present appeal are as under:

- 1- That initially the appellant was appointed in respondent department as Class-IV (Naib Qasid) BPS-02 on the proper recommendation of the Departmental selection committee vide order dated 9.5.2013. Copy of the appointment order is attached as annexure **A.**
- 2- That according to the Service Rules of the respondent Department Notified on 26.1.1978 a promotion quota of 20% now 30% was allocated for Class-IV employees to the post of Junior Clerk (BPS-7). That as per devolution plan the District Council has been divided to that of Tehsil, Union and Village Councils level and due to that reason the prospects of promotion of appellant has been stopped and has been deprived from his due right of promotion. Copy of the Service Rules is attached as annexure **B.**
- 3- That after creation of village councils many post of Secretary BPS-06 have been created and are lying vacant under the kind control of respondent No.04. That appellant as having eligible and senior most class-iv employee of the respondent Department applied for his promotion to the post of Secretary BPS-07 now BPS -09 in light of the 33% quota and on the analogy of his colleague namely Mr. Ayub Khan who has been promoted to the post of Secretary BPS-06 now BPS-09 by the respondents on the directions of august Service Tribunal vide order dated 31-5-2008. Copy of the promotion order is attached as annexure..... **C.**
- 4- That appellant was quit hope full for his promotion but the respondents advertised the ibid post for initial recruitment through advertisement dated 11-4-2015 and 27-6-2015 the post of Secretaries BPS-7 now BPS-09 for all the village/ neighborhood councils situated in District Malakand by ignoring and considering the appellant for promotion to the said post. Copies of the advertisements are attached as annexure..... **D.**
- 5- That feeling aggrieved from the inaction of the respondents the appellant submitted departmental followed by Service Appeal No. 1157/2015, which was disposed of in favor of appellant vide judgment dated 03.01.2017. Copy of the judgment dated 03.01.2017 is attached as annexure **E.**
- 6- That in light of the ibid judgment the respondent department framed/notified new service rules whereby promotion quota has been allocated for the class-IV. Copy of the new rules is attached as annexure **F.**
- 7- That in response to the above mentioned judgment and new service rules the respondents issued the impugned promotion order dated 07-08-2018 where by the appellant

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was promoted to the post of Junior village Secretary BPS-09 but with immediate effect rather than w.e.f. 11.4.2015. Copy of the impugned order is attached as annexure **G.**

- 8- That felling aggrieved appellant preferred departmental appeal before the respondent No.2 but no response has been given till the expiry of statutory period of ninety days. Copy of the departmental appeal is attached as annexure **H.**
- 9- That feeling aggrieved and having no remedy the appellant preferred the instant appeal on following grounds inter alia.

GROUND:

- A- That the impugned order dated 07-08-2018 of the respondents by promoting the appellant with immediate effect and by not promoting the appellant from the dates when the said post was advertised vide dated 11/4/2015 is against law, facts, and norms of natural justice, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner by promoting the appellant with immediate effect and by not promoting the appellant from the dates when the said post was advertised vide dated 11/4/2015.
- D- That according to Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to reduce disparity in the income and earning of individuals including persons in the services of the federation, therefore in light of the said Article the appellant is fully entitle for promotion to the said post when it was advertised.
- E- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

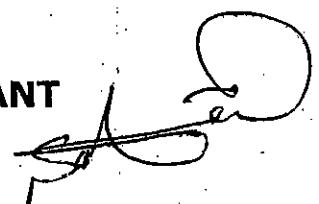
It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

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Dated: 23.11.2021

APPELLANT



MUHAMMAD SAJID

THROUGH:

NOOR MOHAMMAD KHATTAK



&

UMAR FAROOQ MOHMAND
ADVOCATES
H.C.P



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

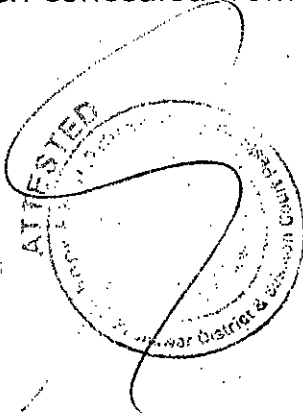
MUHAMMAD SAJID

VS

L.G DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.




DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.


CERTIFICATION

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

C.M NO. _____ / 2021

IN

APPEAL No. _____ /2021

MUHAMMAD SAJID

V/S

Govt. Of KP & Others

APPLICATION FOR RESTRAINING THE RESPONDENTS NOT
TO MAKE PROMOTION IN THE CADRE OF APPELLANT
I.E. VILLAGE SECRETARY TILL DIPOSAL OF THE
INSTANT SERVICE APPEAL

R/SHEWETH:

- 1- That the above title service appeal has been filed by the appellant in which no date has so far been fixed.
- 2- That the appellant filed the above titled appeal against the impugned order dated 07-08-2018 whereby the appellant has been promoted to the post of Junior Village Secretary(BPS 09) with immediate effect rather with effect from the date when the ibid post was advertised for initial recruitment i.e. in the year, 2015.
- 3- That the respondents intends to promote the existing Junior Village Secretary to the post of Senior Village Secretary (BPS. 12) on the basis of seniority-cum fitness.
- 4- That all the ingredients required for the grant of stay are in favour of present appellant.

It is therefore humbly prayed that on acceptance of the instant application, the respondents may kindly be restrained not to make promotion to the post of Senior Village Secretary (BPS-12) till final disposal of the above mentioned service appeal.

Dated: 24.11.2021

APPLICANT

MUAHMMAD SAJID

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

OFFICE OF THE ASSISTANT DIRECTOR LG & RDD-MALAKAND

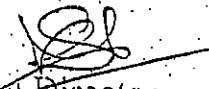
No. 187/ADLG&RDD/MKD

Dated: 09/05/2013

Office Order

In pursuance to the recommendations of the Departmental Selection Committee Malakand meeting, Mr. Muhammad Sajid S/O Samiullah resident of village Totakan Muhiallah Dagai, Tehsil Batkhela District Malakandis hereby appointed as Naib Qasidon regular basis in the office of ADLG&RDD, Malakand against the vacant post in (BPS-1) with usual allowances as admissible under the rules.


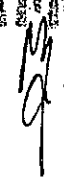
He should submit Age & Health Certificate from Medical Superintendent DHQ Hospital Batkhela and submit arrival report for duty.


 Assistant Director
 LG & RDD Malakand

No. 183-188/ADLG&RDD/Mkd

Copy forwarded for information to:-

1. The Director General LG&RDD, Khyber Pakhtunkhwa, Peshawar
2. The Director LG&RDD, Khyber Pakhtunkhwa, Peshawar
3. The Agency Accounts Officer, Malakand
4. The Section Officer (Establishment) LG&RDD, Khyber Pakhtunkhwa, Peshawar
5. MS DHQ Hospital, Batkhela
6. The official Concerned.


 Assistant Director
 LG & RDD Malakand
o/c
ATTESTED


GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
LOCAL GOVT: COOPERATION, SOCIAL WELFARE,
TOURISM AND RURAL DEVELOPMENT DEPARTMENT.
=O=

Dated Peshawar the 26th January, 1978.

NOTIFICATION

No. DG(RWP)7(2)/73. In exercise of the powers conferred by Sub-Rule(2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, and in consultation with the Information, Services and General Administration Department and the Finance Department, the Local Government Cooperation, Social Welfare, Tourism and Rural Development Department is pleased to lay down the method of appointment, qualifications and other conditions specified in column 3 to 6 of the Appendix to this Notification, which shall be applicable to posts borne on the Rural Development Department specified in column 2 of the said Appendix.

Sd/- (ATTAUR REHMAN KHAN)
Secretary to Govt: of N.W.F.P.
Local Govt:, Cooperation,
Social Welfare, Tourism and R
Rural Development Department.

No. DG(RWP)7(2)/73.

Copy of the above forwarded to the:-

1. All Administrative Secretaries to Govt: of N.W.F.P.
2. All Divisional Commissioner in N.W.F.P.
3. Secretary to Governor, N.W.F.P.
4. Secretary, Public Service Commission, NWFP, Peshawar.
5. All Heads of Attached Departments in NWFP.
6. All Deputy Commissioner/Political Agents in NWFP.
7. All District and Session Judges in N.W.F.P.
8. Registrar, Peshawar High Court Peshawar.
9. Deputy Secretary-II, I S&GAD.
10. All Section Officers in S&GAD.
11. Section Officer (Legis) Government of NWFP, Law Deptt: with reference to his U.O. No. Reg: 1(4)76/452, dated 8th October, 1977.
12. Section Officer (Inform:) Govt: of NWFP, IS&GAD with ref: to his letter No. SOS-III(S&GAD)4-6/75, dated 21st July, 1978.
13. The Manager, Govt: Printing Press, Peshawar for publication in the next Govt: Gazette Notification. 30 copies of the Notification may be sent to this Deptt: Deputy Director (PWP), Rural Development, NWFP, Peshawar for information with reference to SO-Services-III, IS&GAD No. SOS-III(S&GAD)4-6/75, dated 21st January, 1978.

ATTENDED

Sd/- as above.

METHOD OF APPOINTMENT, QUALIFICATIONS AND OTHER CONDITIONS
RURAL DEVELOPMENT DEPARTMENT

Sl. No.	Nomenclature of post.	Qualification for initial recruitment.	Qualifications for promotion.	Age limit for initial recruitment.	Method of appointment.
1.	2.	3.	4.	5.	6.
1.	<u>DEPUTY DIRECTORS.</u>	a) 2nd Class Master's Degree from a recognised University in Economics, Statistics, Social Works/ Sociology, Animal Husbandry, Agril: Political Science, Public Admn: Geography or Social Psychology: and b) Five years experience in Agriculture, Animal Husbandry Education, Social welfare, Planning & Dev: or Forest in Grade-16 or above.		Not less than 30 years and not more than 40 years.	i) 25% by initial recruitment, and 75% by selection on merit with due regard to seniority from amongst the holders of the posts of Assistant Directors, Rural Development (including the defunct Basic Democracies Deptt.) Project Managers & Progress Officers, with at least years experience as such.
2.	<u>ASSISTANT DIRECTORS/ PROJECT MANAGER/ PROGRESS OFFICER.</u>	2nd Class Master's Degree from a recognised University in Economics, Statistics, Social Works/ Sociology, Animal Husbandry, Agriculture, Political Science, Public Administration, Geography or Social Psychology, Physics, Chemistry, Mathematics.		Not less than 21 years and not more than 30 years.	i) 50% by initial recruitment and ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts Development Officers and Sub-Divisional Officers (Assistant Engineers).
3.	<u>ACCOUNTS OFFICER.</u>	2nd Class Master's Degree in Commerce/ Business Administration, or G.A.S. qualified persons of Pakistan Audit Deptt: or Provincial Local Audit Department.		Not less than 21 years and not more than 30 years.	i) 50% by initial recruitment, and ii) 50% by selection on merit with due regard to seniority holders of posts Superintendents the Deptt: with a least three years service such.
4.	<u>DEVELOPMENT OFFICER.</u>	2nd Class Master Degree from a recognised University in Economics, Statistics, Social Works/ Sociology, Animal Husbandry, Agriculture, Public Admn: Political Science, Geography or Social Psychology.		Not less than 21 years and not more than 30 years.	i) 50% by initial recruitment, and ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts of Supervisors, RD in the Deptt: with at least ten years service. Service in defunct Vill: Aid Deptt: and B: the purpose of service under this clause treated as service in the Department.

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- | | | | | | |
|----|--|--|----|--|---|
| 1. | <u>2.</u> | 3. | 4. | 5. | 6. |
| | SUB-DIVISIONAL OFFICER/ASST: ENGINEER. | Degree in Engineering or equivalent qualification from a recognised University. | - | Not less than 21 years and not more than 30 years. | i) 75% by initial recruitment and
ii) 25% by selection on merit with due regard to seniority from amongst holders of the posts of Overseers.

By selection on merit with due regard to seniority from amongst holders of the posts Assts./Accountants/Senior Stenographers/Senior Auditors, with at least five years experience as such. |
| | 6. SUPERINTENDENT. | - | - | - | - |
| | 7. ASSISTANT/ACCOUNTANT. | Degree from a recognised University. | - | Not less than 21 years and not more than 25 years. | i) 25% by initial recruitment and
ii) 75% by selection on merit with due regard to seniority from amongst holders of the posts of Senior Clerks, Junior Auditors in the Dept with at least five years service as such. |
| | 8. STENOGRAPHERS. (SENIOR SCALE). | a) Matriculation or equivalent qualification from a recognised Board and
b) Speed of 100 words per minute in Shorthand in English and 40 words per minute in typing. | - | Not less than 18 years and not more than 25 years. | i) 25% by initial recruitment; and
ii) 75% by selection on merit with due regard to seniority from amongst holders of the posts Stenographers (Junior Scale). |
| | 9. OVERSEER. | Diploma in Engineering from a recognised Institutes. | - | Not less than 21 years and not more than 25 years. | By initial recruitment. |
| | 10. SUPERVISOR, RURAL DEV. | Degree from a recognised University. | - | Not less than 21 years and not more than 25 years. | i) 25% by initial recruitment; and
ii) 75% by selection on merit with due regard to seniority from amongst holders of the posts of Vill:Seoys: in the Deptt: with at least five years experience as such. |
| | 11. SENIOR AUDITOR. | Degree from a recognised University.
Note: Preference will be given to persons holding Degree with Commerce as one of the subjects or equivalent qualification in Accounts. | - | Not less than 18 years and not more than 25 years. | i) 50% by initial recruitment; and
ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts Junior Auditors/Senior Clerks in the Deptt: at least (3) years service as such. |

ATTESTED

(A) (1)

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(11)

12. STENOGRAPHER (JUNIOR SCALE).

a) Matriculation or equivalent qualification from a recognised Board; and
b) Speed of 80 words per minute in Shorthand in English and 35 words per minute in typing.

13. STENO-TYPISTS.

a) Matriculation or equivalent qualification from a recognised Board; and
b) Speed of 60 words per minute in Shorthand in English and 25 words per minute in typing.

14. JUNIOR AUDITOR.

Matriculation or equivalent qualification from a recognised Board.

15. SENIOR CLERKS.

Intermediate from a recognised Board.

16. VILLAGE SECRETARIES.

Matriculation or equivalent qualification from a recognised Board.

17. JUNIOR CLERKS.

5. Not less than 18 years and not more than 25 years.

6. i) 50% by initial recruitments and ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts of Steno-typists in the Department.

Not less than 18 years and not more than 25 years.

i) Not less than 50% by initial recruitment and ii) Not more than 50% by selection on merit from amongst the holders of the posts of Junior Clerks in the Deptt. with three years service such, who have the minimum qualifications prescribed for initial recruitment. By initial recruitment.

Not less than 18 years and not more than 25 years.

By selection on merit with due regard to seniority from amongst the holders of the posts of Junior Clerks in the Deptt. with at least three years service as such. By initial recruitment.

Not less than 18 years and not more than 25 years.

Not less than 18 years and not more than 25 years.

i) Not less than 80% by initial recruitment; and ii) Not more than 20% by selection on merit with due regard to seniority from amongst Deftaries and peons in the Deptt. who have the minimum qualifications prescribed for initial recruitment.

ATTESTED
ATTESTED

[Handwritten signature]

OFFICE OF THE DISTRICT COORDINATION OFFICER SWAT AT GULKADA.

No. 5896 /50/DCO/Estt.

Dated the 31-5-2008.

O R D E R.

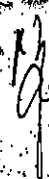
In pursuance of the Judgement passed by the Hon'able Services Tribunal N.W.F.P. dated 31/10/2007, and 29/4/2008, Mr. Ayub Khan, Naib Qasid (EPS-02) of Union Council is hereby selected/promoted as secretary (B-06) against the vacant post at Union Council mindodag, Swat on regular basis with immediate effect.

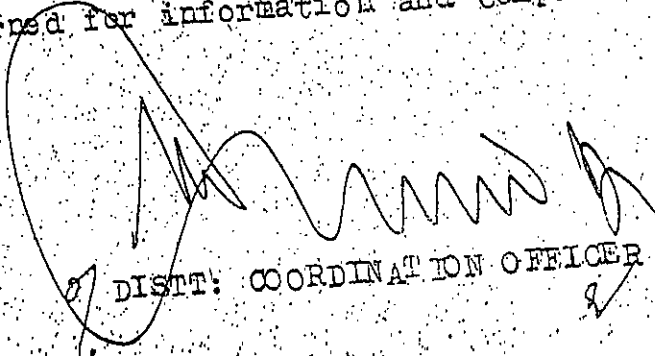

DIST: COORDINATION OFFICER SWAT.

No. 5897-5900 /50/DCO/Estt.

Copy forwarded to:-

- 1- The Registrar NWFP services Tribunal, Peshawar, for information.
- 2- The District Accounts Officer, Swat.
- 3- Nazar (Local Office).
- 4- Official concerned for information and compliance.

ATTESTED



DIST: COORDINATION OFFICER SWAT.

اسٹنڈرڈ برائے بھرتی ویلج سیکرٹری برائے

ویلج / نیبر ہڈ کونسل (BPS-07)

بجرائے اشتہار نمبر INF(P)2000 ڈائریکٹریٹ جنرل محکمہ بلدیات و دیہی ترقی صوبہ خیبر پختونخوا
11-04-2015 کو مندرجہ بالا بھرتی کے لیے اشتہار دیا گیا تھا۔ امیدواروں کے تحریری ٹیسٹ کے لیے نیشنل

14

سروس کو مندرجہ ذیل معلومات درکار ہیں۔

نمبر شمار	ضلع	نام آسامی	بنیادی سکیل	مطابقت قابلیت	عمر
1	متعلقہ	ویلج سیکرٹری برائے ویلج نیبر ہڈ کونسل	07	(i) تصدیق شدہ بورڈ سے ایف اے / ایف ایس سی یا اس کے مساوی امتحان پاس کیا ہو۔ (ii) تصدیق شدہ ادارے سے کمپیوٹر سافٹ ویئر 6 ماہ کا کورس پاس کیا ہو۔ MS-Word, Excel, Internet/Email Inpage (Urdu) (iii) - ان پیج (Inpage) اور انٹرنیٹ پر عبور حاصل ہو۔	-30

بنیادی شرائط:

(1) - متعلقہ ویلج انیورسٹی کونسل کے باشندے کو ترجیح دی جائے گی۔

(2) - مذکورہ بالا بھرتی متعلقہ ضلع کے سرپلس پول میں موجود عملہ (Surplus Staff) کے مکمل تعیناتی (Adjustment) کے بعد عمل میں لائی جائے گی۔

مندرجہ بالا معلومات صحیح کرنے کا طریقہ کار:

- فارم اور آن لائن ڈیپازٹ سلیپ نیشنل ٹیسٹنگ سروس کی ویب سائٹ www.nts.org.pk پر موجود ہیں اور 6-07-2015 تک این ٹی ایس ہیڈ کوارٹرز (1-E, Street No.46, I-8/2, Islamabad) کو موصول ہونی چاہئیں۔
- بذریعہ ڈاک تاخیر سے موصول ہونے کی صورت میں این ٹی ایس ذمہ دار نہ ہوگا۔
- براہ کرم اپنی مجوزہ ڈیپازٹ سلیپ کے ذریعے ٹیسٹ فیس مبلغ -/400 روپے، HBL, ABL, UBL, MCB کی کسی بھی آن لائن برانچ میں جمع کرائیں۔

NTS

ATTESTED

2015

روزنامہ آج، پشاور، 27 جون 2015

■ امتحانی مراکز میں موبائل فون لانے کی اجازت نہیں۔

■ جمع شدہ رقم ناقابل واپسی اور ناقابل منتقلی ہے۔

UAN +92-51-844-444-1

National Testing Service Pakistan



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1159 /2015

A.W.F. Province
Service Tribunal
Diary No. 1247
Dated 13.10.2015

Mr. Mohammad Sajid, Naib Qasid (BPS-02),
O/O Assistant Director Local Government and Rural Development
Department Malakand, District Malakand.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director General Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 5- The Assistant Director Local Government and Rural Development Department Malakand, District Malakand

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT 1974 AGAINST THE INACTION OF THE RESPONDENT No.4 BY NOT PROMOTING THE APPELLANT TO THE POST OF VILLAGE/ NEIGHBORHOOD COUNCIL SECRETARY (BPS-07) AND AGAINST THE SERVICE RULES OF THE RESPONDENT DEPARTMENT NOTIFIED ON 26.1.1978 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

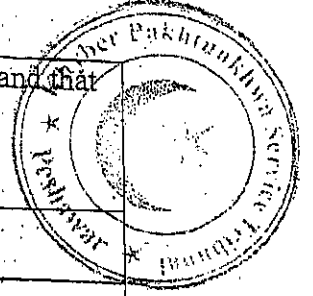
Not to say
3/10/15

PRAYER: That on acceptance of this appeal this appeal the impugned service Rules dated 26.1.1978 of the respondent Department may kindly be modify to the extent that promotion quota may very kindly be allocated for class-iv to the post of Secretary village Council and the respondent No.5 may further kindly be directed to consider the appellant for promotion to the post of Village/ neighborhood Council Secretary (BPS-07) in light of the order dated 31.5.20008. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.


R/SHEWETH:
ON FACTS:

TESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

16



S. No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	03.01.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>CAMP COURT SWAT</u></p> <p>1. Service appeal No. 1157/2015, Zahiq Hussain, 2. Service appeal No. 1158/2015, Shamsher Ali, 3. Service appeal No. 1159/2015, Muhammad Sajid, 4. Service appeal No. 1160/2015, Shahab Hussain, & 5. Service appeal No. 1161/2015, Zahid Akram Vs. the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.</p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Counsel for the appellants and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Khursheed, Computer Operator for respondents present.</p> <p>2. This judgment shall dispose of the instant service appeal No. 1157/2015, titled "Zahiq Hussain Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others" as well as service appeals No. 1158/2015, titled "Shamsher Ali Versus the Government of Khyber Pakhtunkhwa through Chief Secretary Peshawar and 4 others"; No. 1159/2015, titled "Muhammad Sajid Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others", No. 1160/2015 titled "Shahab Hussain Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others" and No. 1161/2015, titled "Zahid Akram Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others" as identical questions of facts and law are involved therein.</p> <p style="text-align: right;">ATTESTED</p>


 CHAIRMAN
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

3. Brief facts of the case of the appellants are that they are serving as Class-IV employees in the establishment of Local Government & Rural Development Department, District, Malakand. In the rules in vogue till 2002 the appellants and similarly other employees were entitled to promotion as Junior Clerks subject to fulfilling the pre-requisites which provision of promotion was done away with in the year 2002 leaving no prospects for career/promotion of the appellants and similarly other placed employees.

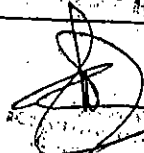
4. We have heard arguments of learned counsel for the parties and perused the record.

5. Though appellants are seeking promotion to the post of Secretary Village Council and neighborhood Council Secretary however no such provision for promotion is available in the rules and therefore this court is in a position to entertain the appeals of the appellants.

6. It is an established principle of law that every person in the service of Pakistan has a right to career/progression/promotion including the appellants keeping in view the provisions of fundamental rights read with the judgments of the august Supreme Court of Pakistan including the case laws reported as 1991-SCMR-1041, 2010 PLC (C.S)68, 2010 PLC (C.S) 1075, 2011-PLC (C.S) 1130.

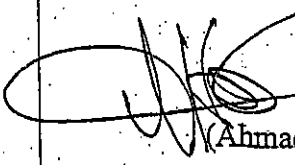
7. We therefore direct that keeping in view the said rights of the appellants and similarly placed employees the respondents shall consider suitable amendments in the rules. Such an exercise shall be conducted and concluded within a period of 6 months from the date of receipt of this judgment and where-after appellants and other similarly placed employees may be considered for promotion in the mode and manners prescribed by rules. The appeals are disposed of in the above terms. Parties are left to

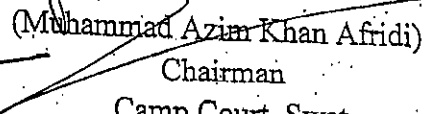
TESTED


 JUDGE
 DISTRICT COURT
 MALAKAND

03-01-17

bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member



(Muhammad Azim Khan Afridi)
Chairman
Camp Court, Swat.

03-01-17

ANNOUNCED
03.01.2017

Date of Presentation of Application	22/10/17
Number	1200
Copies	14/-
Urgent	
Total	14/-
Name of	
Date of Issue	25/10/17
Date of Submission of Copy	25/10/17

Certified to be true copy


EX-JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Government Of Khyber Pakhtunkhwa
Local Government, Elections & Rural
Development Department

NOTIFICATION

Dated Peshawar, the 05th April, 2018

No. SO(LG-12-188/SSRC/2018-1981. In exercise of the power conferred by sub-rule (2) of the rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government, Elections and Rural Development Department, Khyber Pakhtunkhwa, in consultation with the Establishment & Administration Department and the Finance Department, is hereby directs that in this Department's Notification No. DG(RWP)7(2)/73 dated 26.01.1978, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix

for serial No. 10 the following shall be substituted, in the respective columns, namely:

10. Supervisor	Atleast Second Class Bachelor's Degree from a recognized University.	21 to 30 years.	i) Seventy-five (75) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Secretary Village / Neighborhood Council with atleast five (05) year service as such; and ii) Twenty-five (25) per cent by initial recruitment.
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(b) after serial No. 15, the following new entries shall be inserted, in the respectively columns, namely:

15A. Senior Secretary Village Neighborhood Council	-----	-----	By promotion on the basis of seniority-cum-fitness, from amongst the Junior Secretary Village / Neighborhood Council, with atleast ten (10) year service as such; and
--	-------	-------	---

(c) for serial No. 16, the following shall be substituted, in the respective columns, namely:

16. Junior Secretary Village Neighborhood Council	Atleast Second Class Intermediate or equivalent qualification from a recognized Board and atleast six (06) months Certificate in Computer from a recognized Institute with experience in MIS-Office, Impage and Internet.	18 to 30 years.	i) Twenty (20) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasids and Chowkidars in the Village / Neighborhood Council with seniority at tehsil level; having Secondary School Certificate in second division, from a recognized Board or Institute with three (03) year service as such; and
---	---	-----------------	---

REGISTERED

ATTACHED

RECEIVED

SECTION OFFICER (ESTAB)
Phone # 091-9213224

(HAYI MURKHAZI)
[Signature]

- 16. The Office Order file.
- 15. The PS to Secretary LG & RDD Peshawar.
- 14. The PS to Senior Minister for LG & RDD Khyber-Pakhtunkhwa Department.

Government Gazette Notification: 40 copies of the Notification may be sent to this

13. The Manager Government printing press, Peshawar for publication in the next

12. All Assistant Directors, LG & RDD in Khyber Pakhtunkhwa.

11. All District and Session Judges in Khyber Pakhtunkhwa.

10. The Registrar, Peshawar High Court, Peshawar.

9. All Deputy Commissioners in Khyber Pakhtunkhwa.

8. All Head of Attached Departments in Khyber Pakhtunkhwa.

7. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.

6. The Director (General), LG & RDD, Khyber Pakhtunkhwa Peshawar.

5. The PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.

4. The PSO to Chief Minister, Khyber Pakhtunkhwa Peshawar.

3. The Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.

2. All Divisional Commissioners in Khyber Pakhtunkhwa.

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.

Copy forwarded to:

No. SOL/BC-D2:158/SSRC/2018.

SECRETARY TO GOVERNMENT OF KP
LOCAL GOVT. ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT
Dated Peshawar, the 05th April, 2018

Provided that the candidate shall be preferably a bonafide resident of the same Village/Neighborhood Council. If such candidate is not available in the same Village/ Neighborhood Council then the candidate from adjacent Village/ Neighborhood Council.

Provided further that in case of non-availability of candidate from adjacent Village/ Neighborhood Council then from any other Village/ Neighborhood Council in that Tehsil Council.

20



ANNEXURE - 9

OFFICE OF THE ASSISTANT DIRECTOR LG & RDD MALAKAND

No. 7002 /ADLG&RDD/MKD

Date: 07 /08/2018

(21)

OFFICE ORDER:

Consequent upon the recommendation of Departmental Selection Committee on 07/08/2018, the undersigned is pleased to promote the following Naib Qasids BPS-03/04 to the post of Junior Secretary BPS-09 with immediate effect in the best interest of public:

S. No.	Name of incumbent	BPS	Place of posting promote to Junior Secretary BPS-09 and posted VC/NC
1	Shamshir Ali	04	VC Khan Gari
2	Sher Rahman	04	VC Baba Kheil
3	Said Malik	04	NC Qaldara
4	Shahab Hussain	04	VC Bala Batkhela
5	Zahiq Hussain	03	VC Qalangai
6	Muhammad Sajid	03	VC Mubarak Kheil
7	Sana Ullah	03	VC Koza Atteya

Assistant Director
LG&RDD, Malakand

No. 7003-9/ADLG/MKD even dated

Copy forwarded for information to:

1. The Director General LG&RDD, Khyber Pakhtunkhwa Peshawar
2. The District Nazim District Govt, Malakand
3. The Deputy Commissioner, Malakand
4. The District Accounts Officer, Malakand
5. The Supervisor LG&RDD, Malakand
6. The Nazim VC/NC concerned.
7. The Secretary VC/NC Concerned for compliance.

Assistant Director
LG&RDD, Malakand

ATTACHED

حکومت جناب ڈائریکٹر جنرل GARD 2 دیپارٹمنٹ آف ایسٹابلیشمنٹ

دو چالیس سالہ عطا علی ترقی از عزم 11/04/2015
تاریخ اشتہار

صاف - عالی

مؤدبانہ گزارش کی جاتی ہے کہ سائل
آپ حضور والا کے زیر سایہ بطور جونیئر ویلج سیکریٹری کام
کری رہے ہیں سائل کو عزم 07/08/2018 کو 3 سی دن سے
جونیئر سیکریٹری میں ترقی دی گئیں یہ عدالتی فیصلہ کے
تناظر میں سائل کو اس دن سے ترقی دینے کا حقدار
رہوا لیا گیا ہے جس دن جونیئر سیکریٹری کے پورے کیریئر
حکم کے مطابق اس اشتہار دیا گیا۔
اس لئے آپ صاحب سے التجا کی جاتی ہے کہ
سائل کو انصاف میں اشتہار دینے کی تاریخ سے
ترقی دی جائے سائل کو جو مستحق و ممنون رہے گا۔

[Signature]

[Signature] 02-08-2021

سائل محمد ساجد - جونیئر سیکریٹری
مبارک خیل ملتان۔

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____ OF 2021

✓ Muhammad Sajid _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

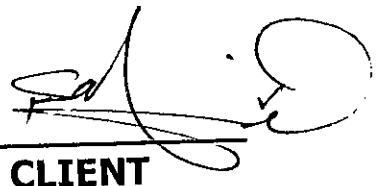
VERSUS

Court of K.P. Judges _____ (RESPONDENT)
(DEFENDANT)

I/We Muhammad Sajid _____

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK, Advocate, HIGH COURT, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021



CLIENT

0348-9290556

ACCEPTED
NOOR MUHAMMAD KHATTAK
KAMRAN KHAN
SAID KHAN
UMAR FAROOQ MOHMAND
&
HAIDER ALI
ADVOCATE

✓ **OFFICE:**
Flat No.4, 2ND Floor,
Juma khan plaza near
FATA secretariat, warsak road
Peshawar City.
Mobile No.0345-9383141