

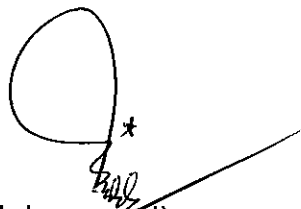
11.11.2021

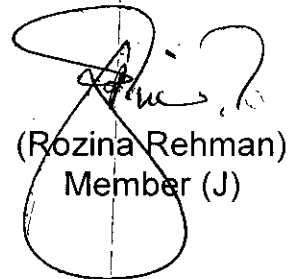
Nemo for appellant

Kabir Ullah Khattak learned Additional Advocate General  
alongwith Senior Instructor for respondents present.

Case was called time and again but none appeared before  
this Bench till its rising. Appellant and his counsel were not present  
on the preceding date, therefore, they were put on notice for today  
but they both once again <sup>are</sup> absent despite notice. As such the instant  
service appeal stand dismissed in default for non-prosecution. No  
order as to costs. File be consigned to the record room.

Announced  
11.11.2021

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

8

06.07.2021

Nemo for appellant:

Muhammad Adeel Butt learned Additional A.G  
alongwith Suleman Instructor for respondents present.

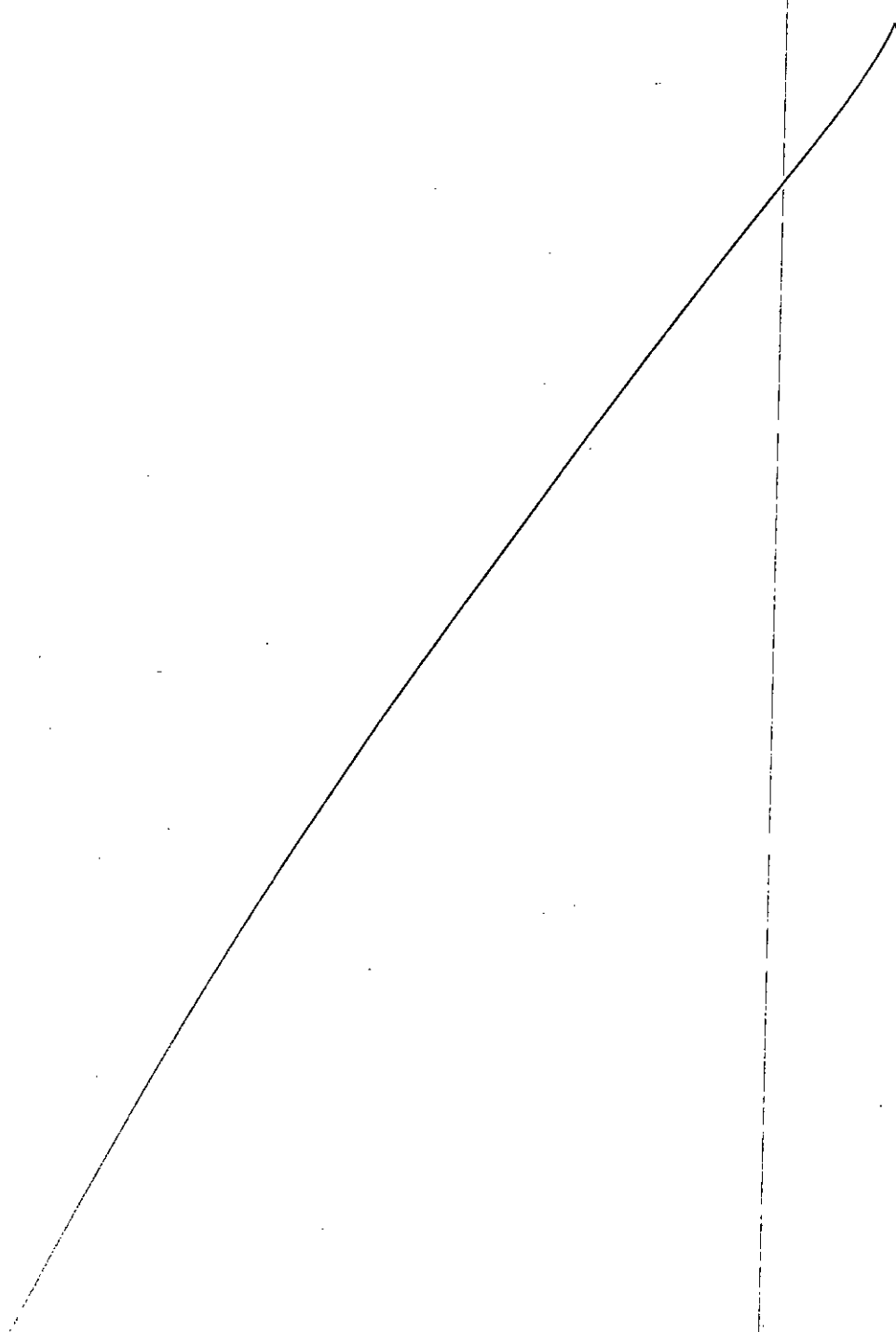
Notice be issued to appellant/counsel for 11.11.2021  
before D.B.



(Rozina Rehman)  
Member(J)



Chairman

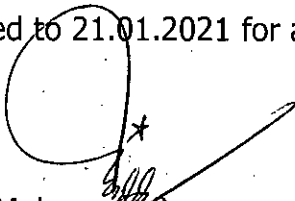


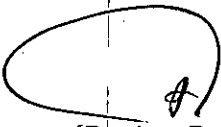
13.11.2020

Nemo for appellant.

Muhammad Jan learned Deputy District Attorney alongwith Suleiman Instructor for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 21.01.2021 for arguments, before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

21.01.2021

Due to COVID-19, the case is adjourned to 05.04.2021 for the same.

  
Reader


05.04.2021

Junior to counsel for appellant present.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 6/7/2021 before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

28-4 .2020

Due to COVID19, the case is adjourned to  
13/7/2020 for the same as before.

  
Reader

13.07.2020

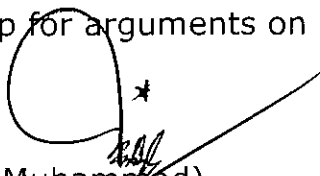
Due to COVID-19, the case is adjourned to 03.09.2020  
for the same.

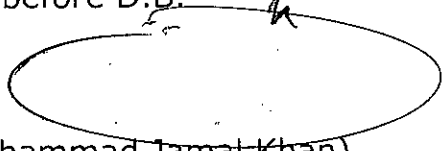
  
Reader

03.09.2020

Appellant has not forth come at the moment 3:15 P.M  
nor anyone else representing him has appeared on his  
behalf. Mr. Riaz Ahmad Paindakheil, Assistant Advocate  
General alongwith representative of the department Mr.  
Suleman, Senior Instructor (Prison Department) are also  
present.

Since the instant appeal was adjourned twice due to  
spread of pandemic COVID-19, therefore, it is deemed  
appropriate to issue notice to appellant as well as his  
counsel, therefore, process be issued accordingly and file to  
come up for arguments on 13.11.2020 before D.B.


  
(Mian Muhammad)  
Member (Executive)

  
(Muhammad Jamal Khan)  
Member (Judicial)

03.01.2020


None present on behalf of the appellant. Mr. Usman Ghani learned District Attorney alongwith Mr. Suleman Law Officer for the respondents present. Notice be issued to the appellant and his counsel for attendance. Adjourned. To come up for arguments on 02.03.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

02.03.2020

Appellant in person present. Mr. Ziaullah, DDA alongwith Mr. Suleman, Law Officer for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for arguments on 28.04.2020 before D.B.

  
Member

  
Member

20.08.2019

Counsel for the appellant and Mr. Muhammad Riaz Khan Painsdakhel, Assistant AG alongwith Suleman Senior Instructor for the respondents present.

Representative of the respondents has submitted parawise comments on behalf of respondents No. 1 to 4 which are placed on record. To come up for arguments before D.B on 08.10.2019. The appellant may submit rejoinder within a fortnight, if so advised.

  
Chairman

08.10.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Sulaiman Law Officer present. Adjourn. To come up for arguments on 13.11.2019 before D.B. Appellant be put to notice for the date fixed.

  
Member

  
Member

13.11.2019

Appellant alongwith his counsel and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 03.01.2020 for arguments before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

03.04.2019 Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Case to come up for written reply/comments on 03.05.2019 before S.B.



(Ahmad Hassan)  
Member

03.05.2019 Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned District Attorney requests for adjournment to procure written reply from the respondents. Adjourned to 25.06.2019 on which date written reply shall positively be submitted.



Chairman

25.06.2019 None for the appellant present. Addl: AG for respondents present. Written reply not submitted. Notices be issued to the respondents for submission of written reply/comments as well as to the appellant and his counsel for appearance. Case to written reply/comments on 20.08.2019 before S.B.



(Ahmad Hassan)  
Member

19.02.2019

Learned counsel for the appellant present.

Contends inter-alia that the appellant retired as Superintendent (BPS-17) on 23.12.2013 on attaining superannuation, However, before his retirement vacancies were available for promotion and after his retirement juniors to the appellant were promoted to be (BPS- 18). His applications/representation for granted of pro-forma promotion were declined on the ground that the amended promotion policy issue by the provincial government on 05.12.2017 was not to cover the case of the appellant in retrospect.

Learned counsel further argued that the amendment relied upon by the respondents pertained to the cases where seniority of Civil Servant was sub judice at the time of consideration for promotion. On the other hand, the amendment duly provided for consideration for proforma promotion of a Civil Servant after his retirement in the given circumstances, it was added.

In view of the above, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 01.04.2019 before S.B.

  
Appellant Deposited  
Security & Process Fee




  
Chairman



**Form- A**  
**FORM OF ORDER SHEET**

Court of \_\_\_\_\_

Case No. 1455/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/12/2018	<p align="center">The appeal of Mr. Akbar Jan resubmitted today by Mr. Naveed Akhtar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p align="right"> REGISTRAR 05/12/18 N</p>
2-	07/12/2018  08.1.2019	<p align="center">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/01/2019.</u></p> <p align="right"> CHAIRMAN</p> <p align="center">Nemo for appellant.</p> <p align="center">Notices be issued to appellant/counsel for 19.02.2019 for preliminary hearing before S.B.</p> <p align="right"> Chairman</p>

The appeal of Mr. Akbar Jan son of Lakhkar Jan District Mohmand Deputy Superintendent Prisons Retired received today i.e. on 19.11.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Copy of notification dated 05.12.2017 mentioned in the index of the appeal at serial no. 6 is not attached with the appeal which may be placed on it.

No. 2254/S.T,

Dt. 20 11/2018.

*[Signature]*  
REGISTRAR 20/11/18  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Naveed Akhtar Adv. Pesh.

*D/ Sir Resubmitt After the necessary completion.*

*[Signature]*  
5/12/18

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

Service Appeal No. 1455/2018

Akbar Jan.....Appellant


Versus

Government of Khyber Pakhtunkhwa & others

....Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Appeal and affidavit		1 - 5
2.	Copy of the seniority list	A	6 - 8
3.	Copies of applications	B-C	9 - 10
4.	Copy of the unification of 25.04.2014	D	11
5.	Copy of departmental representation	E	12
6.	Copy of the letter dated 03.08.2018 by respondent NO.3 alongwith the amendments in promotion policy notification dated 05.12.2017	F	13 13A - 13B
7.	Copy of application dated 16.08.2018	G	14
8.	Copy of letter dated 31.08.2018	H	15
9.	Copy of the letter dated 05.10.2018 alongwith letter dated 27.09.2018 and 07.09.2018	I, J, K	16 - 18
10.	Wakalatnama		19

Appellant  
Through   
**Naveed Akhtar**  
Advocate Supreme Court  
Cell: 0300-9595181

  
**Altaf Siraj**  
Advocate High Court

  
**Munir ud Din Ghori**  
Advocate

①

**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR**

Service Appeal No. 1455/2018,

Akbar Jan S/o Lakhkar Jan R/o Yousaf Khail, District Mohmand  
Deputy Superintendent Prisons (Retired).

.....Appellant  
**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 1650

VERSUS

Dated 19-11-2018

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Home Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Inspector General of Prisons, Government of Khyber Pakhtunkhwa, Peshawar.
4. The Superintendent Central Prison, Peshawar, at Central Jail Peshawar.

.....Respondents

**SERVICE APPEAL UNDER SECTION  
4 OF THE SERVICES TRIBUNAL  
ACT, 1974**

Filed to-day  
[Signature]  
Registrar  
19/11/18

Re-submitted to -day  
and filed.

[Signature]  
Registrar  
5/12/18

Respectfully Sheweth;

1. That the appellant joined service in the prisons department in 1981 as Assistant Superintendent Prisons BPS-14.
2. That appellant was promoted as Deputy Superintendent Prisons in the year 1995.

3. That in due course of service the appellant was granted up-gradation to BPS-17 in accordance with the law.
4. That the appellant was at serial No.5 of the seniority list of Deputy Superintendents Prisons as issued on 01-04-2011. (Copy of the Seniority list is "A").
5. That since the appellant was going to retire on 23-12-2013, the appellant moved applications dated. 10-04-2013 and 06-11-2013 for consideration to be promoted as the vacancies all ready existed in BPS-18. (Copies of the Applications are "B" and "C" respectively )
6. That ultimately the appellant retired on 23-12-2013 and soon thereafter on 25-04-2014 promotions were notified wherein officers junior to the appellant were promoted. (Copy of the unification of 25-04-2014 is annexure "D").
7. That on getting knowledge of the promotions the appellant presented departmental representation to respondent No.1 which was kept pending. (Copy of the departmental representation is annexure "E").
8. That the representation was marked to respondent No.3 who in response sought advice from respondent No.2 in view of the amendments made in the promotion policy by the Provincial Government. (Copy of the letter dated 03-08-2018 by respondent No.3 along with the amendments in promotion Policy vide notification dated 05-12-2017 is attached as annexure "F")
9. That the appellant was constrained to enquire about the fate of his representation through an application dated 16-08-2018 to respondent No.3. (Copy of the application dated 16-08-2018 is annexure "G").
10. That in response thereto, the respondent No.3 issued another reminder to respondent No.2 on 31-08-2018. (Copy of the letter dated 31-08-2018 is annexure "H").
11. That ultimately the representation of the appellant was responded in terms that the amendments in promotion policy were made on 05-12-2017 with immediate effect and the same could not be given retrospective effect. The same was communicated to the appellant vide letter dated 05-10-2018 received by the appellant on 20-10-2018 at his residential address through respondent No.4. (Copy of the letter dated 05-

10-2018 along with letter dated 27-09-2018 and 07-09-2018 are annexure "I", "J" and "K" respectively).

12. That without application of mind the respondents decided fate of the appellant in vague terms and ultimately with no relief, hence the instant appeal inter alia on the following grounds;

**GROUND:** -

- A. That denial of proforma antedated notional promotion to the appellant is against the law and facts on the file.
- B. That at the time of retirement vacancies were available and the appellant was eligible for promotion, therefore vested right had accrued to the appellant for promotion to the next higher grade.
- C. That even the amended promotion policy does not debar the appellant from promotion to the next higher grade after his retirement.
- D. That the consistent applications by the appellant for promotion before his retirement and inaction of the respondents speak volumes of malafide and illegality against the appellant.
- E. That the appellant has put in 32 years of meritorious services in the department and denial of promotion on the verge of retirement has put him to gross monetary losses besides heart burning for being left out from the promotion list to leave the department in a lower rank.
- F. That the appellant is entitled for proforma promotion from the date when the vacancy was created and his juniors were promoted under the law and the judgments of this Hon'able tribunal as well as the Apex Court with all the consequential benefits.
- G. That the appellant may kindly be allowed to put forward additional arguments/documents at the time of hearing of the instant Appeal.

It is, therefore, humbly prayed that on acceptance of the instant appeal the appellant may kindly be declared entitled for proforma promotion and the respondents may kindly be directed to grant Proforma/ antedated promotion to the appellant from the date when his juniors were promoted.


4

Any other order deemed proper and appropriate in  
circumstance of the case may kindly be passed as well.

  
Appellant

Through

Dated: \_\_\_\_/\_\_\_\_/2018

  
**Naveed Akhtar**  
Advocate Supreme Court

  
**ALTAF SIRAJ**  
Advocate High Court

  
**Munir Ud Din Ghori**  
Advocate

5

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_/2018

Akbar Jan .....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa and others.....Respondents

**AFFIDAVIT**

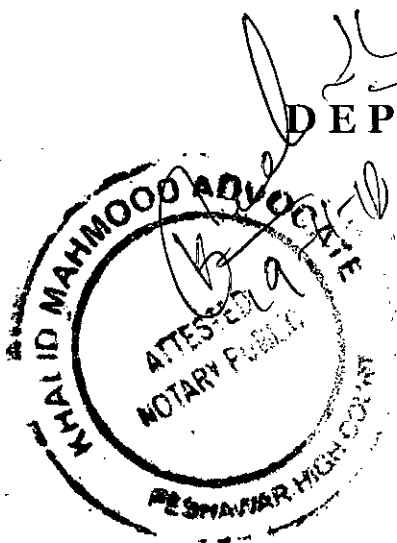
I, Akbar Jan S/o Lakhkar Jan R/o Yousaf Khail, District Mohmand Deputy Superintendent Prisons (Retired), do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

**DEPONENT**

  
**Naveed Akhtar**

Advocate Supreme Court





Annexure B

9

OFFICE OF THE  
SUPERINTENDENT  
DISTRICT JAIL KOHAT  
No 886 dt 10/04/2013.  
Phone & Fax-0922554150

To

THE WORTHY INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUN KHWA PESHAWAR.

Subject:-

DEPARTMENTAL EXAMINATION FOR PROMOTION TO BPS-18.

R/Sir;

With reference to my previous application regarding the subject.

Most respectfully I beg to submit once again that I have appeared in the departmental promotion examination but unfortunately I failed the Law subject Sir, I am senior at third place and also due for retirement at December 2013. If failure of Law paper does not qualify me for the promotion than kindly arrange Departmental examination for promotion to BPS-18 so that I can appear in the examination and avail the opportunity to promote to BPS- 18 by passing the only law subject. If I am not been provided with the opportunity to appear in the examination, it would be unjust to the hard work and dedicated service that I have done to my Department for the last 32 years.  
It would compel me to knock the door of justice

Yours Most Obediently

*AKBAR JAN*  
AKBAR JAN  
SUPERINTENDENT  
DISTRICT JAIL KOHAT.

Tahir/

Attested  
*[Signature]*

*[Signature]*  
SECTION OFFICER (PRISON)

OFFICE OF THE  
SUPERINTENDENT  
DISTRICT JAIL KOHAT  
No 3192/WF dt 06/11/2013.  
Phone & Fax-0922554150

To

THE INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.

*Annul 22/11/13*

*10*

Subject:- PROMOTION TO BPS- 18

*R/Sir,*

It is respectfully stated that inquiring about my promotion by your good self on telephone dated 5<sup>th</sup> Nov, 2013, I had been persistently in correspondence with the office since 2012 sep vide office letter no.2181 dated 05/09/2012(copy enclosed with).After no compliance to the letter I than communicated to the office vide letter no :886dated 10/04/2013 on the subject(copy enclosed with)

The department arranged an examination in the month of September after my repeated requests but was still late enough and I appeared and passes the law paper that was the only subject failed I the previous promotion examination.

It is requested very humbly and deservedly that I may be promoted to the BPS 18 which is due in time and all the requisites are done as I am retiring from the service on 23<sup>rd</sup> December 2013.

Tahir/

*Vij*  
SUPERINTENDENT.  
DISTRICT JAIL KOHAT.

*9/11*

*Attested*  
*[Signature]*

SECTION OFFICER (PRISON)



Annexure - D

28 Apr. 2014 12:48PM P1

Government of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department

Dated Peshawar the 25<sup>th</sup> April, 2014

**NOTIFICATION**

**No.1/3-SO(Prisons)HD/2011/Vol-V:** The competent authority has been pleased to order promotion from BPS-17 to BPS-18 alongwith posting and transfer of the following officers of Prisons Department with immediate effect:-

S.#	Name of Officer	Transferred from	Transferred to
1	Sahibzada Shah Jehan	Superintendent, Central Prions, Bannu.	Superintendent, Central Prions, Bannu, in his own pay scale.
2	Muhammad Anwar	Superintendent, Judicial Lockup, Swabi	Superintendent, Distt: Jail Timergara
3	Mr. Iftikhar Ahmad	Superintendent For Pay attached with Sub-Jail Dir Upper & OSD in Prisons Inspectorate, Peshawar.	Superintendent Distt: Jail, Buner Daggar against the vacant post
4	Mr. Binyamin Khan	Superintendent Central Prison, D.I.Khan	Superintendent Central Prison, D.I.Khan in his own pay scale.

- Officers at Sr. No.1 and 2 are promoted on regular basis and would be on probation for one year.
- Officers at Sr.No.3 and 4 are promoted on acting charge basis.

**SECRETARY HOME,  
KHYBER PAKHTUNKHWA**

**Endst: No. & date even**

Copy forwarded to the:

1. Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar.
2. Accountant General, Khyber Pakhtunkhwa.
3. Superintendent Central Prison, Bannu & D.I.Khan
4. Superintendent District Jail Timergara & Buner Daggar.
5. Superintendent, Sub Jail, Dir Upper.
6. Superintendent, Judicial Lock-up, Swabi.
7. PS to Chief Secretary, Khyber Pakhtunkhwa.
8. P.S to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
9. P.S to Advisor to Chief Minister, (for Prisons) Khyber Pakhtunkhwa.
10. P.S. to Home Secretary, Khyber Pakhtunkhwa.
11. S.O (PSB), Estt: Deptt:, Khyber Pakhtunkhwa for information with reference to his letter No.SO(PSB)ED/1-9/2013/P-36, dated 03/03/2014.
12. Section Officer, Media Home & TAs Department, Khyber Pakhtunkhwa.
13. Officers concerned.
14. D.A.Os, Timergara, Swabi, Bannu, D.I.Khan, Dir Upper & Buner Daggar.
15. Master file.

Attested

SECTION OFFICER (PRISON)

To

The Chief Secretary,  
Khyber Pakhtunkhwa

Subject:- DEPARTMENTAL REPRESENTATION / APPEAL FOR GRANTING PROFORMA  
PROMOTION AFTER RETIREMENT

Sir,

1. That the applicant after rendering meritorious service in the Prison Department retired as Superintendent (BPS-17) on 23-12-2013 on attaining the age of Superannuation.
2. That before retirement there were already vacancies available for promotion and the applicant moved various applications for his promotion before his retirement, to department, but the needful could not be done before his retirement. (Copies of applications and departmental correspondence are attached).
3. That the applicant was at serial No.5 of the seniority list and was eligible in all respects for promotion before his retirement. (Copy of the seniority list is attached).
4. That the applicant has now come to know that after his retirement officer's junior to him have been promoted to BPS-18.
5. That the officers, who were promoted on the vacancy lying vacant after applicant's retirements, namely, 1. Mrs Tillat Yasmin 2. Mr. Iftikhar Ahmad 3. Mr. Binyamin
6. That the applicant was entitled for anti-dated proforma promotion from the date his juniors were promoted under the law.
7. That the applicant is suffering persistent financial losses due to the unlawful deprivation from the promotion.

It is, therefore humbly prayed that, the applicant may kindly be considered for anti-dated proforma promotion after retirement from the date when officers junior to him were promoted against the vacancies, which already existed before his retirement.

Applicant

Akbar Jan  
Ex-Superintendent  
Prison Department

Attested  
Mg

Annular. cc E 12



13

Amirul  
OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 13/2-J-2881-23224-1.11

Dated 03/08/18

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Home and T.As Department,  
Peshawar.

**ATTENTION**  
**SECTION OFFICER(P&R)**

Subject:-

**DEPARTMENTAL REPRESENTATION/APEAL FOR GRANTING PROFORMA  
PROMOTION AFTER RETIREMENT.**

Sir,

I am directed to refer to Home Department letter No.SO(P&R)HD/1-1/Gen-Misc/ 2017 dated 18-7-2018 on the subject and to convey that Mr.Akbar Jan Ex-Deputy Superintendent Jail (BPS-17) retired from service on 23-12-2013 on attaining the age of 60 years, whereas the new promotion policy notified on 05-12-2017 vide Government of Khyber Pakhtunkhwa Establishment Department Notification No.SO(Policy)E&AD//1-16/2017 dated 05-12-2017 (Annex-A), hence, question arise as to whether new promotion policy will be applicable on all old cases prior to 05-12-2017 like the case of above named Ex-officer, or otherwise.

In view of the above, it is requested that necessary advice of the Establishment Department may kindly be obtained in the matter so that to proceed further accordingly please.

*318*  
ASSISTANT DIRECTOR(ADMN)  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR

Attested  
*MZ*



13 d A

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT,  
REGULATION WING**

Dated: 05.12.2017

**NOTIFICATION**

No.SO(Policy)/E&AD/1-16/2017. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)1-3/2008 dated 28.1.2009, the following amendments shall be made, namely:-

**AMENDMENTS**

1. The following words (in italic form) shall be added after the word and dot "PER." appearing in the 3<sup>rd</sup> line of sub-para (a) of para IV:  
*"The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."*
2. After sub-para (h) of para IV the following sub-para (i) shall be inserted:  
*"the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:*
  - (i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.
  - (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
  - (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
  - (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy".
3. Para II (b) shall be substituted as follow:  
*"(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory."*

*Ali Wajid*  
*20*

13 = B

4. The clause (i) of sub-para (a) of para V shall be deleted and the next below clause (ii) and (iii) shall be re-numbered as (i) and (ii). In sub-para (b) of Para V the word three shall be substituted with the word "two".

Sd/-

Secretary to Government of Khyber Pakhtunkhwa  
Establishment Department

**ENDST: NO & EVEN DATE**

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.
11. The Registrar Peshawar High Court, Peshawar.
12. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
13. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
14. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.

*Beenish Iqbal*  
05/12/17

(BEENISH IQBAL)  
SECTION OFFICER (POLICY)

*AKT*  
*(M)*

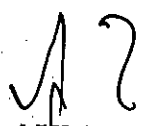
Annular G  
14

To,  
The Inspector General of Prisons,  
Khyber Pakhtunkhwa Peshawar.


Subject: **APPLICATION**

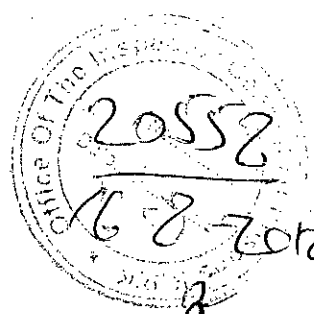

Sir,  
With due respect it is submitted that I have been retired from service in 2013 and I have submitted an application to the Establishment Department regarding my promotion from BPS-17 to BPS-18. The said application was forwarded to your honour for comments.


It is therefore, requested that present position of the case may kindly be intimated to me and obliged.  
Thanks

Yours Obediently  
  
( **AKBAR JAN** )  
Ex-Spudt Jail

Dated: 16-08-2018

  
17/8

  
20552  
16-8-2018  
  
24.8.18

Attested  






15

Annexure "H"

OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 1312-J-1981-25702

Dated 31-08-2018

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Home and T.As Department,  
Peshawar.

ATTENTION  
SECTION OFFICER(P&R)

Subject:-

DEPARTMENTAL REPRESENTATION/APEAL FOR GRANTING  
PROFORMA PROMOTION AFTER RETIREMENT.

Sir,

I am directed to refer to this office letter No.23724-WE dated 03-8-2018 on the subject and to request you to kindly convey the decision of the Government on the subject cited case, if arrived at please.

P-6K

31/8

ASSISTANT DIRECTOR(ADMN)  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA. PESHAWAR

o/c

SEEN

Handwritten signature and initials

Altered  
Handwritten signature



Annex I

16

OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR



091-9210334, 9210406



091-9213445

Facebook ID [www.facebook.com/kpkprisons/](http://www.facebook.com/kpkprisons/)  
Email ID: [prisonsig@gmail.com](mailto:prisonsig@gmail.com)

No. 13/2-J-1981-29397 I., *WB*  
Dated 05/10/18 I.,

To

Mr. Akbar Jan,  
Retired Deputy Superintendent Jail,  
Village & P.O Yousaf Khel,  
Mohmand Agency.

Subject:- **DEPARTMENTAL REPRESENTATION/APEAL FOR GRANTING PROFORMA PROMOTION AFTER RETIREMENT.**

Memo:

I am directed to refer to your application dated 16-3-2017 on the subject and to forward herewith a copy of letter No.SO(Policy)/E&AD/1-16/2017 dated 07-9-2018 received from Government of Khyber Pakhtunkhwa Establishment Department(Regulation Wing), on the captioned subject (self explanatory) for information.

*[Signature]*  
ASSISTANT DIRECTOR(ADMN)  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.

*Received on  
20-10-2018.  
By Akbar Jan  
Mr. Super Jail (Retired)  
Village Yousaf Khel.  
Dist Mohmand.*

Annul - J. (17)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

No.SO (P&R) HD/1-1/ Gen-Misc/2017.  
Dated Peshawar the 27<sup>th</sup> September, 2018.

To  
The Inspector General of Prisons,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: - DEPARTMENTAL REPRESENTATION / APPEAL FOR GRANTING  
PROFORMA PROMOTION AFTER RETIREMENT.

R/Sir,

I am directed to refer to this Department letters of even number dated 10.08.2018 on the subject and to forward herewith a copy of Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) letter No. SO (Policy) E&AD/1-16/2017 dated 07.09.2018 on the captioned subject (self-explanatory) for information, please.

Yours faithfully,

*[Signature]*  
27/9/18

Section Officer (P&R)

C.c.

1. PS to Secretary Home, Khyber Pakhtunkhwa, Peshawar.
2. Master file.

*[Handwritten signature]*  
2/11

23732  
1/10/18  
*[Handwritten signature]*  
4/10/18

Attested  
*[Handwritten signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SO(Policy)/E&AD/1-16/2017

Dated Peshawar, the September 07, 2018

*Annulled*

18

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Home Department,

Subject: - PROFORMA PROMOTION.

Dear Sir,

I am directed to refer to your letter No.SO(P&R)HD/1-1/Gen-Misc/2017 dated 10.8.2018 on the subject noted above and to state that the concerned amendment in promotion policy was made vide Notification No.SO(Policy)/E&AD/1-16/2017 dated 05.12.2017 with immediate, hence effect of same cannot be given retrospectively.

Yours faithfully,

*Beenish*  
7/9/18  
(BEENISH IQBAL)  
SECTION OFFICER (POLICY)

Endst of even No. & date.

Copy forwarded to the:

1. PA to Deputy Secretary (Policy), Establishment Department.

SECTION OFFICER(POLICY)

*DSR (R)*

*ha 10/9*

*So (Ase) 13/9*

*22/10/18  
AS PSB*

*12658  
10/9/18*

*Attested*  
*[Signature]*

قیمت 50 روپے

50358



ایڈوکیٹ: حکیم صہب  
بار کونسل ایسوسی ایشن نمبر: 107600  
رابطہ نمبر: 0300-9596181

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: حکیم صہب سروسز کنسولٹنٹس پرائیویٹ لمیٹڈ

منجانب: <u>اسرار</u>	دعویٰ:
<u>السرہان</u>	علت نمبر:
<u>بنام</u>	مورخہ:
<u>تجدد ملت</u>	جرم:
	تھانہ:

**باعت تحریر آئکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام کیلئے نور احمد اسرار - مدیر ایس آر اے کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند ملے

المرقوم: 19-11-18

\_\_\_\_\_ واہ شد \_\_\_\_\_  
مقام \_\_\_\_\_

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

# BEFORE THE KHYBER PAKHTUNKHWA PESHAWAR.

In the matter of  
Service Appeal No.1455/2018

Akbar Jan (Deputy Superintendent (R))  
R/O Mohmand Agency.....Appellant.

## VERSUS

1. Chief Secretary,  
Government of Khyber Pakhtunkhwa.
2. Secretary to Government of Khyber Pakhtunkhwa,  
Home, and T. As Department, Peshawar.
3. Inspector General of Prisons,  
Khyber Pakhtunkhwa Peshawar
4. Superintendent Central Prison Peshawar.....Respondents

## INDEX

S.NO.	DESCRIPTION OF DOCUMENTS	Annex	Page No.
1-	Comments	---	1 to 2
2-	Affidavit	---	3
3-	Home Department Promotion Order dated 01/10/2011	"A"	4
4-	Establishment Department Notification dated 05/12/2017	"B"	5 to 6
5-	Establishment Department letter dated 07/09/2017	"C"	7
6-	I.G Prisons letter dated 05/10/2018	"D"	8



**DEPONENT**

1

1

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

In the matter of  
Service Appeal No.1455/2018  
Akbar Jan Deputy Superintendent Jail (Retired)  
R/O Mohamand Agency .....**Petitioner.**

**VERSUS**

- 1- Chief Secretary  
Government of Khyber Pakhtunkhwa Peshawar.
- 2- Secretary to Home and T.As Department  
Khyber Pakhtunkhwa Peshawar.
- 3- Inspector General of Prisons  
Khyber Pakhtunkhwa Peshawar.
- 4- Superintendent Central Prison Peshawar .....**Respondents**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 ,2 ,3 & 4.**

**PRELIMINARY OBJECTIONS.**

- i. That the Appellant has got no cause of action.
- ii. That the Appeal is incompetent and is not maintainable in its present form.
- iii. That the Appellant is estopped by his own conduct to bring the present appeal.
- iv. That the Appellant has no locus standi.
- v. That the Appeal is bad for mis-joinder and non-joinder of necessary parties.
- vi. That the Appeal is time barred.

**FACTS**

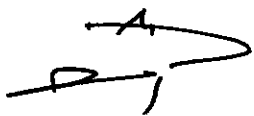
- 1- Pertains to record, hence no comments.
- 2- Pertains to record, hence no comments.
- 3- Admitted to the extent that the appellant was granted BPS\_17 on 01-10-2011  
(Annex-A).
- 4- Pertains to record, hence no comments.
- 5- Admitted to the extent that date of birth of the appellant is 24-12-1953, thus he  
retired from service on 23-12-2013 on attaining the age of superannuation,  
hence he rendered total 02 years 02 months and 22 day's service in BPS-17.
- 6- Admitted to the extent that the officers were promoted/ appointed strictly in  
accordance with the rules, as all officers concerned have passed their  
mandatory Departmental Examination for promotion to the post of  
Superintendent Jail BPS-18. However, the appellant was not considered due to  
his retirement in the year 2013. Moreover the appellant also does not possess

- 2
- required length of 05 years' service in BPS-17 due to which he is not eligible for regular promotion, as he was granted promotion in BPS-17 on 01-10-2011 as discussed in Para-5 above.
- 7- Pertains to record, the appellant quoted Government Policy notified on 05-12-2017 (**Annex-B**) for consideration of his case but on advice to that effect obtained from Establishment Department vide their letter dated, 07-09-2018 (**Annex-C**) that policy in question does not apply on old cases.
- 8- Same remarks as given against para-7 above.
- 9- On receipt of advice, the appellant was informed accordingly vide I.G Prisons Khyber Pakhtunkhwa Peshawar letter No. 29397/WE dated, 05-10-2018 (**Annex-D**) about the clarification of Establishment Department.
- 10- Same remarks as given against para-9 above.
- 11- No Comments.
- 12- Not admitted, as explained in the preceding paras.

**GROUND:-**

- A. Not admitted as explained in para-7 above.
- B. Not admitted as explained in para-7 above.
- C. Not admitted, as per advice of Establishment Department quoted in para-7 above.
- D. The appellant not eligible as explained in para-6 above.
- E. Pertains to record.
- F. Not admitted as explained in the preceding paras.
- G. No comments.

In view of the above Para-wise Comments, the appeal of appellant may please be dismissed with cost.




**CHIEF SECRETARY**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.1)

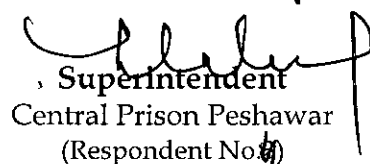


**INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.3)

1674/19



**SECRETARY TO GOVERNMENT OF**  
**Khyber Pakhtunkhwa**  
Home & T.As Department Peshawar.  
(Respondents No.2)



**Superintendent**  
Central Prison Peshawar  
(Respondent No.4)



3

3

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


In the matter of  
Service Appeal No.1455/2018  
Akbar Jan Deputy Superintendent Jail (Retired)  
R/O Mohamand Agency .....**Petitioner.**


**VERSUS**

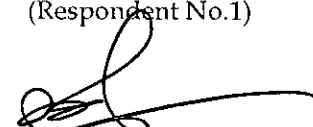
- 1- Chief Secretary  
Government of Khyber Pakhtunkhwa Peshawar.
- 2- Secretary to Home and T.As Department  
Khyber Pakhtunkhwa Peshawar.
- 3- Inspector General of Prisons  
Khyber Pakhtunkhwa Peshawar.
- 4- Superintendent Central Prison Peshawar .....**Respondents**

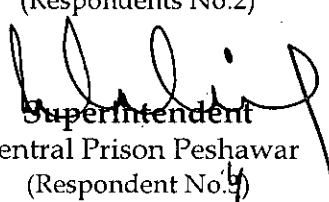
**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 4.**

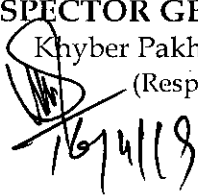
We the undersigned respondents do hereby the solemnly affirm and declare that the contents of the para-wise comments on the above cited Service Appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honourable Tribunal.

  
**CHIEF SECRETARY**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.1)

  
**SECRETARY TO GOVERNMENT OF  
Khyber Pakhtunkhwa**  
Home & T.As Department Peshawar.  
(Respondents No.2)

  
**INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.3)

  
**Superintendent**  
Central Prison Peshawar  
(Respondent No.4)

  
16/4/18

4

Amma-A

121

MENT

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME AND TRIBAL AFFAIRS DEPARTMENT.**

Dated Peshawar, the 1<sup>st</sup> OCTOBER, 2011

**ORDER.**

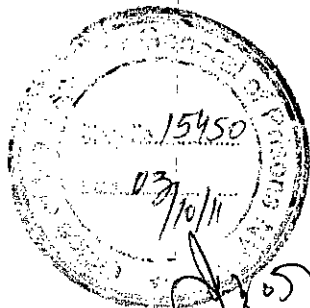
**NO.1/2-SO(Prisons)HD/11. The Competent Authority in consultation with the Departmental Promotion Committee is pleased to order promotion of Mr. Akbar Jan, Deputy Superintendent Jail (BS-16) against the upgraded post of (BPS-17), with immediate effect**

**HOME SECRETARY  
KHYBER PAKHTUNKHWA**

Endrst: of even No/date.

Copy forwarded to:-

- 1- Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- 2- Accountant General Khyber Pakhtunkhwa Peshawar
- 3- District Accounts Officer Daggar Buner.
- 4- Officer concerned.



**(MUHAMMAD GHULAM MARWAT)  
SECTION OFFICER (PRISONS).**

*MM* 01-10-2011

Congratulations!

*AG*  
4/9/11

Annex - B

je  
-p

5<sup>lc</sup>

473



GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT.  
REGULATION WING

Dated: 05.12.2017

NOTIFICATION

No.SO(Policy)/E&AD/1-16/2017. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)1-16/2017 dated 28.1.2009, the following amendments shall be made, namely:-

AMENDMENTS

1. The following words (in italic form) shall be added after the word and dot "PER." appearing in the 3<sup>rd</sup> line of sub-para (a) of para IV:  
*"The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."*
2. After sub-para (h) of para IV the following sub-para (i) shall be inserted:  
"the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:
  - (i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.
  - (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
  - (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
  - (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy".
3. Para II (b) shall be substituted as follow:  
"(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory."

MR. ABDUL LATIF,

MEMBER.

4. The clause (i) of sub-para (a) of para V shall be deleted and the next below clause (ii) and (iii) shall be re-numbered as (i) and (ii). In sub-para (b) of Para V the word three shall be substituted with the word "two".

Sd/-

Secretary to Government of Khyber Pakhtunkhwa  
Establishment Department

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.
11. The Registrar Peshawar High Court, Peshawar.
12. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
13. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
14. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.

*Beenish*  
05/12/17  
(BEENISH IQBAL)  
SECTION OFFICER (POLICY)



7 Amed-c

627

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)  
No. SO(Policy)/E&AD/1-16/2017  
Dated Peshawar, the September 07, 2018

To  
The Secretary to Govt. of Khyber Pakhtunkhwa,  
Home Department,

Subject: - PROFORMA PROMOTION.

Dear Sir,

I am directed to refer to your letter No.SO(P&R)HD/1-1/Gen-Misc/2017 dated 10.8.2018 on the subject noted above and to state that the concerned amendment in promotion policy was made vide Notification No.SO(Policy)/E&AD/1-16/2017 dated 05.12.2017 with immediate, hence effect of same cannot be given retrospectively.

Yours faithfully,

*Beenish Iqbal*  
7/9/18

(BEENISH IQBAL)  
SECTION OFFICER (POLICY)

Endst of even No. & date.

Copy forwarded to the:

1. PA to Deputy Secretary (Policy), Establishment Department.

SECTION OFFICER(POLICY)

*DSR (P&R)*

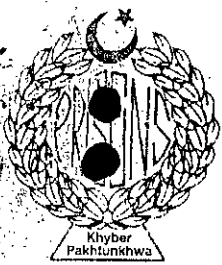
*ha 10/9/18*

*So (A&R) 10/9/18*  
*13/9*

*22/10/18*  
*AS PSR*

*12658*  
*10/9/18*

Arma-D



OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

Facebook ID [www.facebook.com/kpkprisons/](http://www.facebook.com/kpkprisons/)  
Email ID: [prisonsig@gmail.com](mailto:prisonsig@gmail.com)

No. 13/27-1881-28387 uc  
Dated 05/10/18 1.

To

Mr. Akbar Jan,  
Retired Deputy Superintendent Jail,  
Village & P.O Yousaf Khel,  
Mohmand Agency.

Subject:- **DEPARTMENTAL REPRESENTATION/APEAL FOR GRANTING PROFORMA PROMOTION AFTER RETIREMENT.**

Memo:

I am directed to refer to your application dated 16-3-2017 on the subject and to forward herewith a copy of letter No.SO(Policy)/E&AD/1-16/2017 dated 07-9-2018 received from Government of Khyber Pakhtunkhwa Establishment Department(Regulation Wing), on the captioned subject (self explanatory) for information.

*dc*  
*5/10/18*  
ASSISTANT DIRECTOR(ADMN)  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.

SEEN

*11/20*

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

In the matter of  
Service Appeal No.1455/2018  
Akbar Jan Deputy Superintendent Jail (Retired)  
R/O Mohamand Agency .....

Petitioner.

**VERSUS**

- |  |                             |
|--|-----------------------------|
| 1- Chief Secretary<br>Government of Khyber Pakhtunkhwa Peshawar.         | 767/MAJ<br>-----<br>15-4-18 |
| 2- Secretary to Home and T.As Department<br>Khyber Pakhtunkhwa Peshawar. |                             |
| 3- Inspector General of Prisons<br>Khyber Pakhtunkhwa Peshawar.          |                             |
| 4- Superintendent Central Prison Peshawar .....                          | <b>Respondents</b>          |

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2, 3 & 4.**

**PRELIMINARY OBJECTIONS.**

- i. That the Appellant has got no cause of action.
- ii. That the Appeal is incompetent and is not maintainable in its present form.
- iii. That the Appellant is estopped by his own conduct to bring the present appeal.
- iv. That the Appellant has no locus standi.
- v. That the Appeal is bad for mis-joinder and non-joinder of necessary parties.
- vi. That the Appeal is time barred.

**FACTS**

- 1- Pertains to record, hence no comments.
- 2- Pertains to record, hence no comments.
- 3- Admitted to the extent that the appellant was granted BPS\_17 on 01-10-2011 (Annex-A).
- 4- Pertains to record, hence no comments. *afe*
- 5- Admitted to the extent that date of birth of the appellant is 24-12-1953, thus he retired from service on 23-12-2013 on attaining the edge of superannuation, hence he rendered total 02 years 02 months and 22 day's service in BPS-17.
- 6- Admitted to the extent that the officers were promoted/ appointed strictly in accordance with the rules, as all officers concerned have passed their mandatory Departmental Examination for promotion to the post of Superintendent Jail BPS-18. However, the appellant was not considered due to his retirement in the year 2013. Moreover the appellant also does not possess

15/4/2019  
Assistant Advocate General  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

required length of 05 years' service in BPS-17 due to which he is not eligible for regular promotion, as he was granted promotion in BPS-17 on 01-10-2011 as discussed in Para-5 above.

- 7- Pertains to record, the appellant quoted Government Policy notified on 05-12-2017 (Annex-B) for consideration of his case but on advice to that effect obtained from Establishment Department vide their letter dated, 07-09-2018 (Annex-C) that policy in question <sup>does</sup> not apply on old cases.
- 8- Same remarks as given against para-7 above.
- 9- On receipt of advice, the appellant was informed accordingly vide I.G Prisons Khyber Pakhtunkhwa Peshawar letter No. 29397/WE dated, 05-10-2018 (Annex-D) about the clarification of Establishment Department.
- 10- Same remarks as given against para-9 above.
- 11- No Comments.
- 12- Not admitted, as explained in the preceding paras.

**GROUND:-**

- A. Not admitted as explained in para-7 above.
- B. Not admitted as explained in para-7 above.
- C. Not admitted, as per advice of Establishment Department quoted in para-7 above.
- D. The appellant not eligible as explained in para-6 above.
- E. Pertains to record.
- F. Not admitted as explained in the preceding paras.
- G. No comments.

In view of the above Para-wise Comments, the appeal of appellant may please be dismissed with cost.

**CHIEF SECRETARY**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.1)

**SECRETARY TO GOVERNMENT OF**  
**Khyber Pakhtunkhwa**  
Home & T.As Department Peshawar.  
(Respondents No.2)

**INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.3)

**Superintendent**  
Central Prison Peshawar  
(Respondent No.4)

*vetted subject to necessary correction,  
attachment of annexures and affidavit.*

**Assistant Advocate General**  
**Khyber Pakhtunkhwa**  
**Service Tribunal Peshawar** - 15/4/2019



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

In the matter of  
Service Appeal No.1455/2018  
Akbar Jan Deputy Superintendent Jail (Retired)  
R/O Mohamand Agency ..... **Petitioner.**

**VERSUS**

- 1- Chief Secretary  
Government of Khyber Pakhtunkhwa Peshawar.
- 2- Secretary to Home and T.As Department  
Khyber Pakhtunkhwa Peshawar.
- 3- Inspector General of Prisons  
Khyber Pakhtunkhwa Peshawar.
- 4- Superintendent Central Prison Peshawar ..... **Respondents**

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 4.**

We the undersigned respondents do hereby the solemnly affirm and declare that the contents of the para-wise comments on the above cited Service Appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honourable Tribunal.

**CHIEF SECRETARY**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.1)

**SECRETARY TO GOVERNMENT OF  
Khyber Pakhtunkhwa**  
Home & T.As Department Peshawar.  
(Respondents No.2)

**INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.3)

**Superintendent**  
Central Prison Peshawar  
(Respondent No.3)

Secretary Home

Row S. M. C.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME AND TRIBAL AFFAIRS DEPARTMENT.

Dated Peshawar, the 5<sup>th</sup> July, 2011

Amulr. "A"

"A"

6

Seen

7/7/11

NOTIFICATION.

NO.1/57-SO(PRISONS)HD/2006. In exercise of the powers conferred under sub section (1) of Section 8 of the NWFP Civil Servants Act, 1973 (NWFP Act NO.XVIII of 1973), the Competent Authority is pleased to notify the final seniority list of Deputy Superintendents Jail (BPS-17) of the Inspectorate of Prisons Khyber Pakhtunkhwa as it stood on 10/04/2011 and appended herewith for the information of all concerned.

HOME SECRETARY  
KHYBER PAKHTUNKHWA

Enclst: of even No/date.

Copy forwarded to the following:-

- 1- Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- 2- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
- 3- All Deputy Superintendents Jails
- 4- Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette.

Altered  
20

16-1-2011


05-07-2011  
(MUHAMMAD GHULAM)  
SECTION OFFICER (PRISONS)

7

**FINAL SENIORITY LIST OF DEPUTY SUPERINTENDENTS JAIL OF THE INSPECTORATE OF PRISONS  
KHYBER PAKHTUNKHWA AS STOOD ON 01-04-2011**

SANCTIONED STRENGTH=22

S.No	Name of Officer with academic qualification	Date of Birth with domicile	Date of first entry into service	Regular appointment/promotion			Present appointment	Remarks
				Date	BPS	Method of appointment		
1.	Mr. Usman Ali (B.A)	7-5-1956 Bannu	22-1-1978	28-5-1992 24-6-2004	16 17	By promotion.	Deputy Superintendent Jail.	From 25-11-2008 to 21-1-2011 he remained as Supdt; Dist; Jail (BPS-18). He was awarded the punishment of reduction to lower scale/ grade in a departmental disciplinary proceedings.
2.	Sahibzada Shah Jehan (M.A)	25-4-1957 Swabi	8-11-1978	17-10-1992 26-3-2011	16 17	By promotion. Up-graded.	Deputy Superintendent Jail	
3.	Mr. Javed Ali (B.A)	13-5-1954 Bannu	11-8-1977	6-11-1992 26-3-2011	16 17	By promotion Up-graded	Deputy Superintendent Jail	From 1-10-2008 to 27-10-10 he remained as Superintendent Sub Jail (BS-17)
4.	Mr. Muhammad Anwar (B.A)	5-6-1956 Malakand Agency	7-9-1981	1-11-1993 26-3-2011	16 17	By promotion Up-graded	Deputy Superintendent Jail	-do-
5.	Mr. Akbar, Jan. (B.A)	24-12-1953 Mohmand Agency	5-9-1981	12-5-1995	15	By promotion.	Deputy Superintendent Jail.	-do-
6.	Mst; Tillat Yasmin (B.A)	2-2-1953 Haripur	23-11-1982	23-10-1998 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.	Deferred for up-gradation (BPS-17) due to pending departmental inquiries against the said officer.
7.	Mr. Sardar Hussain (B.A)	28-8-1957 Mohmand Agency	9-1-1983	1-6-1999 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.	

Attested  


(8)

	Mr. Hukhar Ahmad	(B.A)	8-5-1960	Peshawar	3-11-1985	1-6-1999 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
	Mr. Binyamin	(B.A)	21-7-1962	D.I.Khan	12-11-1985	1-6-1999 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
10.	Mr. Muhammad Shesh	(B.A)	7-8-1951	Swabi	18-1-1986	22-11-2001 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
11	Mr. Akhtar Munir	(B.A)	8-3-1957	Swabi	18-1-1986	10-10-2001 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
	Mr. Attaullah Khan.	(B.Sc)	21-3-1956	Malakand Agency	18-1-1986	26-9-2005 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
13.	Sardar Zaman Babar	(B.A.L LB)	20-2-1959	Abbottabad	18-1-1986	7-9-2005 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
14.	Mr. Ajmal Khan	(B.A)	06-01-1960	Peshawar	18-1-1986	7-9-2005 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
15.	Mr. Shahid Hussain	(B.A)	28-3-1960	Charsadda	18-1-1986	29-9-2005 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
16.	Mr. Muhammad Zahid	(B.A)	12-5-1960	Swabi	18-1-1986	9-9-2005 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
17.	Mr. Zafar Iqbal	(B.A)	25-11-1960	Mardan	18-1-1986	4-8-2006 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
18	Mr. Maqsoodur Rehman	(B.A)	10-3-1964	Kohat	18-1-1986	27-9-2008 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
19	Mr. Abdul Qayum	(B.A)	7-9-1958	Malakand Agency	8-2-1986	27-9-2008 13-1-2011	16 17	By promotion Up-graded	Deputy Superintendent Jail.
20.	Mr. Ghulam Rabbani	(B.A/ MBA)	1-3-1960	D.I.Khan	19-2-1986	29-9-2008 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
21.	Mr. Fazle Hamid	(B.A.L LB)	12-12-1961	Mardan	20-2-1986	26-3-2009 16-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.
22.	Mr. Samiullah Khan.	(BA/L LB)	18-3-1982	Kohat.	23-6-2010	23-6-2010	17	Direct.	Deputy Superintendent Jail (BPS-17).

Attested  
