BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 567/2018

Date of Institution

12.04.2018

Date of Decision

02.09.2021

Mr. Paqsood-ur-Rahman, Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.

SCANNED KPST Peshawar

(Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar and others.

(Respondents)

ALI AZIM AFRIDI

Advocate

For Appellant

USMAN GHANI

District Attorney

For Official Respondents No.1 & 2

NOOR MUHAMMAD KHATTAK

Advocate

For Private Respondent No.3

SALAH-UD-DIN

ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal bearing No. 339/2017, Mr. Maqsood Ur Rehman Vs Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar and others, as common question of law and fact are involved therein.

Brief facts of the case are that the appellant was appointed as Assistant 02. Statistical Officer BPS-17 in 1987 through initial recruitment on the recommendations of Public Service Commission under the service rules approved in 1981 and according to such rules, there were two categories of officers in crop reporting services i.e. Assistant Statistical Officer BPS-17 and Statistical Investigators BPS-16. The post of Statistical Investigators was up-graded vide order dated 27-06-1997 with new nomenclature as Assistant Statistical Officer, whereas the post of Assistant Statistical Officer was re-designated as Statistical Officer with provision of special pay of Rs. 150/pm vide order dated 27-06-1997. Later on up-gradation of the post of Statistical Investigators to BPS-17 was given retrospective effect vide order dated 17-02-2010 and such up-gradation was considered with effect from 01-05-1977 in pursuance of judgment dated 26-03-2009 rendered by this Tribunal in Service Appeal bearing No. 740/2008 titled "Shaukat Hayat VS Government of N.W.F.P through Chief Secretary and others...The post of Statistical Investigators was up-graded to BPS-17, but the post of Assistant Statistical Officer was also maintained in BPS-17, which created an anomalous situation with regard to determination of seniority between the two categories of posts. The respondents referred the issue to establishment as well law department and finally a committee was constituted to resolve the issue of their seniority. The committee considered the issue in light of advice of establishment department as well as judgment of this Tribunal dated 26-03-2009 and finally seniority of the two posts was amalgamated but Assistant Statistical Officer were placed juniors to Statistical Investigators, against which the appellant filed departmental appeal, which was rejected vide impugned order dated 06-12-2017, hence the instant service appeal as well as the connected Service Appeal No. 339/2017. In the instant service appeal, the appellant prayed that the post of Statistical Investigators may be up-graded without changing its nomenclature or allow them the nomenclature other than Assistant Statistical Officer, so as to maintain the separate entity of the post of Assistant Statistical Officer, whose incumbents were recruited through Public Service Commission from those, whose

the respondents in the said appeal; that the Notification dated 07.04.2012, issued regarding the up-gradation of the private respondents was never challenged by the appellant, hence the instant appeal is barred by time; that as per section- 8 of Civil Servant Act, 1973 and Section-17 of Government of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, seniority is determined from the date of regular appointment to a post and private respondents were recruited earlier then the appellant.

- 05. Learned District Attorney appearing on behalf of official respondents No. 1 & 2 has contended that seniority of the two post was amalgamated in light of judgment dated 26-03-2009, as such benefit was granted by this honorable Tribunal to the private respondents, hence in light of such judgment, the private respondents were declared senior to the appellant and others; that seniority takes effect from the date of regular appointment to the post, therefore, the date of up-gradation of the officers is considered as the date of their appointment and thus in conformity with Section-8 of Civil Servant Act, 1973; that seniority of statistical officers was issued after_approval of the competent authority i.e. Chief Secretary vide notification dated 22-12-2016; that a critical study of the case was carried out departmentally as well as shared with law and establishment department; that a committee was constituted for the purpose to resolve the issue of seniority and the committee thoroughly examined the issue in light of advice of establishment and law department and formulated recommendations and in light of such recommendations, the seniority of two posts was combined.
- 06. We have heard learned counsel for the parties and have perused the record.
- 07. Record reveals that in the year 1972, the government upgraded the professional and non-professional posts in agriculture department from BPS-11 to BPS-16. In the year 1978, in the light of Federal Government decision, the provincial government of this province up-graded the posts of Agriculture Assistants, Veterinary

posts have been up-graded. In the connected service appeal, the appellant prayed that impugned notification/revised final seniority list dated 22-12-2016 may be set aside, where the appellant is placed junior to his erstwhile juniors.

- 03. Learned counsel for the appellant has contended that the appellant was not treated in accordance with law, rules and policy and the respondents acted in violation of Articale-4 of the constitution; that while allowing similar up-gradation of BPS-16 posts in other attached departments of agriculture department, a separate designation was allowed to the up-graded officers and their seniority was never integrated with the supervisory officers, as is evident from notification dated 02-03-1987; that a different yardstick is used in respect of crop reporting services, which is discriminatory and in clear violation of judgment dated 26-03-2009; that DG Agriculture vide letter dated 02-07-2010 had hinted to the anomaly and had proposed for maintaining separate seniority for the two categories of officers, but inspite of the same, the impugned final seniority list was unlawfully issued in violation of the law; that Section-8 of the Civil Servant Act, 1973 is applicable to a post in one cadre or one batch, whereas in the instant case, there are two different posts with different job natures, which cannot be amalgamated; that due to the impugned revised seniority list, the appellant as well as his other colleagues have become juniors to their erstwhile juniors and who were previously their sub-ordinates, which has resulted in serious miscarriage of justice; that seniority of the appellant has been changed after 30 years of service by placing respondent No. 14, Mr. Fazli Wahab as senior to the appellant; that up-gradation is meant only for monetary benefits and not for seniority. The learned counsel prayed that in order to meet the ends of justice, the instant appeal as well as the connected service appeal may be accepted as prayed for.
- 04. Learned counsel for private respondent No. 3 has contended that the post of private respondents was up-graded in light of judgment dated 26-03-2009, passed in Service Appeal No. 740/2008 and the appellant was appearing as representative of

Assistants, Soil Conservation Assistants, research assistants and other equivalent professional posts from BPS-16 to BPS-17 with effect from 01-05-1977, while the posts occupied by science graduates in other disciplines like Botany, Zoology, Chemistry and Statistics working in Agriculture department were not up-graded.

- 08. According to service rules notified vide government notification dated 01-02-1981, the appellant was appointed as Assistant Statistical Officer (BPS-17) in 1987 through initial recruitment on the recommendations of Public Service Commission, but before his appointment, a batch consisting of 28 candidates were appointed as Statistical Investigators (BPS-16) in the year 1985 on adhoc basis in crop estimation project, in which 22 candidates joined duty as Statistical Investigators, who were later on confirmed as Statistical Investigators on permanent basis. In order to open avenues of further promotions for the post of statistical investigators, the said service rules notified on 01-02-1981 were amended in 1989 and according to the amended service rules, there were two categories of officers in crop reporting services i.e. Assistant Statistical Officer (BPS-17) District In-charge Investigators(BPS-16) Tehsil/Circle In-charge. As per service rules, 50% of the posts of Assistant Statistical Officers were required to be filled in by initial recruitment, whereas the remaining 50% were required to be filled in through promotion from amongst the posts of Statistical investigators based on seniority cum fitness basis with at least five years service as such.
- In 1997, all the posts of statistical investigators (BPS-16) were up-graded and re-designated as Assistant Statistical Officers(BPS-17) w.e.f 01-07-1997 vide order dated 27-06-1997 and on the same date, all posts of Assistant Statistical Officers (BPS-17) were re-designated as Statistical Officers(BPS-17) with a special pay of Rs. 150/pm as supervisory pay with effect from 01-07-1997 vide order dated 27-06-1997. Separate seniority lists for Assistant Statistical Officers(BPS-17) as stood on 01-03-2003 and for Statistical Officers (Supervisory), as stood on 01-06-2004 were circulated, but in the meanwhile posts of Statistical Investigators (Up-graded as

Assistant Statistical Officers(BPS-17) were abolished in the wake of devolution plan 2001, whereas the posts of Assistant Statistical Officer (Up-graded as Statistical Officer Supervisory BPS-17) remained intact, but in order to accommodate the incumbents of the abolished post, they were also posted against the posts of Statistical Officer (Supervisory), but their seniority was separately maintained till amalgamation of the seniority of the two groups of officers vide impugned notification dated 22-12-2016

10. Simultaneously another developing story of the Statistical Investigators (BPS-16), whose posts had not been up-graded with their other colleagues at that particular time, as they were possessing degrees other than agriculture, took the matter to this Tribunal vide Service Appeal No. 27/1990 dated 16-04-1990, Service Appeals No. 359/1995, 360/1995, 361/1995, 362/1995 dated 21-05-1995 and Service Appeal No. 9/1995 dated 28-12-1995. The service Tribunal decided the cases in their favor vide judgment dated 16-06-1991, 16-08-1995 and 19-05-2003, thus their posts were up-graded to BPS-17 irrespective of possessing degree in agriculture and veterinary discipline with effect from 01-05-1977 or from the date of their appointments and were allowed monitory benefits, but were assigned separate designation from the officers appointed directly in BPS-17 through public service commission. The Statistical Investigators (BPS-16), whose posts had already been up-graded to BPS-17 with effect from 01-07-1997 also filed Service Appeals before this Tribunal and prayed for their up-gradation with effect from 01-05-1977 or from the date of their appointments, which was decided in their favor vide judgment dated 26-03-2009, operative part of which is reproduced as under:

"In the light of the above, we do not have any other alternative, but to accept the present appeals in the light of the previous judgments, with costs. We direct the official respondents to give the same benefits to the present appellants (who are B.Sc (2^{nd} Division) in other sciences, like Economics, Physics) which have been declared for the other similarly placed persons who were qualified in B.Sc Agriculture or B.Sc 2^{nd} Division or B.Sc Statistics or Mathematics with Statistics as a subject and who had litigated as mentioned above. The official respondents are further directed to grant the same benefits to all other similarly placed persons, who have not yet litigated, in order to avoid compelling them to enter into litigation with them."

In pursuance of the above mentioned judgment, the respondents upgraded all such posts with effect from 01-05-1977 or from the dates of their

appointments against such posts vide order dated 17-02-2010 and 07-04-2012. After implementation of the judgment, the issue of seniority erupted amongst the two groups i.e. Assistant Statistical Officer (BPS-17) and Statistical Officer (Supervisory BPS-17), the former being inducted in BPS-16 as statistical investigators in 1985, whereas the later inducted in BPS-17 as Assistant Statistical Officer through Public Service Commission. Both the groups were having separate seniority list until amalgamation of the seniority of both the groups in 2016. In order to resolve the issue, the case lingered on for quite some time amongst the respondent Departments but they did not arrive at a logical conclusion.

- In the meanwhile, the present appellant filed Service Appeal No. 804/2012 for issuing appropriate directions to respondents to assign/award separate designation to the Statistical Investigators (BPS-16) up-graded to (BPS-17) from the designation already assigned to Statistical Officers in BPS-17 or promoted to BPS-17 from the post of Statistical Investigator(BPS-16) in the department. This Tribunal wide its judgment dated 19-10-2015 remitted the matter to the respondents with observations that up-gradation of the private respondents to BPS-17 and given the same effect from 01-05-1977 appears to have created an anomalous situation as the appellant has been ranked junior to his erstwhile juniors, but inspite of clear observations in the said judgment, the respondents amalgamated the seniority of two distinct groups together vide order dated 04-01-2016 putting the appellant as well as his other colleagues as juniors to their erstwhile juniors, against which the appellant as well as his colleagues preferred departmental appeals.
 - 12. Finally, the respondent departments constituted a committee vide order dated 28-03-2016 to settle the issue of seniority. The committee examined the issue in light of the advice of Establishment Department, Law Department and judgment of this Tribunal Dated 26-03-2009.
 - 13. We have observed that Agriculture Department as well as Establishment and Law Department did not properly examine the issue of seniority and badly failed

to remove the anomaly. It was noted with concern that Establishment department without proper examination of the case, furnished its advice to determine their seniority in light of Section-8 of Civil Servant Act, 1973 as well as Section-17 of Government of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer rules) 1989, which however was not applicable in such case and furnishing such advice without proper evaluation of the issue in question examination amounts to gross negligence, as the appellant and his other colleagues were kept in constant mental agony. The committee constituted for the purpose also did not comprehend the judgment dated 26-03-2009 in its true letter and spirit, which created an anomalous situation and there was nobody on the ground to properly interpret the said judgment. It was astonishing to note that Director Agriculture, while addressing a letter dated 02-07-2010, had hinted to the anomaly and vide his detailed letter had forecasted the forthcoming complications of seniority and had proposed for maintaining separate seniority for the two categories of officers, but nobody appreciated his suggestions. The same letter contained the question as to whether seniority of two distinct groups/batches can be amalgamated, where one group is recruited in BPS-17 and another in BPS-16 having separate seniority. We failed to understand the wisdom behind the action, which put BPS-16 officers senior to BPS-17 with justification that BPS-16 officers were recruited earlier. We also feel sorry to notice that a clear judgment was mis-interpreted, which created the whole mess. The judgment so announced was based on the earlier judgments of this Tribunal announced on 16-06-1991, 16-08-1995 and 19-05-2003, where the similar nature posts in BPS-16 were up-graded to BPS-17 with effect from 01-05-1977 or from the date of appointment of the incumbents and were only allowed monitory benefits arising out of up-gradation, but were assigned separate designation from the officers appointed directly in BPS-17. In the judgment dated 26-03-2009, respondents were directed to extend the same benefit to the appellants as well as other similarly placed persons, which benefit was already extended vide judgments announced on 16-06-1991,16-08-1995 and 19-05-2003

- 14. After perusal of the above-mentioned judgments, it can be easily concluded that the wordings "same benefit" used in the judgment dated 26-03-2009 was only up-gradation, which was already granted to similarly placed persons to the extent of monetary consideration having no nexus with seniority. It is otherwise an established fact that up-gradation does not confer any right of seniority, but the respondents considered their seniority with effect from the date of up-gradation i.e. 01-05-1977 or from the date of appointment of the incumbents, thus a batch of upgraded statistical investigators, who were originally inducted in BPS-16 on ad-hoc basis were placed senior over a batch of Statistical Officers, who were initially recruited in BPS-17 as Assistant Statistical Officers through Public Service Commission with a justification that the post of Statistical Investigators, who were inducted in 1985-86 were up-graded with effect from 01-05-1977, whereas appellant and his other colleagues were inducted in 1987, hence as per rule 17 (b) of Government of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) Rules, 1989 and Section-8 of Civil Servant Act, 1973, seniority will be reckoned from the date of regular appointment to that post, which however was not applicable in the instant case, as the Rules mentioned above provides for Seniority inter-se of civil servants appointed to a service cadre or post in one batch, whereas the amalgamated two groups are separate posts in every respect, as from the very beginning, Assistant Statistical Officer (BPS-17) and Statistical Investigator (BPS-16) were two different cadres having separate seniority and amalgamation of their seniority and putting the appellant and his other colleagues juniors to their erstwhile juniors is illogical.
- 15. We are of the considered opinion that respondents misinterpreted the judgment dated 26-03-2009, as up-gradation of a post along-with incumbent with retrospective effect, cannot confer right of seniority upon the incumbents by any canon of law over another cadre/post, whose incumbents were separately recruited through Public Service Commission in 1987 in BPS-17 holding a separate seniority

and a separate job description, whereas the incumbents of the up-graded post were inducted in 1985-86 in BPS-16 on ad-hoc basis, who in due course of time were declared permanent and their posts were up-graded with effect from 01-05-1977. The expression "Up-gradation" is distinct from the expression "Promotion" which is not defined either in the Civil Servant Act or in the Rules framed thereunder, and is restricted to the post (office) and not with the person occupying it. Reliance is placed on 2016 SCMR 859.We are also of the firm opinion that respondents wrongly interpreted Rule 17 (b) and Section-8 of the Rules/Act ibid, while determining seniority of two distinct groups.

In view of the foregoing discussion, the instant appeal as well as the connected service appeal No. 339/2017 are accepted and the impugned orders dated 22-12-2016 and 06-12-2017 are set aside with directions to the respondents to assign separate nomenclature to both the posts as well as to maintain separate seniority list till retirement of the appellant alongwith his other batch-mates. The appellant alongwith his other batch-mates stands senior to their erstwhile juniors and shall be considered first for promotion to the next grade, however in case of their deprivation from promotion on account of impugned seniority list, they shall be considered for promotion with effect from the date, when they stood eligible for promotion in light of this judgment. Parties are left to bear their own costs. File be consigned to record room.

02.09.2021

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

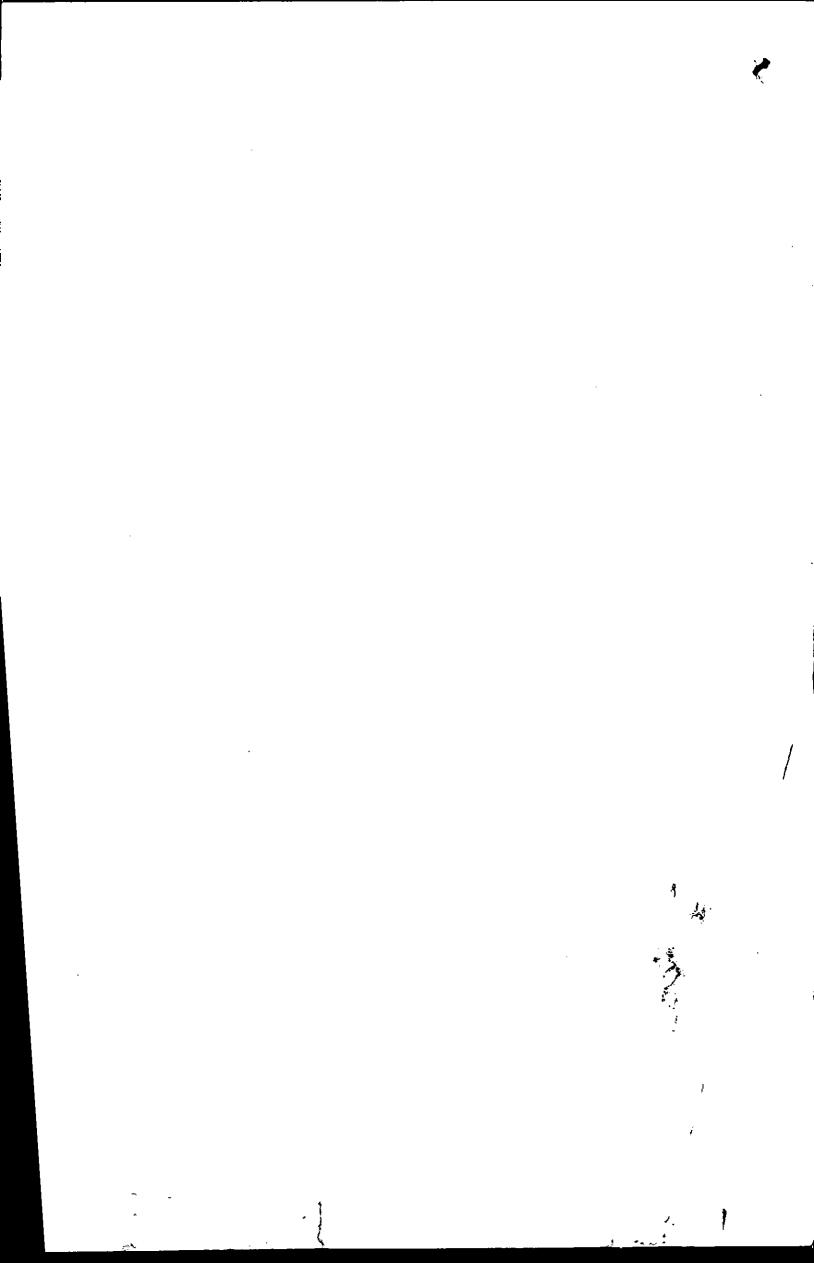
(ATTQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) 02.09.2021

Mr. Ali Azim Afridi, Advocate for the appellant present. Mr. Usman Ghani, District Attorney for official respondents No. 1 & 2 present. Mr. Noor Muhammad Khattak, Advocate for private respondent No.3 present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal as well as the connected service appeal No. 339/2017 are accepted and the impugned orders dated 22-12-2016 and 06-12-2017 are set aside with directions to the respondents to assign separate nomenclature to both the posts as well as to maintain separate seniority list till retirement of the appellant along with his other batch-mates. The appellant alongwith his other batch-mates stands senior to their erstwhile juniors and shall be considered first for promotion to the next grade, however in case of their deprivation from promotion on account of impugned seniority list, they shall be considered for promotion with effect from the date, when they stood eligible for promotion in light of this judgment. Parties are left to bear their own costs. File be consigned to record room.

<u>ANNOUNCED</u>

(SALAH-UD-DIN) MEMBER (JUDICIAL) (ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE)



25.08.2021

Appellant alongwith his counsel present. Mr. Usman Ghani, District Attorney for official respondents No. 1 & 2 present. Learned counsel for private respondent No.3 present.

Learned Executive Member is on summer vacations, therefore, order could not be announced. Adjourned. To come up for order on 02.09.2021 before D.B.

(SALAH-UD-DIN) MEMBER (JUDICIAL) 26.07.2021

Appellant alongwith his counsel Mr. Ali Azim Afridi, Advocate, present. Mr. Muhammad Kaleem, Director Crop Reporting Services alongwith Mr. Muhammad Rasheed, Deputy District Attorney for official respondents No. 1 & 2 present. Private respondent No. 3 alongwith his counsel Mr. Noor Muhammad Khattak, Advocate, present.

Partial arguments heard. To come up for full arguments before the D.B on 29.07.2021.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIAL)

29.07.2021

Appellant alongwith his counsel Mr. Ali Azim Afridi, Advocate, present. Mr. Muhammad Arif, Statistical Officer alongwith Mr. Muhammad Rasheed, Deputy District Attorney for official respondents No. 1 & 2 present. Mr. Noor Muhammad Khattak, Advocate, for private respondent No. 3 present.

Arguments heard, however order could not announced due to rush of work. Adjourned. To come up for order on 25.08.2021. Long date given due to summer vacations.

ATIO-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIAL) 09.07.2021

Mr. Ali Azim Afridi, Advocate, for the appellant present and submitted fresh Wakalatnama on behalf for the appellant, which is placed on file. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents No. 1 & 2 present. Mr. Noor Muhammad Khattak, Advocate, for private respondents No. 3 to 18 present and requested that he has not met preparation for arguments, therefore, an adjournment may be granted. Adjourned. To come up for arguments before the D.B on 13.07.2021.

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN) MEMBER (JUDICIAL)

13.07.2021

Clerk of counsel for the appellant present. Mr. Usman Ghani, District Attorney for the official respondents No. 1 & 2 present. Clerk of counsel for private respondents No. 3 to 18 present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 26.07.2021

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

De. 166960 Ali Azim Afridi 8333/ SSS300

Service APRIL 567/2018

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Masad - ve Pelman Plaintiff(s)/Appellant(s)

Applicant(s)/Petitioner(s)

Caut Of QJ Of Defendant(s)/Respondent(s)

Accused

FOR Malood - U. Rehman

I/We, hereby appoint Mr. Ali Azim Afridi
(Advocate High Court)

1. To appear, act and plead for me/us in the titled case before the Court/Tribunal in which the same maybe tried or heard, and any other proceedings arising therefrom or ancillary therewith and its stages that I personally could do if this instrument had not been executed.

2. That fee paid, or agreed to the said Counsel is for this Court alone and no part of the fee is refundable. The Counsel shall be entitled to retain costs payable by the opposite side.

3. I, we, will make arrangement for attending the Court on every hearing to inform my/our Counsel when the case is called. The Counsel shall in no way be responsible for any loss caused to me/us through my/our failure to inform him.

AND hereby agree:-

- **4. That** the Counsel shall be entitled to withdraw from the prosecution of the titled case if the whole or any part of the agreed fee remains unpaid.
- 5. I/We have read the above terms and conditions and the same have been explained to me/us; and I/We have accepted them in WITNESS WHEREOF; I/We have set my/our hand this____day of _______20

ACCEPTED

Signature of Counsel

Signature of Client

Email: - aleee_1@live.com **Contact #** 0333-9555000

15.01.2021

Junior to counsel for the appellant present. Addl: AG for respondents present. Due to pandemic of Covid-19, the case is adjourned to 12.02.2021 for the same.

Reader

12.02.2021

Appellant in person present. Adl: AG for respondents present.

Appellant seeks adjournment due to general strike of the Bar.

Adjourned to 31.03.2021 for arguments before D.B.

(Mian Muhammad) Member (E) (Muhammad Jamal Khan) Member(J)

The Concerned D.B. The case adjourned to 91/05/2021 for the Came as before.

is adjourned to 9.7.21 for to bent

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Due to COVID19, the case is adjourned to 8/7/2020 for the same as before.



08.07.2020 Due to COVID19, the case is adjourned to 31.08.2020 for the same as before.

Reader

31.08.2020

Due to summer vacation, the case is adjourned to 06.11.2020 for the same as before.

Realiza

06.11.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Roohullah, Assistant, for the respondents are also present.

Since the Members of the High Court as well as of the District Bar Associations, Peshawar, are observing strike today, therefore, learned counsel for appellant is not available today. Adjourned to 15.01.2021 on which date to come up for arguments before D.B.

(Atiq-ur-Rehman Wazir) (Member (Executive) (Muhammad Jamal Khan) Member (Judicial)

Appellant in person present. Addl: AG for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 09.04.2020 before D.B.

(MAIN MUHAMMAD) MEMBER

(M.AMIN KHAN KUNDI)

MEMBER

Junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Muhammad Kaleem Statistical Officer for official respondents present. Private respondent No.3 in person present. Junior to counsel for private respondent No.4 present. Junior to counsel for the appellant seeks adjournment as senior learned counsel for appellant is not available. Adjourn. To come up for contains arguments on 13.12.2019

Member

before D.B.

__gv Member

2.2019

Appellant in person present. Addl: AG for official respondents and private respondent no.3 in person present. Appellant seeks adjournment due to general strike of the bar. Adjourned. Case to come up for arguments on 10.02.2020 before D.B.

Member

Member

10.02.2020

Appellant alongwith his counsel present. Mr. Usman Ghani, District Attorney for official respondents and counsel for private respondents No. 3 to 14 present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.03.2020 for arguments before D.B.

(Hussain Shah) Member

(M. Amin Khan Kundi) Member Appellant in person and Mr. Ziaullah, DDA for the respondents present.

The appellant has submitted rejoinder in response to reply of respondents No. 1 & 2. The same is placed on record.

To come up for arguments before the D.B on 16.07.2019.

Member

Chairman

16.07.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Muhammad Kaleem Statistical Officer for the official respondents and counsel for private respondents present. Arguments heard. To come up for order on 12.09.2019 before D.B.

(Hussain Shah) Member (M. Amin Khan Kundi) Member

12.09.2019

Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Muhammad Kareem, Statistical Officer for the respondents present. The appeal was fixed for order for today, however, some points need further clarification, therefore, the case is fixed for re-arguments. Case to come up for re-arguments on 07.10.2019 before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi) Member 24.09.2018

Appellant Magsudur Rahman in person Mr. Roohullah, Assistant alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present. Written reply not submit. To come up for written reply/comments on 30.10.2018 before S.B.

30-10-18 Due to Protirement of Honorable

Chairman the Tribual is non functional

Therefore the large is adjourned to come

up for the Same on 14-12-2018 Redder

14.12.2018

Appellant in person present. Mr. Muhammad Kaleem, Statistical Officer alongwith Mr. Kabirullah Khattak, Additional AG on behalf of official respondents No. 1 to 3 present and requested for adjournment for filing of written reply. Private respondents No. 4 to 14 are not in attendance therefore, notice be issued to them for attendance and filing of written reply. Adjourned. To come up for written reply/comments on 23.01.2019 before S.B.

> **Muhammad Amin Khan Kundi** Member

Junior to counsel for the appellant present. Muhammad Kaleem Statistical Officer for official respondents present. Junior to counsel for private respondents also present. Written reply not submitted. Both, representative of official respondents and junior to counsel for private respondents requested for time to furnish written reply. Granted. To come

up for written reply/comments on 14.02.2019 before S.B.

Member

14.02.20.19

No one present on behalf of appellant. Muhammad Kareem Statistical Officer representative of official respondents present and submitted written reply on behalf of official respondents No.1 & 2. Sami Ullah private respondent No.3 alongwith clerk to counsel for private respondents present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on behalf of private respondents on 02.04.2019 before S.B.

Member

02.04.2019

Appellant in person present. Mr. Kabirullah, Addl: AG alongwith Mr. Muhammad Hakeem, SO for official respondents and clerk to private respondents no. 3 to 14 present. Written reply on behalf of 3 to 14 submitted which is placed on file. Neither private respondents no. 15 to 18 present nor their replies submitted, hence proceeded against Ex-parte. Case to come up for rejoinder and arguments on 22 05.2019 before D.B.

(Ahmad Hassan) Member 17.07.2018 Learned counsel for the appellant present. Heard in preliminary.

The appellant was appointed as Assistant Statistical Officer (BS-17) on the recommendation of Khyber Pakhtunkhwa Public Service Commission; that the posts of Statistical Investigators (BS-16) were upgraded to BS-17 and redesignated as Assistant Statistical Officer/Statistical Officer.

The appellant has filed the present service appeal for assigning different designation to those. Assistant Statistical Officers/Statistical Officers who were upgraded from the post of Statistical Investigators, but without impleading them in the calendar of respondents. The relevant rules of Recruitment and Promotion are also not available on file. The appellant is directed to implead the necessary/proper parties as mentioned above as respondents in the present service appeal. To come up for amended appeal on 16.08.2018 before S.B. The appellant is also directed to furnish the copy of relevant rules regarding Recruitment and Promotion on the date fixed.

Member

16.08.2018

Appellant Maqsood Ur Rehman in person alongwith his counsel Mr. Khalid Rehman, Advocate present and submitted amended appeal alongwith the relevant rules. Preliminary arguments heard.

Contends that appellant has been wrongly placed junior in the seniority list in utter violation of the rules on the subject.

Appellant Deposited
Security Process Fee

Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. 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 24.09.2018 before S.B.

Chairman

Form-A

FORMOF ORDERSHEET

Court of_	·		
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Case No.		567/2018	· · · · · · · · · · · · · · · · · · ·

	Case No.	38//2010
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23/04/2018	The appeal of Mr. Maqsood-ur-Rehmna resubmitted today by Mr. Khaled Rehman Advocate may be entered in the
,		Institution Register and put up to the Learned Member for proper order please. REGISTRAR
2-	15/05/18-	This case is entrusted to S. Bench for preliminary hearing to be put up there on 21/05/12.
	· ·	M A ' MEMBER
2	1.05.2018	Clerk of the counsel for appellant present and seel
	· ·	adjournment. Adjourned. To come up for preliminal hearing on 7.2018 before S.B.
		MH.
		(Muhammad Amin Khan Kundi) Member
-		
	· ·	

The appeal of Mr. Magsood-ur-Rehman Statistical Officer Crop reporting Services Peshawar received today by i.e. on 12.04.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got singed by appellant.
- 2- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 3- Annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
 - 4- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may be also be submitted with the appeal.

KHYBER PAKHTUNKHWA PESHAWAR.

Mr.Khaled Rhman Adv. Pesh.

Sir Resubonited after Complition

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. 567 /2018

Maqsood-ur-Rahman Appellant

The Govt. of KPK and others.....Respondents

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4.	Notification of up-gradation and redesignation	27.06.1997	С	14
5.	Impugned Notification/Revised Final Seniority List	22.12.2016	D	15-18
6.	Notification of Finance Department	02.03.1978	E	19-20
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- 11.	Judgment in Appeals No: 740-758/2008	26.03.2009	J	37-45
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Through

ppellant

Supreme Court of Pakistan 3-D, Haroon Mansion Khyber Bazar, Peshawar. Off: Tel: 091-2592458 Cell # 0345-9337312

Dated: <u>/6</u>/6/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. <u>567</u>/2018

Mr. Magsood-ur-Rahman,

Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Péshawar Appellant

VERSUS

The Govt. of Khyber Pakhtunkhwa 나:

through Chief Secretary, Civil Secretariat, Peshawar.

2. The Secretary to Govt. of KPK,

Agriculture, Livestock & Cooperative Department, Civil Secretariat, Peshawar

Samiullah Khan,

Statistical Officer, Crop Reporting Services, District Tank.

4. Muhammad Zahid,

Statistical Officer, Crop Reporting Services, District Nowshera.

5. Munir Ahmad,

Statistical Officer, Crop Reporting Services, District D.I.Khan.

6. Muhammad Aslam,

Statistical Officer, Crop Reporting Services, District D.I.Khan.

7. Shaukat Hayat,

Statistical Officer, Crop Reporting Services, District Swabi.

8. Haji Muhammad,

Statistical Officer, Crop Reporting Services, District Malakand.

9. Aslam Khan,

Statistical Officer, Crop Reporting Services, District Bannu.



- 10. Syed Farman Ali Shah, Statistical Officer, Crop Reporting Services, District Abbottabad.
- 11. Zia-ul-Islam, Statistical Officer, Crop Reporting Services, District Nowshera.
- 12. Liaqat Ali, Statistical Officer, Crop Reporting Services, District Dir Lower.
- 13. Inayatullah, Statistical Officer, Crop Reporting Services, District Mardan.
- 14. Nadir Khan, Statistical Officer, Crop Reporting Services, District Lakki Marwat.
- 15. Tariq Usman, Statistical Officer, * Crop Reporting Services, FATA, Peshawar.
- 16. Noor-ul-Islam, Statistical Officer. Crop Reporting Services, District Swat.
- 17. Asadullah, Statistical Officer, Crop Reporting Services, District Chitral.
- 18. Fayaz Ehsan, Statistical Officer,

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER PASSED VIDE AGRICULTURE DEPARTMENT LETTER PURSUANT TO THE DECISION IN SERVICE APPEAL NO.804/2012 WHEREBY THE RESPONDENTS REFUSED TO ASSIGN A DIFFERENT DESIGNATION TO THE STATISTICAL INVESTIGATORS BS-16 UP-GRADED TO BS-17 FROM THE DESIGNATION ALREADY ASSIGNED TO BS-17



OFFICERS DIRECTLY APPOINTED THROUGH PUBLIC SERVICE COMMISSION OR PROMOTED TO BS-17 AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION ON 22.12.2017 BUT THE SAME WAS NOT DISPOSED OFF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, this honorable Tribunal may graciously set aside the impugned order issued vide letter dated 06.12.2017 and direct the Department to up-grade the post of Statistical Investigators BS-16 to BS-17 with effect from 1.5.1977 either without changing their designation or allow them the designation other than Assistant Statistical Officer/ Statistical Officer, the precedent being followed in pursuance of the previous judgments as well as numerous notifications through which the posts of Agricultural and Non-Agricultural graduates were up-graded from BS-16 to BS-17 with effect from 1.5.1977.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. **That** appellant was appointed as Assistant Statistical Officer (BS-17) under the Service Rules (**Annex: A**) approved in 1981. According to the said Service Rules, there were two categories of officers in CRS.

Assistant Statistical Officer, BS-17

(District In-charge)

ii. Statistical Investigator, BS-16

(Tehsil / Circle In-charge)

- 2. **That** vide Notification dated 27.06.1997 (Annex;-B), the post of Statistical Investigator BS-16 was upgraded to BS-17 and re-designated as Assistant Statistical Officer.
- 3. That according to policy of the Finance Department circulated vide letter dated 2.3.1978, special pay of Rs.150/= is admissible to those post who possessed the prescribed minimum qualification for the lower post in the Department and who supervised the work of at least one, subsequently enhanced to two officers in Grade 17.
- 4. That due to the developments mentioned under para-2 & 3 above, the post of Assistant Statistical Officer (District In-charge) BS-17 was re-designated



as Statistical Officer with provision of Special Pay of RS:150/= Per Month w.e.f 1.7.1997 vide Notification dated 27.06.1997 (**Annex: C**). The seniority of both the categories was separately maintained till amalgamation of the seniority of two distinct groups of officers vide Notification dated 22.12.2016 (**Annex: D**).

- 5. **That** in 1978, Federal Government up-graded all BS-16 posts to BS-17 w.e.f 1.5.1977 vide Notification dated 02.03.1978 (Annex;-E) for which the minimum qualification was a "Graduate Degree in Agriculture or DVM" like other Provinces.
- 6. That in spirit of the Notification dated 02.03.1978, the graduates in other sciences were also up-graded from BS-16 posts to BS-17 with effect from 01.05.1977 vide Notification dated 26.4.1978.
- 7. The similarly placed officers' graduates in Statistics & other sciences approached Court of Law for the benefits already granted vide Notifications dated 2.3.1978 and dated 26.4.1978. The honorable Court accepted their appeals on grounds of discrimination vide following judgments:-

S.No	Appellants with Designation	Appeal No:	Judgment/ Notification of Up-gradation.
I	Mr. Buzarg Jamahir, Mr. Umar Amin, Mr. Aurangzab and Mr. Noorul Hadi (Research Assistants BS-16)	Appeal No: 27/90 Service Tribunal Peshawar	Judgment dated 16.6.1991. Notification dated 15.3.1993 (Annex: F)
ii	Mr. Asmatullah Khan, Mr. Abdul Sattar, Mr. Malik Ghulam, Mr. Mustajab Khan Research Officer BS-17	Appeal No: 359- 362/1995 Service Tribunal Peshawar	judgment dated 16.5.1995 (Annex: G)
iii	Mr. Muhammad Idrees Qazi (Additional Statistician BS- 17)	CP No: 642/2005 Supreme Court of Pakistan	Judgment dated 21.3.2006. Notification dated 15.1.2007(Annex: H)
iv	Mr. Ilyas Khan (Add: Statistician BS-17). Mr. Murtaza Khan, Asstt: Statistician (BS-16)	-	Notification dated 25.6.2008(Annex: I)

- 8. That the incumbents of the posts up-graded from BS-16 to BS-17 w.e.f 1.5.1977 vide notifications/ judgments quoted under Para-5, 6 & 7 above were allowed Monetary Benefits only and were assigned a separate designation from the Officers appointed directly in BS-17 through Public Service Commission Or promoted to BS-17 in the Department.
- 9. That in 2008, the Statistical Investigators (BS-16) prayed to this Hon'ble Service Tribunal for up-gradation of their post to BS-17 with effect from

1.5.1977 on the nexus of the Notifications and judgments quoted under Para-5, 6 & 7 above. The Court accepted their appeal on grounds of discrimination vide judgment dated 26.3.2009 in Appeals No: 740-758/2008 (Annex-J). The judgment reads,

"...In light of the above, we do not have any other alternative, but to accept the present in light of the previous judgments, with costs. We direct the official respondents to give the same benefits to the present appellants (who are B.Sc 2nd Division in other Sciences like Economics, Physics) which have been declared for the other similarly placed persons who were qualified in B.Sc (Agri:) or B.Sc (2nd Division) or B.Sc Statistics or Mathematics with Statistics as a subject and who had litigated as mentioned above"

- 10. That thus by assigning the designation of Statistical Officer BS-17 (District Heads) to the Statistical Investigators (Tehsil incharge) BS-16 up-graded to BS-17 with effect from 1.5.1977 vide Notifications dated 17.2.2010, 7.4.2012 and 24.2.2014 (Annex: K), the Department has violated the Court judgment that allowed relief given to the Statistical Investigators in line with the relief provided to other Officers in the same Department through chain of judgments/ Notifications as mentioned under Para- 5, 6 & 7 above.
 - 11. That the appellant filed Service Appeal No.804/2012 (*Annex:-L*) before this Hon'ble Tribunal with the prayer that separate designation be provided to both the categories as the wrongful implementation of the Judgment ibid, had resulted into serious service anomaly affecting the terms and conditions of the appellant and his other colleagues. The service appeal was finally disposed of vide Judgment dated 19.10.2015 (*Annex:-M*) with clear cut observations that the appellant was discriminated and his terms and conditions of service were adversely affected.
 - 12. That the Department was not implementing the Judgment, therefore, the appellant was obliged to file Execution Petition against the Department. During the execution petition, the impugned order dated 06.12.2017 (Annex:-N) was produced whereby malafide and by flouting the order of the Hon'ble Tribunal, the case was once again regretted.
 - 13. That being aggrieved of the order ibid, appellant preferred a departmental Representation (*Annex:-O*) on 22.12.2017 but the same was not disposed of within statutory filed the Service Appeal No.567/2018 before this Hon'ble Tribunal.



14. That the Hon'ble Tribunal vide order dated 17.07.2018 directed the appellant to implead those Assistant Statistical Officers/Statistical Officers who were upgraded from the post of Statistical Investigators being proper/necessary parties as well as produce relevant Rules, hence the instant amended service appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the rights of the parties were fully determined by the Judgment passed by this Hon'ble Court in the earlier round of litigation but the Hon'ble Court deemed it appropriate that the Department should redressed the grievances of the appellant but malafide by mis-exercise of discretion and misinterpreting the law and circumstances, the appellant was refused the benefit.
- C. That while allowing similar up-gradations to the BPS-16 Officers in other Attached Departments of Agriculture Department, a different designation was allowed to the upgraded officers and their seniority was never integrated with the Supervisory Officers in the Department as is evident from Notification dated 02.03.1978. At that time the designation assigned to the upgraded Officers (BPS-17) and Supervisory Officers (BPS-17+150/) in all other Attached Departments was as under:-

S.#	Department	Designation of District Officer, BS-17+Rs.150/- (Supervisory)	Designation of Up-Graded Tehsil Officer from BS-16 to BS-17
1.	Agriculture Extension	Extra Assistant Director Agri: Officer, APPO & AHO	Agriculture Officer
2.	Livestock	Assistant Director	Veterinary Officer
3.	Soil Conservation	Soil Conservation Officer	Assistant Soil Conservation Officer
4.	Crop Reporting Service	Statistical Officer	Assistant Statistical Officer

Likewise in other Provinces too, separate designations were allowed to the up-graded Officers viz:

		· · · · · · · · · · · · · · · · · · ·	
C #	Department	T)	
io.ir	Department	Designation of	Designation of Up-Graded Tehsil
			Designation of op-Graded reast



		District Officer, BS- 17+Rs.150/- (Supervisory)	Officer from BS-16 to BS-17
1.	CRS Punjab	Assistant Director	Statistical Officer
2.	CRS Sindh	Assistant Director	Statistical Officer
3.	CRS Baluchistan	Assistant Director	Statistical Officer

A different yardstick only with respect to CRS was discriminatory and in clear violation of the earlier Judgment passed by the Tribunal, therefore, the case was again remanded to the Respondents for re-considering the issue in accordance with law but without implementing the Judgment, the impugned Notification/Revised Final Seniority List was hurriedly issued resulting into manifest injustice.

- D. That it is worthwhile to mention here that the Director General, Agriculture (Extension), Khyber Pakhtunkhwa vide letter dated 02.07.2010 (*Annex:-P*) had hinted to the anomaly and had proposed for maintaining separate Seniority Lists for the two categories of Officers. Similarly a Departmental Committee constituted on the directives of the Government also recommended that Supervisory and Non-Supervisory were two different category Officers and their seniority cannot be unified vide recommendations (*Annex:-Q*) but inspite of the same the impugned final Seniority List was unlawfully issued in violation of the law.
- E. That Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides that seniority in various cadres of civil servants appointed by initial recruitment viz-a-viz those appointed otherwise shall be determined with reference to the dates of their regular appointments to a post in that cadre provided if the two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment. The Respondents have failed to differentiate between the post and grade which are two distinct service incidents while a grade is used with reference to financial benefits, post refers to the placement of an employee in the cadre or service.
- F. That due to the impugned Notification/Revised Final Seniority List the erstwhile Assistant Statistical Officers (BPS-17) including the appellant have become juniors to the erstwhile Statistical Investigators (BPS-16) who

were previously their subordinates, which has resulted in serious miscarriage of justice and resentment.

G. That according to the rules, the seniority inter-se of an officer appointed through the same notification/advertisement is determined on basis of merit assigned by the Public Service Commission. However, in case of the Appellant, the seniority decided by the Public Service Commission at the time of selection in 1987 has been changed after about 30 years.

H. That similarly in Agriculture Research Department, Khyber Pakhtunkhwa, the posts of Research Assistants/Statistical Assistants (BPS-16) who were possessing Graduate degree in other Sciences were upgraded to BPS-17 vide Notification dated 26.04.1978. They were granted only monetary benefits and were allowed/assigned separate designation from the Supervisory Officers (BPS-17).

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

Khaled Rahman,

Advocate.

Supreme Court of Pakistan

Dated: <u>16</u> /08/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 567 /2018

Mr. Magsood-ur-Rahman,

Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar Jiwa Servi **Appellant**

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary,

Civil Secretariat, Peshawar. The Secretary to Govt. of KPK, 2.

Agriculture, Livestock & Cooperative

SERVICE APPEAL UNDER

> 17.07.2018 Learned counsel for the appellant present. Heard in preliminary.

> > The appellant was appointed as Assistant Statistical Officer (BS-17) on the recommendation of Khyber Pakhtunkhwa Public Service Commission; that the posts of Statistical Investigators (BS-16) were upgraded to BS-17 and redesignated as Assistant Statistical Officer/Statistical Officer.

The appellant has filed the present service appeal for assigning different designation to those Assistant Statistical Officers/Statistical Officers who were upgraded from the post of Statistical Investigators, but without impleading them in the calendar of respondents. The relevant rules of Recruitment and Promotion are also not available on file. The appellant is directed to implead the necessary/proper parties as mentioned above as respondents in the present service appeal. To come up for amended appeal on 16.08.2018 before S.B. The appellant is also directed to furnish the copy of relevant rules regarding Recruitment and Promotion on the date fixed.

Mèmber

Certified to be ture copy Khyber Pakaninkhwa Service Tribunal, Peshawar

Dated Peshawar, the



In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion & Transfers) Rules, 1989, the Agriculture, Livestock and Cooperation Department, in consultation with the Establishment & Finance Department, hereby lay down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the of Appendix to this notification which shall be applicable to posts mentioned in column 2 borne in the Crop Reporting Services of the North-West-Frontier Province;

٠				Method of Recruitment.
.	Nomenclature of Post	Qualification for aports by initial + recruitment	Age Limit	
1		100101011011	4	By promotion, on the basis of seniority-cum-
	2			By promotion, on the basis of satisfician, Crop fitness, from amongst the Statistician, Crop
.	E.D.O. Agriculture	· · · · · · · · · · · · · · · · · · ·		fitness, from amongst the Statistical fitness, from the Statisti
`~\	(Crop Reporting	•		Reporting Services (BS-10) Was service in BS-17
1	Services)		·	service in BS-18 of, 12 years darking
- 1	(BS-19).		Ì	By promotion, on the basis of seniority-cum-
	(66-10).			
	- Statistician (Crop	,	<u> </u>	By promotion, on the basis of services of services with fitness, from amongst the Statistical Officers
2.	Reporting Services)	,•	· ·	I (C
	Reporting Services	_		I THE TAKE THE VANCE OF THE TAKE THE TA
• .	(BS-18)	1		By initial recruitment.
	Chatictical Office	Master 's Degree	21 to 32 years.	
3.	1 2/A(12(100)	in Statistics or	1, .	
•	(Supervisory)	Economics of		
	(BS-17).	Mathematics with	• • • • • • • • • • • • • • • • • • • •	
		Matternance that	ļ	The second state of the second
		Statistics as a		a supplied the same of the sam
	1	compulsory	1	
***		subject in B.A/		The second secon
		B.Sc from a		and the second s
	`	recognized		
		Liniversity	740 41 00 1000	By initial recruitment.
٠	Statistical Clerk /	Secondary School	18 to 28 years	
4.	Statistical Clerk	Certificate from a	ι -	
	Crop Reporter.	recognized Board	di. \	
	(BPS-5). '	or Trained Field	, [
		- Assistant from		•
	· I	Agricultural	. 1	
		Training Institute		
		Hamilia manne	"	By initial recruitment.
		Reshawar.	18 to 40 year	BA ILIITISI 1901 (1911)
5.	Driver	Experience in		
,	(BPS-4).	driving with light	,	
•	1000	vehicles driving		The state of the s
	. ` ` ` ` `	licence.	- 4000 AE VOO	By initial recruitment.
	lan museas		18 to 45 yea	19
6	Chowkidar '			By initial recruitment.
	(BPS-1).		18 to 40 yea	ins
,	Naib Qasid		· .	the same of the sa

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA AGRIL; LIVESTOCK & COOP; DEPARTMEN

Endst. No. SOE(AD)II(2)429/2010

Dated Peshawar, the 6/6/2011.

Copy forwarded for information and necessary action to: - .

The Secretary to Govt: of Khyber Pakhtunkhwa Establishment & Admn: Department.

The Secretary to Govt, of Khyber Pakhtunkhwa Finance Department.

The Secretary to Govt. of Khyber Pakhtunkhwa Law Department.

The Statistician, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar

The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar. He is requested. that printed (preferable gazette) copies of the notification as and when published may be furnished to this Department, E&A and Law Department alongwith details of gazette in which is published:

PS to Secretary Agriculture.

(SAKHI-UR SECTION OFFICER-ESTT:





GOVERNMENT OF KEYBER PAKHTUNKHWA AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT

-80

Dated Peshawar, the 14th December, 2016

NOTIFICATION

NO. SOE (AD) 2 (2)429/2014.— In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules, 1989, and in supersession of all notification issued in this behalf, the Agriculture, Livestock and Cooperative Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the appendix to this Netification, which shall be applicable to the posts specified in column 2 of the said Appendix borne in the Directorate of Crop Reporting Services of the Agriculture Department.

<u>APPENDIX</u>

PROFESSIONAL STAFF

f .:-		PROFESSI	ONAL STA	<u>AFF</u>
S. No		Minimum Qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	2	3	4	5
2.	Director			By promotion, on the basis of seniority- cum-fitness from amongst the Statistician with at least seven years service as such or twelve years service as Statistical Officer and Statistician.
				By promotion, on the basis of seniority- cum-fitness, from amongst the Statistical Officers with at-least five years service as such.
()	Statistical Officer	At-least Second Class Master's Degree or at least Second Class Bachelors of Sciences (4 years) with Statistics, Economics or Mathematics as one of the subject, from a recognized university.	21 to 32 years	(a) Thirty percent by promotion, on basis of seniority-cum-fitness, from amongst the Statistical Investigators with at least five years service as such; and (b) seventy percent by initial recruitment
4.	Statistical Investigator	At-least Second Class Bachelor's Degree with Statistics, Mathematics or Economics as one of the subject from a recognized university.	18 to 32 years	(a) Fifty percent by promotion, on the basis of seniority cum fitness, from amongst the Statistical Assistants having Bachelor's Degree from a recognized university with five years service as Crop Reporter and Statistical Assistant, and
5.	Statistical Assistant	(a) At-least Second Class Intermediate Certificate with Statistics, Mathematics or Economics as one of the subject from a recognized Board; and	years	(a) Seventy Five percent by promotion on the basis of seniority-cum-fitness from amongst the Crop Reporters, with at-least five years' service as such; and (b) Twenty Five by initial recruitment.



,		(b) Three years Diploma in Field Assistant from recognized Agricultural Training Institute.			· · · · · · · · · · · · · · · · · · ·
6.	Statistical Computer	At-least Second Class Secondary School Certificate or an equivalent qualification from a	18 to 32 years	By initial recruitment	
		recognized Board with Diploma in Information Technology from a recognized Board of Technical Education			
7. •	Crop Reporter	At-least Second Class Secondary School Certificate or an equivalent	18 to 32 years	By initial recruitment	
		qualification from a recognized Board with three years Diploma in Field Assistant from a recognized Agricultural Training Institute.	, i		

MINISTERIAL STAFF

8.	Senior Scale				
10.		(a) At-least Second Class	20 to 32	By initial recruitme	
j	Stenographer	Bachelor's Degree from	years		
1		a recognized University;			
:		(b) A speed of seventy (70)			
1 /		Words per minute in			
İ	-	shorthand in English and			
		forty five (45) words per			
		minute in typing; and			
		(c) Knowledge of computer			•
		in using MS Word, MS		1	
- <u>-</u>	·	Excel.	ļ		
9.	Assistant	At-least Second Class	20 to 32	(a) Seventy five percent by	
		Bachelor's.Degree from a	years	1	ion,
		recognized University.) Julia	on the basis of seniority-c	
		()	i .	fitness from amongst the S	
		-, -		Clerks with at-least five yer	
		· ·	ļ	service as Junior Clerk and 2	
			,	Clerk; and	
				(b) twenty five percent by initial	
10	Computer	(a) At-least Second Class	10 . 20	recruitment.	_
ĺ	Operator	Ruchalana Dansa da	18 to 32	By initial recruitment.	
l	- permitor	Bachelor's Degree with	years		
		Computer Science as	. }		
	, '`	one of the subject or		•	
		Information Technology	•	•	
/		(BCS/BIT four years),			
1		from a recognized	·		
		university; or	·	•	
	.]	(b) At-least Second Class	İ		
	j	Bachelor's Degree from	1	1	
	.	a recognized University	1	, , , , , , , , , , , , , , , , , , , ,	•
İ		with one year Diploma			
- 1		in Information	.		- 1
				•	

		v	-	00
		-		
		Technology from a recognized Board of Technical Education.		
11	Senior Clerk			By promotion, on the basis of seniority- cum-fitness from amongst the Junior Clerks with at-least five years service as such.
12	Junior Clerk	(a) At least Second Class Intermediate Certificate or equivalent qualification from a	18 to 32 years	a) Thirty three percent by promotion, on the basis of seniority-cumfitness, from amongst the Naib Oasids and Chowkidars having
		recognized board; and (b) a speed of thirty (30) words per minute in typing.		Intermediate Certificate or an equivalent qualification from a recognized Board with two years service as such; and b) sixty seven percent by initial recruitment.
				Note: for the purpose of promotion, there shall be maintained a joint seniority list of Naib Qasids and Chowkidars with reference to the dates of their acquiring the Intermediate Cortificate:
,		./		Provided that: a) if two or more officials have acquired the Intermediate Certificate in the same session, the Inter-se-seniority in the lower post
-				shall be maintained for the purpose of determining seniority in the higher post; and b) where a senior official does not possess the requisite qualification
				at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or
.		•		By promotion, on the basis of seniority
13	Projectionist- Cum-Driver			cum-fitness, from amongst the Drivers having middle pass, with experience of handing Projector
14	Driver	Literate, having valid light transport vehicle Driving license:	18-40 years	By initial recruitment
		Provided that preference shall be given to those whose have sufficient experience in Driving, Repairing and Maintenance of vehicle		

15	Naib Qasid	 18 to 40	By initial recruitment.
		years	
16	Chowkidar	 18 to 40	By initial recruitment.
Ĺ		years	

-Sd-SECRETARY AGRICULTURE

Endst. Of even No. & Date.

Copy forwarded for information and necessary action to: -

- 1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- 2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
- 3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
- 4. The Accountant General, Khyber Pakhtunkhwa.
- 5. The Director, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.
- 6. The Chief Planning Officer, Agriculture Department for uploading on official website of Agriculture Department.
- 7. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar He is requested that printed (preferable gazette) copies of the notification as and when published may be furnished to this Department, E&A and Law Department along-with details of gazette in which is published.
- 8. The PS to Minister for Agriculture, Khyber Pakhtunkhwa.
- 9. PS to Secretary Agriculture.

(Dr. MIR\AHMAD KHAN) SECTION OFFICER (ESTT)

SEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 567 /2018

Maqsood-ur-Rahman	Appellant
Versus	•
The Court of KPK and others	Despendents

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Through

Appellant-

Khaled Rahman

Advocate,

Supreme Court of Pakistan

3-D, Haroon Mansion Khyber Bazar, Peshawar

Off: Tel: 091-2592458 Cell # 0345-9337312

Dated: ____/04/2018

RE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 567 /2018

Khyber Pakhtukhwa

Mr. Maqsood-ur-Rahman,

Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.

2. The Secretary to Govt. of KPK,

> Agriculture, Livestock & Cooperative

SERVICE APPEAL UNDER SECTION 4 **OF** THE **KHYBER** PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE **IMPUGNED FINAL ORDER PASSED VIDE** AGRICULTURE DEPARTMENT LETTER 06.12.2017 PURSUANT TO THE DECISION IN SERVICE APPEAL NO.804/2012 WHEREBY THE RESPONDENTS REFUSED TO ASSIGN A DIFFERENT DESIGNATION TO THE STATISTICAL INVESTIGATORS BS-16 UP-GRADED TO BS-17 FROM THE DESIGNATION ALREADY ASSIGNED TO BS-17 OFFICERS DIRECTLY APPOINTED THROUGH PUBLIC SERVICE COMMISSION PROMOTED TO BS-17 AGAINST WHICH PREFERRED DEPARTMENTAL REPRESENTATION ON 22.12.2017 BUT THE SAME WAS NOT DISPOSED OFF WITHIN THE STATUTORY PERIOD OF 90 DAYS. odto-day

egistraRAYER:

Registrar

On acceptance of the instant appeal, this honorable Tribunal may graciously set aside the impugned order issued vide letter dated 06.12.2017 and direct the Department to up-grade the post of Statistical Investigators BS-16 to BS-17 with effect from 1.5.1977 either without changing their designation or allow them the designation other than Assistant Statistical



Officer/ Statistical Officer, the precedent being followed in pursuance of the previous judgments as well as numerous notifications through which the posts of Agricultural and Non-Agricultural graduates were up-graded from BS-16 to BS-17 with effect from 1.5.1977.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

- 1. That appellant was appointed as Assistant Statistical Officer (BS-17) under the Service Rules (Annex: A) approved in 1981. According to the said Service Rules, there were two categories of officers in CRS.
 - i. Assistant Statistical Officer, BS-17 (District In-charge)
 - ii. Statistical Investigator, BS-16 (Tehsil / Circle In-charge)
- 2. **That** vide Notification dated 27.06.1997 (Annex;-B), the post of Statistical Investigator BS-16 was upgraded to BS-17 and re-designated as Assistant Statistical Officer.
- 3. That according to policy of the Finance Department circulated vide letter dated 2.3.1978, special pay of Rs.150/= is admissible to those post who possessed the prescribed minimum qualification for the lower post in the Department and who supervised the work of at least one, subsequently enhanced to two officers in Grade 17.
- 4. That due to the developments mentioned under para- 2 & 3 above, the post of Assistant Statistical Officer (District In-charge) BS-17 was re-designated as Statistical Officer with provision of Special Pay of RS.150/= Per Month w.e.f 1.7.1997 vide Notification dated 27.06.1997 (Annex: C). The seniority of both the categories was separately maintained till amalgamation of the seniority of two distinct groups of officers vide Notification dated 22.12.2016 (Annex: D).
- 5. That in 1978, Federal Government up-graded all BS-16 posts to BS-17 w.e.f 1.5.1977 vide Notification dated 02.03.1978 (Annex;-E) for which



the minimum qualification was a "Graduate Degree in Agriculture or DVM" like other Provinces.

- 6. That in spirit of the Notification dated 02.03.1978, the graduates in other sciences were also up-graded from BS-16 posts to BS-17 with effect from 01.05.1977 vide Notification dated 26.4.1978.
- 7. The similarly placed officers' graduates in Statistics & other sciences approached Court of Law for the benefits already granted vide Notifications dated 2.3.1978 and dated 26.4.1978. The honorable Court accepted their appeals on grounds of discrimination vide following judgments:-

S.No	Appellants with Designation	Appeal No:	Judgment/ Notification of Up-gradation.
I	Mr. Buzarg Jamahir, Mr. Umar Amin, Mr. Aurangzab and Mr. Noorul Hadi (Research Assistants BS-16)	Appeal No: 27/90 Service Tribunal Peshawar	Judgment dated 16.6.1991. Notification dated 15.3.1993 (Annex: F)
ii	Mr. Asmatullah Khan, Mr. Abdul Sattar, Mr. Malik Ghulam, Mr. Mustajab Khan Research Officer BS-17	Appeal No: 359- 362/1995 Service Tribunal Peshawar	judgment dated 16 § .1995 (Annex: G)
iii	Mr. Muhammad Idrees Qazi (Additional Statistician BS- 17)	CP No: 642/2005 Supreme Court of Pakistan	Judgment dated 21.3.2006. Notification dated 15.1.2007(Annex: H)
iv	Mr. Ilyas Khan (Add: Statistician BS-17). Mr. Murtaza Khan, Asstt: Statistician (BS-16)	-	Notification dated 25.6.2008(Annex: I)

- 8. That the incumbents of the posts up-graded from BS-16 to BS-17 w.e.f 1.5.1977 vide notifications/ judgments quoted under Para-5, 6 & 7 above were allowed Monetary Benefits only and were assigned a separate designation from the Officers appointed directly in BS-17 through Public Service Commission Or promoted to BS-17 in the Department.
- 9. That in 2008, the Statistical Investigators (BS-16) prayed to this Hon'ble Service Tribunal for up-gradation of their post to BS-17 with effect from 1.5.1977 on the nexus of the Notifications and judgments quoted under Para-5, 6 & 7 above. The Court accepted their appeal on grounds of discrimination vide judgment dated 26.3.2009 in Appeals No: 740-758/2008 (Annex-J). The judgment reads,



"...In light of the above, we do not have any other alternative, but to accept the present in light of the previous judgments, with costs. We direct the official respondents to give the same benefits to the present appellants (who are B.Sc 2nd Division in other Sciences like Economics, Physics) which have been declared for the other similarly placed persons who were qualified in B.Sc (Agri:) or B.Sc (2nd Division) or B.Sc Statistics or Mathematics with Statistics as a subject and who had litigated as mentioned above"

- 10. That thus by assigning the designation of Statistical Officer BS-17 (District Heads) to the Statistical Investigators (Tehsil incharge) BS-16 up-graded to BS-17 with effect from 1.5.1977 vide Notifications dated 17.2.2010, 7.4.2012 and 24.2.2014 (Annex: K), the Department has violated the Court judgment that allowed relief given to the Statistical Investigators in line with the relief provided to other Officers in the same Department through chain of judgments/ Notifications as mentioned under Para- 5, 6 & 7 above.
- 11. That the appellant filed Service Appeal No.804/2012 (*Annex:-L*) before this Hon'ble Tribunal with the prayer that separate designation be provided to both the categories as the wrongful implementation of the Judgment ibid, had resulted into serious service anomaly affecting the terms and conditions of the appellant and his other colleagues. The service appeal was finally disposed of vide Judgment dated 19.10.2015 (*Annex:-M*) with clear cut observations that the appellant was discriminated and his terms and conditions of service were adversely affected.
- 12. That the Department was not implementing the Judgment, therefore, the appellant was obliged to file Execution Petition against the Department. During the execution petition, the impugned order dated 06.12.2017 (Annex:-N) was produced whereby malafide and by flouting the order of the Hon'ble Tribunal, the case was once again regretted.
- 13. That being aggrieved of the order ibid, appellant preferred a departmental Representation (*Annex:-O*) on 22.12.2017 but the same was not disposed of within statutory, hence this appeal inter-alia on the following grounds:



- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the rights of the parties were fully determined by the Judgment passed by this Hon'ble Court in the earlier round of litigation but the Hon'ble Court deemed it appropriate that the Department should redressed the grievances of the appellant but malafide by mis-exercise of discretion and misinterpreting the law and circumstances, the appellant was refused the benefit.
- C. That while allowing similar up-gradations to the BPS-16 Officers in other Attached Departments of Agriculture Department, a different designation was allowed to the upgraded officers and their seniority was never integrated with the Supervisory Officers in the Department as is evident from Notification dated 02.03.1978. At that time the designation assigned to the upgraded Officers (BPS-17) and Supervisory Officers (BPS-17+150/) in all other Attached Departments was as under:-

S.#	Department	Designation of District Officer, BS-17+Rs.150/- (Supervisory)	Designation of Up-Graded Tehsil Officer from BS-16 to BS-17
1.	Agriculture Extension	Extra Assistant Director Agri: Officer, APPO & AHO	Agriculture Officer
2.	Livestock	Assistant Director	Veterinary Officer
3.	Soil Conservation	Soil Conservation Officer	Assistant Soil Conservation Officer
4.	Crop Reporting Service	Statistical Officer	Assistant Statistical Officer

Likewise in other Provinces too, separate designations were allowed to the up-graded Officers viz:



S.#	Department	Designation of District Officer, BS- 17+Rs.150/- (Supervisory)	Designation of Up-Graded Tehsil Officer from BS-16 to BS-17
1.	CRS Punjab	Assistant Director	Statistical Officer
2.	CRS Sindh	Assistant Director	Statistical Officer
3.	CRS Baluchistan	Assistant Director	Statistical Officer

A different yardstick only with respect to CRS was discriminatory and in clear violation of the earlier Judgment passed by the Tribunal, therefore, the case was again remanded to the Respondents for reconsidering the issue in accordance with law but without implementing the Judgment, the impugned Notification/Revised Final Seniority List was hurriedly issued resulting into manifest injustice.

- D. That it is worthwhile to mention here that the Director General, Agriculture (Extension), Khyber Pakhtunkhwa vide letter dated 02.07.2010 (*Annex:-P*) had hinted to the anomaly and had proposed for maintaining separate Seniority Lists for the two categories of Officers. Similarly a Departmental Committee constituted on the directives of the Government also recommended that Supervisory and Non-Supervisory were two different category Officers and their seniority cannot be unified vide recommendations (*Annex:-Q*) but inspite of the same the impugned final Seniority List was unlawfully issued in violation of the law.
- E. That Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides that seniority in various cadres of civil servants appointed by initial recruitment viz-a-viz those appointed otherwise shall be determined with reference to the dates of their regular appointments to a post in that cadre provided if the two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment. The Respondents have failed to differentiate between the post and grade which are two distinct service incidents while a grade is used with reference to financial benefits, post refers

9



to the placement of an employee in the cadre or service.

F. That due to the impugned Notification/Revised Final Seniority List the erstwhile Assistant Statistical Officers (BPS-17) including the appellant have become juniors to the erstwhile Statistical Investigators (BPS-16) who were previously their subordinates, which has resulted in serious miscarriage of justice and resentment.

G. That according to the rules, the seniority inter-se of an officer appointed through the same notification/advertisement is determined on basis of merit assigned by the Public Service Commission. However, in case of the Appellant, the seniority decided by the Public Service Commission at the time of selection in 1987 has been changed after about 30 years.

H. That similarly in Agriculture Research Department, Khyber Pakhtunkhwa, the posts of Research Assistants/Statistical Assistants (BPS-16) who were possessing Graduate degree in other Sciences were upgraded to BPS-17 vide Notification dated 26.04.1978. They were granted only monetary benefits and were allowed/assigned separate designation from the Supervisory Officers (BPS-17).

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

Khaled Rahman

Advocate,

Supreme Court of Pakistan

Dated: ____/04/2018

Appelland

Magsood WRahman

GOVERNMENT OF N.W.F.P. AGRICULTURE FORESTS AND COOP.DEPARIMENT

Dated Peshawar the ____/ /2027

NOTIFICATION

Annex A

No.SOE(AD)II(2)270/86. Consequent upon the recommendation of the NATP Public Service Commission, the Governor NATP is pleased to appoint the following candidates as Assistant Statistical Officer (BPS-17) in the Improved Crop Estimates Project NATP (Extension Wing of Agriculture Department) on temporary basis with effect from the date of their taking over the charge:

- 1. Mr. Mansoor Khan S/O Said Mchammad Khan Vill: Gandori Khattak, P.O. Takht-e-Nasrati, Teh: & Distt: Karak
- 2. Mr. Mazhar Iqbal S/O Mohammad Rafiq, C/O Abasin Electric Trader G. P.O. Lane Peshawar Cantt.
- 3. Mr. Magsoodur Rehman S/O Mashuqur Rehman of Dir Vill: & P.O. Badwan Tensil Chakdara District Dir.
- 4. Mr. Fazie Wahab S/8
 Abdul Ghafoor
 Vill: & P.O. Mish Brangola,
 Tehsil Adenzai Distt: Dir.
- 5. Mr. Sarder Aslam Khan S/O
 Noor Aslam Khan,
 Vill: & P.O. Ahmed Abad(Land Hamar)
 Teh: and Distt: Karak.

The appointment of the said candidates is subject to the following conditions:

They shall be governed by the provisions of NMFP Civil Gervant Act, 1973 (NMFP Act.X VIII of 1973) and in metters not specifically mentioned in this Noil Testion shall be governed by such rules and regitations relating to leave, T.A. Medical Attendance Schiority etc. as have been or may be preserised from time to time by Government for that category/status of Government Servants to which they belong:

The chall be governed by the Government Servants Conduct Rules, 1966, the N'AFF Government Servants (Efficiency and Discipline) Rules, 1973 and any other instructions on the subject as may be issued by the Government of N'AFP from time to time;

They will initially be on probation for a period of two years. Their services will be liable to termination at any time without assigning any reason before explry of the period of probation/extended period of probation if their work and conduct during this period is not found satisfactory.

STRE

In such an event they shall be given a month's notice of termination of service or one month's pay in lieu thereof. In case they wish to resign at any times a month's notice shall be necessary or in lieu thereof a month's pay shall be forfiteted.

- They have not been previously dismissed or debarred from service of Government, Board, Local Body or Autonomous or Semi-Autonomous Organization etc;
- Their employment will not in any case confer upon them any claim or right to permanent employment in the department. They will, however, be eligible for continuance and eventual confirmation on satisfactory completion of probation (including the extended period of probation) if and when a regular substantive vacancy in the post is available for them;
- vi. They shall not be entitled to any Travelling
 Allowance Daily Allowance on their first appointment
 ent except in case of permanent Government
 Servants;
- vii. Their interest conjustive position shall be determined in accordance with the order of merit assigned by the NVFP Public Service Commission as indicated in Para-1 above; provided that persons selected for appointment to service in an persons selected for appointment to service in an earlier selection shall rank senior to the persons earlier selection shall rank seniority vizable ted in a later selection. Their seniority vizable those sappointed otherwise shall be determined by provided for in the relevant service/
- viii. They shall be liable to serve anywhere within or outside WWFP in any post under the Federal Govt: or any Provincial Government or Local Authority or a Corporation or Body set up or established by any such Government;
- Their per Att be fixed in the Basic Pay Scale of Their Be 1606-120-3040 from the date of their taking the charge of the posts. In the case of the Caldadaes who are already in the service of the Caldadaes who are already in

If the above terms and conditions of appointment are acceptable to them, they should immediately communicate their acceptance in writing to this department and report for duty to acceptance in writing to this department and report for duty to Director General, Agriculture Extension NVPP on or before Director General, Agriculture Extension NVPP on or before 1.5:1987 at the latest failing which this appointment order may be treated as cancelled in respect of candidate concurred:

SECRETARY TO GOVERNMENT OF NATP AGRICULTURE, FORESTS & COOPERATION DEPARTMENT. Copy forwarded to the:

Secretary, NWFP Public Service Commission, Peshawar.

Director General, Agriculture Extension NWFP, for information and necessary action. He is requested to furnish a copy of assumption of charge as well as declaration of assets in respect of all candidates. He may also intimate if the candidate fails to join duty by the above date. Medical Certificates in respect of above selected candidates are also enclosed for onward submission to the Audit offices concorned.

Accountant General, NWFP, Poshawar.

All candidates concerned.

Manager, Coyt: Printing and Stationery Deptt: Peshawar for nullication in the next issue of Govt: Gazetto.

Personal files of candidates concerned.

Office orders file.

Senior Statistician, Improved Crop Estimates Project, MVTP, Peshawar.

SECTION OFFICER (DSTABLISHMEND

COPY OF LETTER NO.III (S&GAD) 8-15/86/792 DATED 09.08.1989 RECEIVED FROM MR. ABDUL NAZIR KHAN, SECTION (R.III), GOVERNMENT OF NWFP, SERVICE & GENERAL ADMINISTRATIVE DEPARTMENT (REGULATION WING).

Subject: - AMENDMENT IN THE NWFP AGRICULTURE DEPARTMENT RECRUITMENT AND APPOINTMENT RULES, 1981 EXTENSION WING SOIL. CONSERVATION ETC.

Sir,

I am directed to refer to your U.O. letter No.SOE(AD)II (2) 429/88/19151
dated 10.07.1989 on the subject noted and to forward herewith the amendments in the Agriculture Department (Recruitment & Appointment) Rules, 1981 Extension Wing and Soil Conservation Wing duly approved by the Government of NWFP for further necessary action and issuing / notifying in the NWFP Government Gazattee. 10 copies of the Gazettee notification may kindly be sent to Law Department as well as this Department.

Yours Obedient Servant,

Sd/-XXX (ANDUL NAZIR KHAN) SECTION OFFICER (R.III)

GOVERNMENT OF NWFP AGRICULTURE, FOOD & COOPERATION DEPARTMENT

Endst: No.SOE(AD) II (2) 429/88-II/23146-49

Dated Pesh: the 03.09.1989

Copy alongwith copy of the amendments in the Agri: Department (Recruitment & Appointment) Rules, 1981 of Extension Wing & Soil Conservation Wing duly approved by the Govt; of NWFP are forwarded to: -

1. The Director General, Agriculture (Extension), NWFP, Peshawar for information and necessary action.

Sd/-XXX (HASHIM KHAN AFRIDI) SECTION OFFICER (ESTT:)

DIRECTOR GENERAL, AGRICULTURE (EXTENSION) NWFP, PESHAWAR

Endst: NO.18/39/Estt:/13109-18/DGA,

Dated Peshawar the 07.09.1989

Copy forwarded to all the Sub-Offices for information and necessary action.

Sd/-XXX DY: DIRECTOR OF AGRICULTURE (E&M) DIRECTORATE GENERAL AGRI: (EXTENSION) NWFP, PESHAWAR





NOTIFICATION

Peshawar, dated the 3/9/1989.

No. SOE (AD) II(2)429/88.II: - In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province is pleased to direct that in the North-West Frontier Province Agriculture Department (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

-4	,	 In Schedule-L
		III SCHEOUE-L

(a)	for the entries at serial No. 1 to 7 of Part-A under the heading "Soi	il Conservation Wing" the following entries shall be substituted, na	amely:
	·		

(b) for the entries at serial No.1 o 25 under the heading "Extension Wing", the following entries shall be substituted, namely:

1	2	3	4	5	. 6
4.	Statistician				By promotion, on the basis of seniority-cum-fitness, from amongst Assistant Statistical Officers in the Extension Wing with at-least five years experience in planning agricultural experiments and processing the data obtained there-from.
9.	Assistant Statistical Officer	Master Degree in Statistics or Maths or Economics with Specialization in Statistics from a recognized University.		21 to 35 years	a) Fifty-per cent by initial recruitment; and b) fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst Statistical Investigators with at-least five years service as such.





in a second distribution

11.	Statistical Investigator	M.Sc. Statistics, Maths, or Economics with Statistics of one of the subject from a recognized University.	21 to 35 years	b) tw se Co	venty-five per cent by initial recruitment; as enty-five per cent by promotion on the bas niority-cum-fitness, from amongst Statis omputers / Crop Reporters with at-least ars experience of working in the Statisticell.	is of tical ten
27.	Statistical Computer / Crop Reporter	Secondary School Certificate from a recognized Board; or Trained Field Assistant from Agricultural Training Institute, Peshawar	18 to 25 years	By initial i	ecruitment.	٠.



Annex B

DEPARIMENT

NOTIFICATION.

NO.SOF(AD)II(2)285/91. The Governor NVEF is pleased to accord sanction to the up-gradation of all posts of Statistical Investigators from BPS-16 o BIS-17 and re-designation of the posts as Assistant Statistical Officer in the Agriculture Department(Extension Wing) with effect from 1/7/1997

SECRETARY TO GOVT.OF NWFP FOOD, AGRICULTURE, LIVESTOOK AND COOP: DEPARTMENT

ENDST: NO.FD. (SR.I)1-47/92,

Dated Peshawar the 27/6 /1997.

Copy forwarded for information & n/action to:-

1- The Accountant General, N.W.F.P., Peshawar.

2- All the District/Agency Accounts Officers in NWFP.

SMOTION OFFICER(SR.I)
FINANCE DEPARTMENT

ENDST: NO. SOE(AD) II(2)286/91/

Dated Peshewar the 27/6/1997

Copy forwarded for information & n/action to:-

1- The Director General, Agri: (Extension), NMTP, Peshawar.

2- The Director Agriculture Statistics, N/FP, Peshawar.

The Section Officer(SR.I), Finance Department, Peshawar with reference to his letters No.FD.(SR.I)1-47/92, Dated 9/6/1997 and 19/06/1997

(NIBAR ALL SHAH)
SECTION OFFICER (ESTABLISHMENT)

ATTESTED

Annex C"

GOVERNMENT OF MVFP FOOD, AGRICULTURE, LIVESTOCK & GOOP: DEPARTMENT .~

HOPIFICATION.

MO.SOE(AD)II(2)286/91. The Governor MUPF is pleased to re-designate all posts of Assistant Sectional Officers (BE-17) of Agriculture Department (Extension Ving) as Statistical Officers (BS-17) with a special pay of Rs.150/- (Rupees One hundred and Fifty) per month as supervisory pay with effect from 1/7/1997.

SECRETARY TO GOVT: OF MVFP FOOD, AGRICULTURE, LIVESTOCK AND COOP: DEDARWHENT

EMDST: NO.FD. (SR. I)1-47791/

Boson Peshawar the 27

Copy forwarded for information to n/action to:-

The Accountant General, N.W.F.P., Peshawar.

2-All the District/Agency Accounts Officers in M.W.F.P.

> SECTION OFFICER (SR.I) PINANCE DEPARTMENT

EMDST: NO. SOE(AD) II(2) 286/91/

Dated Peshowar the 17/6

Copy forwarded for information & maction to:-

The Director Genera Agri: ("Lientien), NEEP, Peshawer.

The Director Agricultaine Tentraliten, NEFF, Penhawar.

The Section Officer Sk.T), Finance Department, Peshawar W/r to his letters No. ND(Sh.T)1-47/92, Dt: 9/6/1997

(THIMMESILE OHARE ILA FARRIN)
(THIMMESILE OF THE TARBUST HOLDER)



GOVERNMENT OF KHYBER PAKHTUNKHWA AGRICULTURE LIVESTOCK & COGPRATIVE DEPARTMENT

Dated Peshawar, the Diffember 22nd, 2016

TUITCATION

Scrvants (Appointment, Promotion and Transfer) Rules, 1989, final seniority list of officers of Statistical Officers (BS-17) Crop Reporting Services, Agriculture Department Khyber Pakhtunkhwa, as stood on 01.06.2016, is notified:-

S.No.	Name & Accdamic Qualfication	Date of Birth/ Domicile	Date of 1st entry into Govt. Service	Prom	Appointme otion to th	ment/Upgradation/ Present posting Date of the present post			Remirks
 1				Date	BPS	Me	thods of recruitment		
<u>;</u>	2	3	4	5	6	7	8	0	روان د مواد چورونه المساسمة الله الله
. 	Mr.Samiuilah Khan M.Sc(Maths)	01.05.1961 DIKhan	07.01.1985	07.01 1985	BS-17	By upgradation	Statistical Officer, Tank	31.04.2021	
2.	Mr.Sardar Aslam M Sc Statistics	27.06.1956 Karak	08.01.1985	08.01.1985	BS-17	By Upgradation	Statistical Officer, CRS, Kajak	26.06.2016	
3.	Mr.Haji Muhammad M.A (Eco)	01.05.1959 Malakand	08.01.1985	08.01.1985	BS-17	By Upgradation	Statistical Officer, Malakond	30.04.2019	anne una grada di più di
4.	Mr.Aslam Khan M.Sc(Stat)	23.12.1959 Bannu	08.01.1985	08.01.1985	BS-17	By Upgradation	Statistical Officer, Banny	22.12.2019	
5	Mr.Sl:aukat Hayat M.A (Eco)	30.12.1960 Mardan	08.01.1985	08.01.1985	BS-17	By Upgradation	Statistical Officer, Swaly	29.12.2020	
6.	Syed Farman Ali Shah M.Sc (Stat)	01.11.1956 Peshawar	09.01.1985	09.01.1985	BS-17	By Upgradation	Statistical Officer, Abbounded	31.10.2016	
7.	Mr.Zia-ul-Islam M.Sc (Stat)	10.04.1957 Mardan	09.01.1985	09.01.1985	BS-17	By Upgradation	Statistical Officer, November 4	09.04.2017	
8.	Mr.Liagat Ali M.Sc (Maths)	01.01.1958 Dir Lower	12.01.1985	12.01.1985	BS-17	By Upgradation	Statistical Officer,	31.12.2017	
à. –	Mr.Imayatullah M.S.c(fleo)	31.03.1958 Mardan	12.01.1985	12.01.1985	BS-17	By Upgradation	Dir Lower Statistical Officer, Mardan	30.03.2018	<u></u>
0.	tMr.Nadir Khan [M.Sc (Ego)	02.01.1960 Bannu	19.01.1985	19.01.1985	BS-17	By Upgradation	Statistical Officer Lakhi Margar	01 01.2020	



Tate C

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•		Mr. Tariq Usman M.Sc (Stat)	19,12,1959 Kohat	22.01.1985	22.01.1985	BS-17	By Upgradation	Statistical Officer Agriculture FATA,DIK	18.12.2019
	•	Noor ul Islam M.Sc (Stat)	8.7.1959 Bajour	24.01.1985	24.01.1985	BS-17	By Upgradation	Statistical Officer, Swat	7.7.2019
	•	Mr.Asadullah M.A Eco	27.8.1958 Chitral	24.08.1985	24.08.1985	BS-17	By Upgradation	Statistical Officer, CRS, Chitial	26.08.2018
		Mr.Fazli Wahab M.Sc (Stat)	01.12.1958 Dir Lower		04.04.1987 •	BS-17	By initial recruitment	Instructor ATI, Peshawar	30.11.2018
		Mr.Maqsood ur Rehman M.Sc (Statistics)	24.10.1961 Dir Lower		03.05.1987	BS-17	By initial recruitment	Statistician CRS, HQ	23.10.2021
•		Syed Altaf Ahmad M.Sc Statistics	25.01.1967 Mardan	•	30.05.1994	BS-17	By initial recruitment	Statistical Officer	24.01.2027
		Mr.Zahidullah M.Sc Statistics	20.02.1967 Banuu		30.05.1994	BS-17	By initial recruitment	O/o DA (FATA) Peshawar 🕵	19.02.2027

Certified that the above list is final and correct.

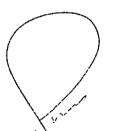
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Copy forwarded to the:

- 1. Director Crop Repoting Services, Khyber Pakhtunkhwa Peshawar.
- 2. PS to Chief SEcrtary, Khyber Pakhtunkhwa, Peshawar.
- 3. PS to Secretary Establishment, Khyber Pakhtunkhwa.
- 4. PS to Secretary Agriculture Department.
- 5. Officers Concerned.
- 6. Manager, Government Printing Press, Peshawar.
- 7. Master file.

Sd/-Chief Secretary



(Dr.Mir Ahmad Khan) SECTION OFFICER (ESTT)



SENIORITY LIST OF STATISTICAL OFFICERS (B-17) SUPPRESITY AGRICULTURE EXTENSION DEPARTMENT AS IT STOOD ON 01,05,2004.

Name & Designation of Officers	Qualification	Date of Birth &	Domicile	Date of I ^M entry Info Govt, Service	Date of promotion to (BPS-17 Supervisory	Present place of positing
2	3	4	5	6	And the second s	8,
Mr. lissanullah ,	Li.So Stats:	2.2,47	DIKhan	6.5.71	1.1.85	SO, Bettagram.
Mr. Pir Mutiammad,	8.So Stat:	3.1.51	Swat	1.7.72	1.1.85	Instructor ATi
Mr. Amir Rehman;	B.Sc Stat;	10.12.50	Swat	3.772	1.1.85	SO, Swat.
Mr. Riaz Ahmad,	8.Sc Slat.	1.3.46	Charsadda	31.12.76	17.9.85	AAO(BAI)
Muhammad Zamen,	3.Sc Stat:	12,12.46	Peshawar	23.9.76	17.9.85	SO, Nowshera.
Magsood-ur-Rehman	M.Sc Stat	24.10.61	Dir Lower	3,5,67	3.5.87	SO Dir Upper
Mr. Fazli Wahab,	M,Sc Stat:	1,12.58	Dir Lower	4.4.67	4.4.87	SO Mkd Agy at Clargal.
Mr. Sardar Aslam,	M.Sc Stat	27.6.56	Karak	5.1.65	13.4.87	SO Karak,
Mr. Munir Anmad,	3.So Slat:	15.6.53	DIKhan	17.11.76	17.2.94	SO Tank.
Syed Altaf Ahmad;	M.Sc Stat	25.12.67	Mardun	30,5.94	30.5.94	SO Peshawar
Vir. Zahidullah,	M.Sc Siat	20.2.67	Bannu	30,5.94	30.5.94	AHO (FATA) Feshaviar
	Officers 2 Mr. Ihsanuilah , Mr. Pir Mutiammad, Mr. Amir Rehman, Mr. Riaz Ahmad, Mr. Riaz Ahmad, Muhammad Zamen, Maqsood-ur-Rehman, Mr. Fazli Wahab, Mr. Sardar Aslam, Mr. Munir Ahmad, Syed Altaf Ahmad,	Officers 2	Officers 2 3 4 Mr. Ihsanullah , Isso Stats: 2.2.47 Mr. Pir Muhammad, 8.Sc Stat: 3.1.51 Mr. Amir Rehman, B.Sc Stat: 10.12.50 Mr. Riaz Ahmad, 8.Sc Stat: 1.3.46 Muhammad Zamen, 8.Sc Stat: 12.12.46 Maqsood-ur-Rehman, M.Sc Stat: 24.10.61 Mr. Fazli Wahab, M.Sc Stat: 1.12.58 Mr. Sardar Aslam, M.Sc Stat: 27.6.56 Mr. Munir Anmad, 8.Sc Stat: 15.6.53 Syed Altaf Ahmad, M.Sc Stat: 25.12.67	Officers 2 3 4 5 Mr. Ihsanullah , Li.Sc Stats: 2.2.47 DIKhan Mr. Pir Muhammad, 8.Sc Stat: 3.1.51 Swat Mr. Amir Rehman, B.Sc Stat: 10.12.50 Swat Mr. Riaz Ahmad, 8.Sc Stat: 1.3.46 Charsadda Muhammad Zemen, 8.Sc Stat: 12,12.46 Peshawar Maqsood-ur-Rehman M.Sc Stat: 12,12.46 Peshawar Mr. Fazil Wahab, M.Sc Stat: 1.12.58 Dir Lower Mr. Sardar Aslam, M.Sc Stat: 27.6.56 Karak; Mr. Muhir Anmad, 8.Sc Stat: 15.6.53 DIKhan Syed Altaf Ahmad, M.Sc Stat: 25.12.67 Mardan	Officers Control of Example 1 Control of Example 2 Control of Example 3 Control of Example 3<	Officers Qualification Domicile Govt, Service (BPS-17) Supervisory 2 3 4 5 6 7 Mr. Insanualah 6.5 Sestes 2.2,47 DIKhan 6.5.11 1.1.85 Mr. Pir Muhammad 8.50 Stat 3,1.51 Swat 1.7.72 11.85 Mr. Amir Rehman 8.50 Stat 10.12.50 Swat 3,7.72 11.85 Mr. Riaz Ahmadi 8.50 Stat 1.3.46 Charsadda 31.12.76 17.9.85 Muhammad Zamen 3.50 Stat 12.12.46 Peshawar 23.9.76 17.9.85 Magsood-ur-Rehman 4.50 Stat 24.10.61 Dir Lower 3.507 35.87 Mr. Fazil Wahab M.Sc Stat 1.12.58 Dir Lower 4.4.67 4.4.87 Mr. Sardar Aslam M.Sc Stat 27.6.56 Karak 5.1.65 13.4.87 Mr. Munir Anmad M.Sc Stat 15.6.53 DIKhain 17.11.76 17.2.94 Syed Altaf Ahmad M.Sc Stat 25.12.67 Mardun 30.5.94 </td

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Annex E

GOVERNMENT OF N.W.F.P FINANCE DEPARTMENT

NOTIFICATION

Dated Pesh the 2nd March 1978.

No.FD(SRI)2-51/72-III in pursuance of the decision taken by the Federal Govt, that the posts having various designations and nomencla; are for which the minimum qualifications and or Addigraduate degree shall be placed in the Revised N.P.S.No.17 with effect from 1.5.1977, the provil; Government are pleased to decide that the following posts, in the Agri.& Animal Husbandry Depts, the minimum prescribed qualification of which are aforesaid shall be placed in the revised National Pay Scale No. 17 from that date:

- Agricultural Assistant (redesignated as
 - · Agriculture Officer/Instructor.
- ii. Soil Conservation Assistant.
- iii. Research Assistant (Redesignated as Assistant Research Officer.

Animal Husbandry Sector

- Veterinary Assistant (redesignated as Veterinary Officer, Research).
- v. Field Dairy Assistant (redesignated as Veterinary Officer (Dairy).

The Provi: Government are also pleased to place the following posts in Agricultural and Animal Husbandry Departments for which the minimum qualification is a veterinary on Agriculture degree in Revised National Pay Scale No.17 with effect from 1.5.1977 or the date of actual creation of the posts whichever he later on adhoc basis till the relevant Recruitment Rules prescribing the reguisite qualifications are notified by the Govt.

Agricultural Sector.

- Chemical Assistant (redesignated as Agricultural Officer laboratory).
- ii. Land Development Officer.
- ii. Agriculture Extension Officer.

Animal Husbandry Sector

- iv. Sheep Development Inspector
- v. Cattle Development Inspector
- vi. Agro-strologist.
- vii. Laboratory Manager.
- /iii. Live Stock Manager.

Grade017 will be admissible to the incumbents of the posts mentioned a para 1 above who were in nosition on 30.4 1,977 and also possessed the rescribed minimum quantications of a degree in Agri. or Veterinary in the aspective Sector Grane 17 will be personal to them and they will be entitled but their promotion only after acquiring the qualifications of M.Sc. (Agril of M.Sc. (A.H.) D.V.M.



As regards the incumbents of the posts mentioned in paragraph 2. above, they will also be ontitled to grade 17 provided they were in position on 30.4.1977 and possessed a degree in Agriculture/Veterinary. The grant of grade 17 to them will be on adnoc basis till the relevant recruitment rules prescribing the said qualifications are notified by the Government Grade-17 will be personal to them and they will be entitled to further promotion after regularization of grad 17 appointment only on acquiring the qualifications of M.Sc. (Agri) or M.Sc.(A.H)/D.V.M. The adhec appointments will be subject to the usual epeditions that till the Recruitment Rules are approved such appointments will be reviewed and extended on six monthly basis.

Minimum qualification for initial recruitment to all the above posts, with affect from 1.5.1977 in the Agriculture Sector will be M.Sc (Agri) and in the Animal Husbandry sector M Sc(A.H/D.V.M. All those appointed against the above posts on 1.5.1977 and thereafter and who possessed B.Sc.(Agri). degree in Agriculture Sector will be entitled to grade 16. They will be eligible for grade 17 and for further promotion only after possessing the qualification of M.Sc. (Agri) or M.Sc. (A.H)/D.V.M. of the respective sectors.

The name of the incumbents of upgraded posts will be published in the gazette on obtaining the approval of M.L.A. in such case in accordance with the appointments rules 1975 and the payment of arrears allowed as may be due on or after 1.5.1937 after normal deductions:

> (MIR BAKHSH ZAFAR) Addl.Finance.Secretary

Dated Pash.the2nd March 1978.

Copy forwarded for information to:-

- 1. All Administrative Secretaries to Govt. of NWFP. All Commissioners/Deputy Commissioners/Political Agonts/Distt. All Commissioners/Deputy Continued to Session Judges.
- All Heads of Attached Department.
- The Registrar, Peshawar High Court, Peshawar. 3.
- The Secretary to Governor, NWFP, Peshawar.
- The Secretary, Public Service Commission, Peshawar.
- The Registrar, Service Tribunal NWFP. 6..
- The Martial Law Administrator Zono "B" Peshawar. 7.

The order after fixation of pay in Grade 17 will be issued separately.

Sd/-1 (Safdar Ali Khan-) Deputy Secretary (Regulation) Finance-Department

No.FD(SRI)2-51/72-III

Dated Pesh the 2nd March 1978.

Copy forwarded for information to:

P.A to Secretary/Additional Secretaries/Joint Secretary/Deputy Secretaries in Finance Department. in Finance Department

All Section Officers/Budget Officers in Finance Department.

The Director, Local Fund Audit, NWFP, Peshawar.

Sd/- (Ittikhar Hussain) Section Officer (S.R.I) Financo Department NWFP

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- 1) Mr. Burne Juniber,
- 3) Mr. Aurangueb
- 4) Hr. Hoorul Hoda,

SECRETARY AUGILION ON E

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GOVERNMENT OF NWFP AGRICULTURE FORESTS AND COOPERATION DEPARTMENT

Dated Peshawar, the _____/1993.

NOTIFICATION:

No. SOE (AD) III (2) 201/KC.

The Governor NWFP is pleased to allow B-17 as personal to the following Assistant

Research Officer of Agriculture Department w.e.from 1-5-1977, subject to the condition that they will be eligible for further promotion on adjuring M.Sc (Agri).

- 1. Mr. Buzurg Jmihar
- 2. Mr. Umar Amin
- 3. Mr. Aurangzab
- 4. Mr. Noorul Hadi

SECRETARY	ACDICHI TI	DE
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Endst. No. SOE (AD) III (2) 201/KC/

Dated Pesh: the _____/1993

Dated Pesh: the 15/3/1993

Copy forwarded to the: -

- 1. Resident Audit Officer, Tarnab.
- 2. Resident Audit Officer, Nowshera, Pirsabaq.

SECTION OFFICER (SR-I) FINANCE DEPARTMENT

Endst. No. SOE (AD) III (2) 201/KC/7110-15

Copy forwarded for information and n/action to the: -

- 1. Director Research, NWFP Agricultural University, Peshawar.
- 2. Section Officer (Agri-1) Technical, Agriculture Department.
- 3. Section Officer (SR-I) Government of NWFP, Finance Department w/r to his No.FD(SR-I)1-28/89 dated 26-410-
- 4. Manager Government Printing Press, Peshawar.
- 5. Officers concerned C/O Director Research, NWFP Agril: University, Peshawar.
- 6. Office order file.

(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)



BEFORE THE HAMP SERVICE

TAWAR

Appeal No. 27 (

Date of institution 16.4.1990, Date of decision 16.6.1991.

BUZUNG JAMIHER AND 5 OFHERS, RESEARCH ASSISTANTS RESEARCH WING AGRICULTURAL RESEARCH INSTITUTE, TARNAB FARM...... APPELLANTS.

VERSUS

Government of NWFP through Secretary to Govt.of NWFP Agriculture Department Peshawar.......RESPONDENT

APPEAL AGAINST NOTIFICATION NO. S.O.G(AD) 11(2)305/G-11 DATED 26.4.1978 OF THE GOVERNMENT OF NWFP AGRICULTURE DEPARTMENT WHEREBY THE HAMES OF THE APPELLANTS WERE ORITTED AND WERE NOT UPGRADED IN BPS-17.

QAZ1 MUHAMMAD AMWAR ADVOCATE

..... For appellants

MR.SALD BASHAR, GOVT. PLEADER

..... For Respondent

GAMI HAMID-UD-DIN FR. TAJ FOHAFMAD KHAN CHAIRMAN MEMBER

JUDGSEUP

wall Hamid-UD-DIR CHAIRMAR: This appellants remanded by the Supreme Court of Pakistan vide its jedgment dated 10.3.1990 which was filed by the appellants in this Tribunal on 29.3.1981 against the Notification No.SOG(AD)11(2)305/G-11 ,dated 26.4.78 whereby the names of appellants were omitted and were not up-graded in BRS-17.

The facts averred in the appeal are that the appealants had initially joined the service as Research.

Assistants in the Research Wing of the Agriculture Department

TTESTED

Director General
Agricultural Research NVFR
Agricultural University
Poshewer.

- 24

which posts were later on advertised and the appellants had applied for the said posts. Since the appellants had acquired the required qualification given in the advertise. ment , therefore, they were delected and appointed an Research Assistants. In the year, 1972 all the incumbents of the posts of Research Assistants were granted MFS-16 vide Notification dated 4.12.1972 (Annexure-II) .In the year 1998 the federal Covt. took a decision to re-designate The Research Assistants as Assistant Research Officers and upgrade the same to NPS-17 which decision was followed by the Provincial Govt. vine notification dated 26.4.1978- However the appellants were omitted from the scope of this notification (Annexure-III). Thereafter the appellants made representation to the respondent against thes omission in the Notification but the same were not considered . The appellants then filed a writ petition in the Peshawar High Court in which it has been hold that the point as such falls within the jurisdriction of the Tribunal. Hence the present appeal was filed on 29.5.1981.

The respondent department have filed reply in which the ples of limitation and competency of the appeal have been raised as preliminary objections. On factual side it has been stated that since the appellants were simple, scince Braduates and not ogriculture graduates, therefore, they were not considered by the competant authoraty for NPS-17.

Agrument heard and the record perused.

In this case the contention of the learned counsel for the appellants is that the Notification which has deprived the appellants from NPS-17 is negation of the terms and conditions of service of their employment and that the Tribunal is competent to pass an order by which it can annul the provision of the Notification which vitiated against the terms and conditions of service of the appelTants. In this case

Contd....n.p.

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Directof General
Addicultural Research MWFP
Addicultural University
Poshawat

the notification which has ne scops of application of

department relias on the wording of the notification which has specifically included those from the scops of application of this notification who do not possess graduate degree in Agriculture. The Tribunal agrees with the contention of the learned counsel for the appellant for the reasons:

- 1.That the impugned notification has not been drawn in accordance with the principles laid down in the Notification issued by the Federal Government .Notification issued by the Federal Govt.does not differentiate between the Researant Assistants having degree of graduation in agriculture and those who are possess only graduate degree in science.
- 2. After the issuance of the impugned notification the appellants have not been assigned any other duty than the one which has been performed by those whose posts have been upgraded from BPS-16 to NPS-17. In fact the appellants who possess only science degree but their posts have not been upgraded from NPS-16 TO:NPS-17 (for performing identical duties.
- 3/ofter upgradation of the posts the concept of research Assistant in the Agriculture department has been climinated.
- If the respondent department has not shown that any separate budget in the salary has been allocated for the Research Assistants whose posts have not been upgraded.

In the light of the above discussion, the Tribunal is of the view that while issuing the impugned notification the Provincial Government has deviated from the spirit of the original notification issued by the Federal Govt, which did not differentiate between the posts held by those who only possessed degree in simple science and that the function and duties of the appellants are idential to those who are enjoying MPG-TV after upgradation of the posts. Therefore, the the Tribunal shile accepting the appeal, direct that the appellants be given the benefits of the impugned notification,

Director General
Agricultural Research NWFP
Agricultural University
Poshawai

the Federal Government had issued a Notification in which there is no mention of appredation of the posts of only those Revearch Assistants who pobsessed graduate degree in Miriculture and does not differentiate between Renearch Assisthats inducted in service on the basis of simple degree in Science and between those who passessed Graduate degree in agriculture .All the research Assistant earlier inducted were either graduates in agriculture or they we e simple graduates in the science subject and performed the duties of Research officers identical in nature with the same emoluments. In this context the learned counsel for the appellant referred to) 11(2)255/72 dated 4.12.1972 vide Notification No.SOG(E)(which the posts of Research Assistents were roised to NPS-17 without differentiation between the Research Assistant who were graduates in Marioubture and those who were graduate in simple science the learned counsel for the appellants had contended that despite the issuance of the impugned notification the functions/duties discharged by the appellants who were simple graduates in science are identical to those being performed by the Assistant Research Officer after their posts were upgraded . Moreover there is no rule or order expecting the impugned notification which differentiates between the duties of the two catagories of officers namely Assistant Research Officers with graduation in Agriculture and Research Assistants with educational qualification of simple graduation in science. The contention of learned counsel for the appellants is that the provincial Government while issuing the impugned notificaupgrading the posts of all the . Research Assistants whether they were graduate in agriculture or were simple gradudate in science which viliated against the terms and conditions of services of the appellant. The respondent Deptt; irrespective of the face that they does not possess degree in Agriculture, Parties are left to hour their own costs and file be-consigned to the record.

NNOUNCED 16.6.1991

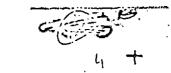
Sd/- QAZI HAMID-UD-DIN) CHAIRMAN

Sa/-Taj Moharibad Kilan MEMBER.

Statistical Officet

Director Gonoist Apricultural Ratourch NVFP Apricultural University. Pashawar.

THOS. Office Ch's heapawar



BEFORE THE H.W.F.P. SERVICE TRIBUNAL, I IN HAWAR.

Amorea G

Appeal No.-359/1995

Asmatullah Khan, Research Officer (Chemistry Section, Agricultura Research Institute, D.I.Khan.

Appeal No.360/1995

Abdul Sattar Khan, Research Officer, Agriculture Research Station Scrai Naurang Bannu.

Appoul No. 361/1995

Halik Ghulam Ali, Research Officer, Agriculture Research Institute, D.I. Khan.

Appeal No. 362/1995

Mustajab Khan, Social Physicist, Agriculture Research Institute, Tarnab Peshawar.

(APRELLANTS) .

VERSUS

Socretary to Government of NWFP, Agriculture Department, Poshawar.

. (RESPONDENT)

Mr. Khushdil Khan Momand, Advocate.

. For appellants.

HR: HIDALATULLAH KHAN MR. MUHANMAD QAIN JAN KHAR . MEMBER ..CHAIRMAN.

JÚDGMENT.

of the above captioned 4 appeals, as similar/indentical question of law and facts are involved in all the above appeals.

The short facts giving rise to the present appeals are that the appealments and others were initially appointed as Research Assistants in PPS-11 in the Research Wing of the Department of Agriculture Pasnawar Region. In response



of Research Assistants laid down as B.Sc. (Hous) in Agriculture or B.Sc (Agr) or B.Sc. (2nd Division) in the subject from a recognized University. It is pertinent to mention that presently appellant is working as Research Officer in his respective Research Institute.

That by virtue of Notification No. SOG(E) (EACE) II(2)
255/72 doted 4.12.1972, the grade of the Research
Assistant had been raised to grade 16 (Class II
Gazetted) with effect from 01.12.1972. Therefore, the
appellant was also upgraded in NPS-16 alongwith other
Research Assistants irrespective of his qualification.
Copy of the Notification is attached as Annexure 'N'.

That in the year 1978 the Federal Government teak a declaion to redesignate the Research Assistant as Assistant Research Officer and upgrade the same to N.W.F.P acting on the decision of the Federal Covernment of Assistant redesignated the posts of Research Assistant as Assistant Research Officers and upgraded the same to NPS-17 and issued a Notification Ne.SOG (AD)11(2)/305/G-II dated 26.4.1978 wherein the name of the appellant was emitted and thus the appellant was not redesignated and upgraded. (Copy of the Notification dated 26.4.1978 is attached as annexure C).

That the appoilant boing aggrioved from the above Notification made representation and review potition to the respondent in his individual capacity as Egil as joint representations through Director Agriculture Research Institute Tarnab Positionar but he received no response till the filing of this appeal. (Copies of the relevant correspondence are attached as Annaxures into televant correspondence are attached as Annaxures



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Counsel and the appellants were present. Respondent department was absent, despite service of the notice, therefore, proceeded ex-parte on 19.7.1995.

appellants present with their counsel. Respondent department absent. Consequently no one appeared on behalf of the respondent department before the Tribunal.

Arguments heard and record perused.

The counsel for the appellants produced and placed on file, a copy of the judgment dated 16.6.91 passed by this Tribunal in Appeal No. 27/81/Neem/90, "Bazurg Jamiher and 3 others, Vs. Government of NWFP through Secretary Agriculture NWFP Peshawar." by which the appeal was accepted and relief granted to the appellants. Since the appellants have also identical case, they were also entitled for the same relief.

The main points on which the decision of the Tribunal dated 16.6.1991 was based are as under :-

- -"(i) That the impugned notification has not been drawn in accordance with the principles laid down in the Notification issued by the Federal Government. Notification issued by the Federal Government does not differentiate between the Research Assistants having degree of graduation in Agriculture and those who possess only graduate degree in science;
 - (ii) After the issuance of the impugned notification, the appellants have not been assigned any other duty than the one which has been upgraded from NPS-16 to NPS-17. In fact the appellants who possess only science degrees but their posts have not been upgraded from NPS-16 to NPS-17 are performing identical duties;
- (iii) After upgradation of the posts the concept of Research Assistants in the Agriculture Department has been eliminated.
- (iv) The respondent department has not shown that any separate budget in the salary has been allocated for the Research Assistants whose posts have not been upgraded."

The Tribunal in the aforesaid appeals, was of the view that, while issuing the said notification, the Provincial Cont..page...4.



Covernment has deviated from the spirit of the original notification issued by the Federal Government which did not differentiate between the posts held by those who had the qualification of graduation in Agriculture and those who only possessed degree in simple science subject. Moreover, it was held that the functions and duties of the appellants are identical to those who are enjoying MPS-17, after appradation of the posts. It may be mentioned here that in the year 1972 all the incumbents of the posts of Research Assistants were granted NPS-16 vide Notification dated 4.12.1972, making no differentiation or descrimination amongst the Research Assistants on account of their academic qualification which the incumbents possessed. All the Research Assistants were promoted irrespective of the fact that they possessed the degree in Agriculture, or other science subjects. In fact all the incumbents of the posts of of Research Assistants were selected and appointed irrespective of the fact where they possessed a degree in Agriculture or . other science subject. The counsel for the appellant produced a copy of notification dated 25.1.78 issued by the Punjub Government wherein all the Research Assistants were re-designated an Applintant Roboarch Officer (copy placed on file as Annexure-R-1). With regard to the issue of time limitation, the appellants have rised applications for condonation of delay. The following counsel for the appellants relied on the/decisions of Superior Courts in which the delay was condoned.

1991-PLC-C.E.975 (b),5-4. Appoint-Limitation-Condonation of delay-Appellants not causing deliberate delay in filing appeal so 63 to deny them relief on grounds of limitation-Appellants had neither been careless, nor sleeping over their rights, nor their indelence was deliberate in nature-Appellants had been pursuing the matter since seen after passing of the impugned order in good faith before concerned authority-Held, there existed no justification for turning appellants out of court, particularly when such a course was not going to promote ends of justice-1 lay was condoned in filing popent in circumstances.

Cont. page . . 5

EAT OVER

FLD-1992-SC-825(b)S./4. Appeal-Limitation-Laches-Civil Cervant had not attained the age of Superannuation (58 years) when he filed appeal before the Service Tribunal and was entitled to be in service on the date and the act of refusal to rejoin the service continued a continuing wrong-No bar of limitation was attracted nor did a question of laches arise in circumstancesquestion of laches or bar of limitation would arise only if plea of Civil Servant that the order directing his retirement was unconsitutional, in-operative and void was not well founded.

Counsel for the appellants further contended that since the rights of the incumbents having identical qualification with the present appellants, were granted the relief by the Tribunal vide its decision referred to above, which has attained finality as no appeal seems to have been preferred against the judgment before the Hon'ble Supreme Court of Pakistan. The appellants should have been granted the relief by the respondent department itself without resorting to unnecessary litigation. It was further stated that since the issue involves monetary benefits to a certain category of Government Servents and for the same category there cannot be laid 2 different yard sticks, hence the appellants are entitled to the relief, irrespective of the act that the Provincial Government while issuing the impugned notification, deviated from the spirit of original notification issued by the Federal Government which did not differentiate between the posts held by those who had the qualification in ogniculture and those who only possessed degrees in other science subjects. The relief has been established by the judgment of this Tribunal referred to above and in such cases, limitation will not run against the appellants who were basically entitled to the reliaf but deprived from the same by the ampugned notificultion. The counsel for the appellant further referred to a ... letter addressed by the respondent department to the Finance Department on 10.11.1993 (Annoxume-II), in which the respondent Cont. Nago 6.



department has acknowledged the rights of the appellants to the relief as prayed for in those appeals. In this letter the judgments of the courts/Tribunul have been referredand the Finance Department has been requested to allow upgradation to the appollants to BPB-17, on the analogy of their colleagues, having the same qualifications, who have been granted upgradation by the department itself and in compliance with the judgment of this Tribunal dated 16.6.1991.

The Tribunal agrees with the contention and arguments of the learned counsel for the appellants and on the basis of the previous judgment of the Tribunel dated 16.6.91 as mentioned above, accepts the appeals and directs that the appellants be given the benefits of the impugned notification, irrespective of the fact that they do not possess degree in agriculture. Parties are left to bear their own costs. File he consigned to the record.

MINOUNCEDA 16.8.1999.

MEMBER.

Statistical Officer HQr. Office CRS

Control of the Day Lotte Copy.

Pespawai

COVERNMENT OF NMLb .. VEBATIT FINANCIAL COOR: DEBALL Dated Peshawar, the 15-1-2007.

MOTIFICATION. NO.SOE(AD)111(2)201/2006.-

In pursuance of the judgement or the Supreme Court of Pakistan and Government of MWFP Finance Depaktroant (Regulation Wing) letter No. SÓ (FE)/FD/7-1.92005 dated 27-12-2006 the compotent authority is pleased to accord sauction to the unoradation of the post of Statistical Assistant/Assistant Statistician from 85-16 to BS-17 as personal to irin, Prohamme i Idress Qazi, Statistical Assistant/Assistant Statistician, Agriculture "escarch Institute, Tornab, Peshawar with effect from 01-05-1977. However, the post shall automatically stated downgraded to its original past on vacation by its above named incombant.

ESTETALLY AGRICULTURE

Suds., (10.501:(20)111(2):201/2006,

Dated Peshawar, the 15-1-200%

A copy is forwarded to the Accombant Coneral, HWPP, Peshawara fur information and frather incessary action.

> (BAFIQ AKBAR) SECTION OFFICER (R) FINANCE DEPART LENT

Endet of even No. 3 Date.

Copy forwarded for information and necessary action to:-

The Director 1 moral, Agricultural Research, NV4P, Peshawar. The DG Agricultural Research, ARI, Tarnab, Fushawar.

The Accountant General NWFP, Peshawar

The Section Officer (FR) Govt. of NWFP Finance Department w/r to his Police in the content allove.

The budget Officer-VIII finance Department.

T/D/Estt/DGAR.

Dated Pesh: the, 3/ -- 1

Copy of the above is forwarded to:-

1. D. C. 100

ate (Poshawar)

2 - 8 lotosticam my accompaction.

Admn. Officer (Esst!) Directorate General Research NWFP, (Peshawar)

GOVERNMENT OF NWFP AGRIL: LIVESTOCK AND COOP: DEPTT

Dated Peshawar, the 15-1-2007

-34

<u>NÖTIFICATION</u>

No.SOE (AD)III(2)201/2006.- In pursuance of the judgment of the Supreme Court of Pakistan and Government of NWFP, Finance Department (Regulation Wing) letter No. SO (FR)/FD/7-13/2005 dated 27.12.2006 the competent authority is pleased to accord sanction to the up-gradation of the post of Statistical Assistant / Assistant Statistician from BS-16 to BS-17 as personal to Mr. Muhammad Idress Qazi, Statistical Assistant / Assistant Statistician, Agricultural Research Institute, Tarnab, Peshawar with effect from 01-05-1977. However, the post shall automatically stand downgraded to its original scale on vacation by it's the above named incumbent.

Sd/-

SECRETARY AGRICULTURE

Endst. No.SOE (AD)III(2)201/2006

Dated Peshawar, the 15-1-2007.

Copy forwarded to the Accountant General, NWFP, Peshawar for information and further necessary action.

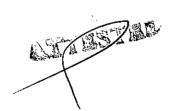
(RAFIQ AKBAR)
SECTION OFFICER (FR)
FINANCE DEPARTMENT

Endst. Of even No. & Date.

Copy forwarded for information and necessary action to: -

- 1. The Director General, Agricultural Research, NWFP, Peshawar.
- 2. The Director General, Agril: Research, ARI, Tarnab, Peshawar.
- 3. The Accountant General, NWFP, Peshawar.
- 4. The Section Officer (FR) Govt. of NWFP, Finance Department w/r to his office letter number quoted above.
- 5. The Budget Officer VII, Finance Department.
- 6. The Officer concerned.
- 7. PS to Secretary Agriculture.

(JAVAID MAQBOOL BUTT) SECTION OFFICER-ESTT:



Annex 1

GOVERNMENT OF NWFP AGRIL: LIVESTOCK & COOP. DEPTT:

Dated Peshawar, the 25 /6/2008.

In pursuance of the Government, of MOTIFICATION NWFP Finance Department letter No.KC.SO(FR)7-13/2008 dated 20-6-2008, the Government of NWFP Agriculture, Livestock & Cooperation Department is pleased to accord sanction to the up-gradation of the two numbers posts of Assistant to accord sanction to the up-gradation of the two numbers posts of Assistant Statistician from BS-16 to BS-17 as personal to the following officers from the date

一 (つけらけい	ian non es-	· · · · · ·
ام اعداد	gainst Eacht-	
(W)CG G	g	Date of up-gradation of
		Date of 15 Brookers.
	- SI No. Name of Office	the post.
		20.01.1991
		ad flyas Khan,
	1 Mr. Munaum	
	Additional St	atistician,
	Apple Reseat	ch Institute, Dikhan. 17-12-1995
	1 7/0111-12052	Vb20
	Mr. Murtaza	Kilani
	the state of the s	atisticiali.
	in Duran	rch Institute, Tarnab, I
		(Cit tiles)
	Peshawar.	
		•

However, the post shall automatically stand downgraded to its anginal scale on vacation by the above named incumbents.

SECRETARY TO GOVT. OF NWFP AGRIL: LIVESTOCK & COOP: DEPIT:

endst. No.KC.SO(FR)7-13/2008/S.Investigator Dated Pesh: the 25/6/2008.

apy forwarded for information and necessary action to:-

The Accountant General, NWFP, Peshawar. The District Accounts Officer, DIKhan.

> SECTION OFFICER (FR) GOVERNMENT OF NWFP, FINANCE DEPARTMENT.

No.SOE(AD)3(2)201/06-07

Dated Peshawar the 25 /6/2008.

Copy forwarded for information and necessary action to:-

The Director General, Agricultural Research, NWFP, Peshawar.

The Director General, Agril: Research Institute, Tarnab, Peshawar.

The Director, Agril: Research Institute, DIKhan.

The Section Officer (FR) Govt. of NWFP, Finance Department w/r to his letter quoted above.

The Budget Officer-VII, Finance Department.

Officers concerned.

(JAVAIC MAQBOOL BUTT) SECTION OFFICER-ESTT:

GOVERNMENT OF NWFP AGRIL: LIVESTOCK AND COOP: DEPTT

Dated Peshawar, the 25/6/2008.

NOTIFICATION

No.SOE (AD)3(2)201/06-07.-

In pursuance of the Government of NWFP, Finance Department letter

No. KC. SO (FR) 7-13/2008 dated 20-6-2008, the Government of NWFP Agriculture, Livestock & Cooperation Department is pleased to accord sanction to the up gradation of the two numbers posts of Assistant Statistician from BS-16 to BS-17 as personal to the following officers from the date noted against each: -

Sl.No.	Name of Officer	Date of up-gradation of the post
1.	Mr. Muhammad Ilyas Khan, Additional Statistician, Agril: Research Institute, D.I.Khan	20.01.1990
2.	Mr. Murtaza Khan, Assistant Statistician, Agril: Research Institute, Tarnab, Peshawar.	17-12-1995

However, the post shall automatically stand downgraded to its original scale on vacation by the above named incumbents.

> SECRETARY TO GOVT OF NWFP AGRIL: LIVESTOCK & COOP: DEPTT:

> > Dated Pesh: the 25/6/2008.

Endst. No.KC.SO (FR) 7-13/2008/S. Investigator

Copy forwarded for information and further necessary action to: -

- 1. The Accountant General, NWFP, Peshawar.
- 2. The District Accounts Officer, DIKhan.

SECTION OFFICER (FR) **GOVERNMENT OF NWFP** FINANCE DEPARTMENT

Endst. No.SOE (AD) 3 (2)201/06-07

Dated Peshawar the 25/6/2008.

Copy forwarded for information and necessary action to: -

- 1. The Director General, Agricultural Research, NWFP, Peshawar.
- 2. The Director General, Agril: Research, ARI, Tarnab, Peshawar.
- The Section Officer (FR) Govt. of NWFP, Finance Department w/r to his letter number quoted above.
- The Budget Officer VII, Finance Department.
- The Officers concerned.

(JAVAID MAQBOOL BUTT) SECTION OFFICER-ESTT:



DECHYMYK BEROER AWER SEEMCE TRIBUN

Service, Appeal No:

cranitto tentratiers Buthliar Rhan,

CKOP, Reporting Services,

Peshawar

SHSJO

Through Chief Secretary L Covernment of NWFP

Department, Peshawar Agiricalture, Livestock & Cooperation, 2. Secretary,

Goveenment of NWFP, 3. Secretary,

Exespondents

JusiləqqA

Епапсе Department, Резћамат

DECUDED MILH IN LHE BEONISILE OF DAYS LIME HOR WHICH APPEAL WAS MADE AUD SAME HAS NOT BEEN THE DATE OF APPOINTMENT / DATE OF MOTIFICATION TOUR THE GRANT OF UP-GRADATION TO BEST IN RELEASE VERENT NUDER SECTION & OF SERVICE TRIBUNAL ACT.

<u> कृत्रायात्र ३० ०८ ०८ तथ्या २८०० १५१</u> <u> o sesucisumstio edi ni til meeb yom su leiler vedto dons</u> Notified ion dated 02.03,1978, with back benefits and Shir 1701.20.10 Law TI SPB of DI SPB mort restile Institute the Post of Statistical Investigatory Statistical A yraq ni utiraqsib gnissixo oh ovomor ol bosovib od That on acceptance of this Service Appeal the Respondence

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Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary Appellant in person, Maqsood-ur-Rehman, 26.03.2009 Statistician and Alamgir Shah, Supdt: for the respondents present. Arguments already heard. Record also perused. Vide our detailed judgment of today in Appeal No. 740 of 2008 (Shaukat Hayat-vs-Govt: of NWFP through Chief Secretary & others), this appeal is accepted in the light of the previous judgments with costs & with directions to the official respondents as mentioned in the last para of the judgment. ANNOUNCED 26.03.2009

BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 740/2008

Date of institution ... 26.05.2008 ... 26.03.2009 Date of decision

Shaukat/Hayat, Statistical Officer, CROP, Reporting Services, Swabi.

... (Appellant)

VERSUS

1. The Govt. of NWFP through Chief Secretary.

Secretary Agriculture, Livestock & Cooperation Department, Peshawar.

Secretary, Govt. of NWFP, Finance Department, Peshawar.(Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT 1974 FOR THE GRANT OF UPGRADATION TO BPS-17 W.E.FROM THE DATE OF APPOINTMENT/DATE OF NOTIFICATION FOR WHICH APPEAL WAS MADE AND THE SAME HAS NOT BEEN DECIDED WITHIN THE REQUISITE 90 DAYS TIME.

Mr. Waqar Ahmad Seth, Advocate. Mr.Jamal Abdul Nasir, Addl:Govt.Pleader.

... For appellant

For respondents

Mr.Justice(R)Salim Khan, Syed Manzoor Ali Shah.

Chairman Member

JUDGMENT

The broad facts and legal JUSTICE(R)SALIM KHAN, CHAIRMAN:questions in Appeal No. 740/2008 by Shaukat Hayat and Appeals No.741/08 by Noor Islam, 742/08 by Haji Muhammad, 743/08 by Nadir Khan, 744/08 by Liaqat Ali, 745/08 by Ziaul Islam, 746/08 by Mian Inayatullah, 747/08 by Tariq Usman Khattak, 748/08 by Syed Farman Ali Shah, 749/08 by Aslam Khan, 750/08 by Assadullah Khan, 751/08 by Pir Muhammad Khan, 752/08 by Bakhtiar Khan, 753/08 by Amir Rehman, 756/08 by Munir Ahmad, 757/08 by . Muhammad Ishaq, 758/08 by Muhammad Aslam and 747/08 by Fayaz Ahsan are similar, therefore, these cases are taken together for arguments and orders.

Shaukat Hayat appellant contended that he was Post Graduate in Economies and was working as Statistical Officer (BPS-17) it Crop Reporting

Services of the Agriculture Department. He was appointed as Statistical Investigator (BPS-16) which post was upgraded to BPS-17 and was redesignated as Assistant Statistical Officer. Vide Notification dated 2.3.1978, the Finance Department granted BPS-17 to certain officers of Agriculture Department on the basis of being Graduate and Master in Agriculture and Veterinary from the date of appointment. This Tribunal was approached by other Degree holders through Appeals No. 359/1995, 360 of 1995, 361 of 1995, 362 of 1995 decided 16.8.1995, Appeal No. 27 of 1990 decided on 16.6.1991, Appeal No. 582 of 1995 decided on 25.3.1996, & Appeal No.5 of 1995 decided on 19.5.2003. The August Supreme Court of Pakistan also upheld the decisions vide C.P No. 468-P of 2003 decided on 17.6.2005 and Civil Appeal No. 642 of 2005 decided on 23.3.2006. The department did not grant the same benefit to the appellants. They filed their departmental appeals which were not decided, hence the present appeal by Shaukat Hayat appellant and the other appellants of the above mentioned appeals. It is worth mentioning that the appellants claimed to be qualified with Post-Graduate Degrees either in Statistics or Mathematics or Economics or Physics.

- The respondents contested these appeals. They contended that the posts of the appellants were upgraded from BPS-16 to BPS-17. But they did not have Degree in Agriculture/Veterinary, therefore, they were not equated with those officers who were given benefit vide Notification dated 2.3.1978. It was further contended that the present appeals were time-barred, that the conditions of service of the appellants were different from the conditions of service of other persons as well as were different from the prescribed criteria in the case of Mr.Idris Qazi.
 - We heard the arguments and perused the record.

EXECUTE ROLL

The learned counsel for the appellants relied on the judgment in Appeal No.27 instituted on 16.4.1990 and decided on 16.6.1991. The appeal in that case was originally filed on 29.3.1981 but the case was remanded by the August Supreme Court of Pakistan vide its judgment dated 10.3.1990, therefore, it was again recorded as instituted in 1990. That appeal was against the Notification dated 26.4.1978 whereby the names of the then appellants were omitted and were not upgraded to BPS-17. It was held in that case that the Provincial Government had deviated from the criteria fixed by the Federal Government and had differentiated between the posts held by those who only possessed degree in simple science, and the functions and duties of the appellants were identical to those who were enjoying BPS-17 after upgradation of the posts. This case was regarding a different Notification and the issue of the qualifications of Research Assistants with Graduation in other Sciences and of the Graduation in Agriculture was involved.

Appeal No. 582 of 1995. That appeal was also against the Notification dated 26.4.1978. It was mentioned that, under the West Pakistan Agriculture Rescarch Subordinate Service Rules, 1963, qualification for the post of Research Assistant was B.Sc(Agri.) or B.Sc(2nd Division) in the subject, while qualification for the post of Statistical Assistant was Graduate in Statistics or Mathematics with Statistics as a subject. It was further mentioned that the appellant in that case was promoted as Additional Statistician in BPS-17 and move-over was granted to him to BPS-18. He was later on posted and adjusted as Director Communication for the purposes of pay. It was vide Notification dated 2.3.1978, in pursuance of the Notification of the Federal Government, that the Provincial Government upgraded the posts and ordered the redesignation of the officers in the Research Wing of Agriculture Department.



nses of Furang Jamiher and others were dealt with and they were allowed medits on the ground that they were Science Graduates. Appeal No. 27 of 1981 referred to above was decided in their favour on 16.6.1991 and leave to expeal was refused by the August Supreme Court of Pakistan on 01.12.1991.

The learned counsel for the appellants further relied on the judgment in Appeal No. 5.1997 decided on 19.5.2003. That appeal was filed by Muhammad Idris Qazi who was Statistical Assistant, qualified as M.Sc (Statistics). Two posts of Statistical Assistants and one post of Research? Assistant (Statistics) were filled in through Public Service Commission. The posts were re-designated and then the appellant of that case was promoted as Additional Statistician BPS-17 (Supervisory). On move-over, and then on promotion, he was placed in BPS-18. The issue of the case of the Statistical Assistant and the issue of promotion of officers of other groups/categories was taken up vide para-6 of the mentioned judgment. On remand, the Finance Department showed its inability to upgrade the post of Muhammad Idris Qazi. who then filed the appeal. Vide para-8 of the mentioned judgment, the details of other cases were given including the judgment in C.As No. 1321 to 1324 of 1996 by the August Supreme Court of Pakistan, in which leave was refused. The respondent department was, ultimately, directed to extend the benefit to that appellant also. Civil Appeal No.642 of 2005 was filed which was decided on 21.3.2006. It was mentioned that some of the other employees placed under the same circumstances were availing the benefit of up-gradation of the post, but the same was denied to the private respondent in that appeal. Vide para-5 of the judgment, it was held that since that was a case of discrimination, therefore, in the interest of justice, the Hon'ble Judges of the August Supreme Court of Pakistan, were not inclined to examine the question of jurisdiction because substantial justice had been done, therefore, the appeal was dismissed.

ON THE CALL

- 9. The A.G.P contended that the present appeals were time-barred, and the appellants had slept over their rights for a long time from 1978 onwards. He further contended that the appellants were estopped by their own conduct to sue through the present appeals, because they had accepted their position in accordance with the original rules. He also submitted that the case of Graduates/Post-Graduates in other Sciences was different from the case of the Graduates in Agriculture/Veterinary.
 - persons were decided in their favour, and the judgments in those cases had attained finality. The appellants, being similarly placed persons, were entitled to the same benefits which were given to their colleagues. It was the responsibility of the respondents to give those benefits to them, even, if they had not litigated. Once a right is declared by a Judgment in rem, the same right accrues to all similarly placed persons whether they have, or have not, litigated. The responsibility to sue, after the issue of such judgment, shifts and is converted into responsibility to implement the judgment, and it gives the right to all similarly placed persons. The appellants, therefore, were not obliged to file Service Appeals, rather the respondent department was obliged to give them the same rights which had been given to their colleagues, who had litigated. It is further clarified that there can be no estoppal against law.

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Assistants/Research Assistants (Statistics), who graduated in other Sciences, and the cases of Graduates in Agriculture and Veterinary were different from each other, that the posts of Statistical Assistants/Research Assistants were upgraded to BPS-17 vide Notification dated 26.4.1978, while the cases of other Research Assistants who graduated in Agriculture and Animal Husbandry, were upgraded through Notification dated 2.3.1978. This argument could be further explained at three very initial stages of litigation between the respondent department and the appellants of the already mentioned appeals, including Buzarg Jamiher and Muhammad Idris Qazi. It appears that it was not properly done at that stage, and overlapping of discussion took place regarding two different Notifications while deciding the above mentioned appeals. The cases were regarding the Notification dated 26.4.1978, and were not regarding Notification dated 2.3.1978. They were declared similarly placed persons with those graduates in Science subjects, who were granted B.P.S-17.

12. The original qualification for the post of Research Assistant was P. Sc(Agri.) or B.Sc (2nd Division) in the subject. The qualification for the post of Statistical Assistant was Graduation in Statistics, or Mathematics with Statistics as a subject. A person qualified in Statistics, or Mathematics with Statistics as a Subject, was eligible for the post of Statistical Assistant while a Graduate in B.Sc(Agri.) or B.Sc in any other subject, but with 2nd Division, was qualified for the post of Research Assistant. The appellants qualified in Mathematics with Statistics, and the appellants qualified in Statistics, therefore, were eligible for the post of Statistical Assistant, while the appellants who were qualified in B.Sc (Agri.) or who were qualified in B.Sc including Statistics, Mathematics, Economics, Physics, but with 2nd Division, were qualified for the post of Research

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Assistant. All the present appellants have higher qualification in other Sciences.

Through the already granted judgments, their posts have already been equated with the posts of other Graduates.

- 13. It is, however, repeated for further clerity that the cases of the present appellants, of the appellants in previous cases, and of the other similarly placed persons are in respect of the Notification dated 26.4.1978, and not in respect of Notification dated 2.3.1978, which was specially concerning the graduates in Agriculture and Veterinary.
- 14. In the light of the above, we do not have any other alternative, but to accept the present appeals in the light of the previous judgments, with costs. We direct the official respondents to give the same benefits to the present appellants (who are B.Sc 2nd Division in other Sciences like Economics, Physics) which have been declared for the other similarly placed persons who were qualified in B.Sc (Agri.) or B.Sc (2nd Division) or B.Sc Statistics or Mathematics with Statistics as a subject and who had litigated as mentioned above. The official respondents are further directed to grant the same benefits to all other similarly placed persons who have not yet litigated, in order to avoid compelling them to enter into litigation with facm.

ANNOUNCED 26.03.2009 (

ATTESTED

Annex (1 %)

Dated Peshawar, the 17,2/2010.

NOTIFICATION.

NO. SOE (AD)III(2)229/1205: In pursuance, of the Government of NWFP Finance Department letter: No.KC/SO(FR)7-13/2008 dated 13-2-2010, the competent authority reas been pleased to up-grade the following 18 (eighteen) posts of Stanistical Divestigators from BS-16 to BS-17 alongwith the incumbents and re-designate these posts as Statistical Officer with effect from 01-05-1977 or the date of their appointment as noted against each:

. <u>.</u> 1. T	≯spea No.	1	Qualification	is . Date of	Date of	1
	٧٠.	Designation		Appointme	nt Admissibili	Place of
-	2E3/04			. 51-28 ni l		
-	753/08		5.50 Statt &	03-07-1972	y in 85-17	
: 2.	<u>-</u>	Statistical Officer		1 . 03 07-13/2	01-05-197	
; Z.	751/08		::	01-07-1972		Swat.
		Statistician.	,	01-07-1972	01-05-197	
3.	756/08		50	17-11-1976		Battacra
ļ		; Statistical Office-	. 55	/ 17-11-19/6	01-05-197	7 District
4.	752/08	Mr. Bakhoar Khan	do			DIKhan
<u> </u>	:	Statistical Degiss.		16-11-1976	01-05-1977	District
5.	757108	т Mr. Кылаптаб	do			Feshaliva
\		: Isnac, Statistical	1-00	29-10-1976	01-05-1977	District
<u>. </u>	•	Officer.			1	Dikhan
ŧ	755/03	: Mr.Muhammad		<u>i. </u>	-	- Journal
•	1	Alsam, Statistical	MSc	23-4-1981	23-04-1981	District
	4	Officer.	Statistics.			Dikhan
7.	740/08	Mr. Shaukat Hayat,	- ` 		j	Ulkhan
. ' '	1	Statical Officer		08-01-1985	08-01-1985	
ε.	742/08	Me 11.	. Economics	1	00 01 1505	
	1	Mr. Haji	-dc	08-01-1985	08-01-1985	Swabi
	· ·	Muhammad,	İ	1 2 31 1303	00-01-1985	
9.	760/00	Statistical Officer.		1	1	Agency.
۶.	749/08	Mr. Aslam Khan,	MSc	08-01-1985		1
		Statistical Officer.	Statistics	00-01-1382	08-01-1985	District
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10,	748/08	Nr. Farman Ali	do	+		Manvat.
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11.	745/08	Fir. Zia-ul-Islam,	 	<u> </u>		
		Statistical Officer.	30	09-01-1985	09-01-1985	District
.2. 🍴	744/08	Mr. Liagat Ali,	116			Mardan.
1		Statistical Officer	MSc Maths.	12-01-1985	12-01-1985	District Oir
.3.	746/08	Mr. Inayatullah,	 	<u> </u>		Lower,
		Statistical officer.	MSc	12-01-1985	12-01-1985	District
4.	743/08	Mr. Nadir Khan,	Economics	<u> </u>		Charsadda
1		Statistical Officer.	MSc	19-01-1985	19-01-1985	District
5.	741/08	Mr. Noor Islam	Statistics.			
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5.	750/08	Statistical Officer.		i		Bajaur .
	, 20,00	Mr. Asadullah,	MSc	24-08-1985		Agency.
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. 1	747/08	Mr. Tariq Usman,		22-01-1985	33.0	Chitral.
1 7	157100	Statistical Officer	Statistics.	FF 01-1302	22-01-1985	District
1	67/08	Mr. Fayaz Ihsan,		05-05-1986		Kohat,
	<u>-</u> L	Statistical Officer.	Économics	02-02-1389	05-05-1986	HQ office,
						Peshawar

SECRETARY TO GOVT. OF NWFP AGRICULTURE, STOCK & COOP: DEPARTMENT.



Endst.No.KC/SO(FR)FD/7-13/2008

Dated Peshawar, the 17/2/2010

Copy forwarded for information and necessary action to:

- The Accountant General, NWFP, Peshawar.
 The District / Agency Accounts Officers, Swat, Battagram, DIKhan, Swabi, Malakand Agency, Lakki Marwat, Abbottabad, Mardan, Dir Lower, Charsadda, Bannu, Bajaur Agency, Chitral and Kohat.

....(SHAUKAT ULLAH) SECTION OFFICER (FR) GOVERNMENT OF NWFP, FINANCE DÉPARTMENT,

Endst.No.SOE(AD)III(2)201/2009

Dated Peshawar, the 17/2/2010

Copy forwarded for information and necessary action to:-

- The Statistician, Crop Reporting Services, NWFP, Peshawar.
 - The Section Officer (FR) Government of NWFP, Finance Department w/r to his letter number referred to above.
 - Officers concerned.
 - 4 PS to Secretary Agriculture, NWFP.
 - Personal files.

(SAKHI-UR-REHMAN) SECTION OFFICER-ESTT:



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Dated Peshawar, the Apyte

40.SOE(AD)[]](2)201/2011/CRS.-In pursuance of the Government of Physical Pukhfunkhwa Franca Department letter 110 SO(FR)/FD/7 137 008 dater + 0 1 002, the Governmenlat Royber Pakhtunkhwa, Agriculture, two took and cooperative trased to accord sanction to the up-gradation ϕ , the following ∂A (four) the Investigators from BS-16 to BS-17 alongwills the incumberits and relasignated the mosts as Statistical Officer with effect from 01 65 1977 or training one , ont as per detail given below;

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Dated Postiawar the April 07/10

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at General, Khyber Pakhtunkhwa Peshawar.

ant General PR, Sub Office Peshawar.

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(BIBL'ALIMA) SICTION OFFICER (FIG GOVERNMENT OF KHE-FR PARFITUR

FINANCE DEPARTMENT

.(AD)III(2)201/2010

Dated Peshawar H. Apol.

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rs, Crop Reporting Services, Enyber Pakhtenkhi, a, Poshawar Afficer (PP) Government of knyber Pakhtunkhy. Finance Depositions letter number referred to above.

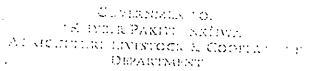
Officer-VII, Finance Department,

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SECTION OFFICER (FR'

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unjust, unfair and hence not sustainable in the eye of law.

B. That while allowing similar up-gradations to the BPS-16 Officers in other Attached Departments of Agriculture, a different designation was allowed to the upgraded officers and their seniority was never integrated with the Supervisory Officers in the Department as is evident from Notification dated 02.03.1978 (Annexure-G/1) ibid. At that time the designation assigned to the upgraded Officers (BPS-17) and Supervisory Officers (BPS-17+150/) in all other Attached Departments was as under:-

S.#	Department	Designation of District Officer, BS-17+Rs.150/- (Supervisory)	Designation of Up- Graded Tehsil Officer from BS- 16 to BS-17
1.	Agriculture Extension	Extra Assistant Director Agri: Officer, APPO & AHO	Agriculture Officer
2.	Livestock	Assistant Director	Veterinary Officer
3.	Soil Conservation	Soil Conservation Officer	Assistant Soil Conservation Officer
4.	Crop Reporting Service	Statistical Officer	Assistant Statistical Officer

Likewise in other Provinces too, separate designations were allowed to the up-graded Officers viz:



S.#	Department	Designation of District Officer, BS-17+Rs.150/- (Supervisory)	Designation of Up- Graded Tehsil Officer from BS-16 to BS-17	
1.	CRS Punjab	Assistant * Director	Statistical Officer	
2.	CRS Sindh	Assistant Director	Statistical Officer	
3.	CRS Baluchistan	Assistant Director	Statistical Officer	

In all Departments mentioned above, the existing BS-17 Supervisory Officers were later on upgraded to BPS-18 and even to BPS-19 in some Departments. A different yardstick only with respect to CRS is discriminatory and clear violation of the Judgment ibid.

- C. That it is worthwhile to mention here that the Director General, Agriculture (Extension), Khyber Pakhtunkhwa vide letter dated 02.07.2010 (Annex:-M) has hinted to the anomaly and had proposed for maintaining separate Seniority Lists for the two categories of Officers. Similarly a departmental committee constituted on the directives of the Government also recommended that Supervisory and Non-Supervisory are two different category Officers and their seniority cannot be unified vide recommendations (Annex:-N).
- D. That moreover, the upgraded Non-Supervisory Statistical Officers had given in writing to the Department that they were Assistant Statistical Officers and deserve promotion instead of absorption as Statistical Officers vide applications (Annex:-O).



E. That the anomaly was also timely pointed out by the appellant being the Head of the CRS vide letter No.3/195/964/SCRS dated 19.02.2010, No.1023/SCRS dated 26.02.2010 and

No.1376/SCRS dated 20.03.2010 (Annex:-P) but invain.

- F. That neither the Supervisory Statistical Officers were party before the Hon'ble Service Tribunal nor were they heard or provided opportunity of defence, therefore, the Judgment is not binding on them, be that as it may, the Judgment of the Hon'ble Tribunal has never touched the question of seniority between the two rival categories of officers. The Judgment was only with regard to the financial benefits and therefore the same cannot be stretched to encroach upon the seniority rights of the Supervisory Statistical Officers.
- G. That Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides that seniority in various cadres of civil servants appointed by initial recruitment viz-a-viz those appointed otherwise shall be determined with reference to the dates of their regular appointments to a post in that cadre provided if the two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.
 - That due to the impugned re-designation the erstwhile Assistant Statistical Officers (BPS-17) have become juniors to the erstwhile Statistical Investigators (BPS-16) who were previously their subordinates, which has resulted serious miscarriage of justice and resentment.



H.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Through

Dated: ____/ 07/ 2012

Khaled Rawhan

Appellant

Advocate, Leshwar



DRE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appea	l No		20	12
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Maqsood-ur-RahmanApplicant.'

Versus

The Govt. of KPK and others.....Respondents

Application for restraining the Respondents from combining the seniority of both Supervisory and Non-Supervisory Statistical Officers till the final disposal of the instant appeal.

Respectfully Sheweth,

- 1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
- 2. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
- 3. That the balance of convenience also lies in favour of appellant and in case the interim relief is not extended to the appellant, he will suffer irreparable

loss.

It is, therefore, humbly prayed that on acceptance of this application, the Respondents may graciously be restrained from combining the seniority of Supervisory



and Non-Supervisory Statistical Officers till the final disposal of the appeal.

Through

Applicant

Khalod Rahman, Advocate, Peshawar.

Dated: ____/ 07/ 2012

<u>Affidavit</u>

I, Maqsood-ur-Rahman, Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon ble Tribunal.

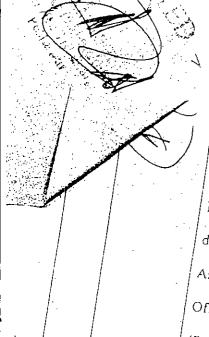
Deponent



Date of Order or other roccedings with signature of judgated Magistrate proceedings KHYBER PAKHTUNKHWA SIERVICE TRIBUNATE PESHAWAR APPEAL NO.804/2012 (Magacod-ur-Rehmun - vs- Govit of Kisyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others). **IJDGMENT** ABDUL LATTE MEMBER** 19.10.2015 Appellant with chursel (Mr. Khalid Rehman, Advocate), Mr. Mulannunal (mmn, Agriculture Officer and Mr. Sumeen fan, Supdt alongwith Mr. Ziaullah, Government Pleader for official respondents and counsel for private respondents No.10.13 and 14 (Mr. Ghulam Nabi, Advocate) present. 2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 for issuing approprine directions to respondents No. 1 to 5 to assign/award separate designation to the Statistical Investigator (BPS-16) upgraded to (BPS-17) from the designation already assigned to statistical Officers (BPS-17) Supervisory directly selected through Public Service Commission in BPS-17 or promoted to BPS-17 from the post of Statistical Investigator (BPS-16) in the Department, Appellant prayed that on acceptance of the instant appeal, appropriate directions be issued to the respondents No. 1 to 5 to assign/award separate designation in the Statistical		S.No.			The state of the s
ENTREMPARTUNKHWA SERVICE TRIBUNATE PESHAWAR APPEAL NO 804/2012 Amner (Magsood-ur-Rehman - vs- Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others). JUDGMENT ABDUL LATIE MEMBER: 19.10.2015 Appellant with counsel (Mr. Khalid Rehman, Advocate). Mr. Muhamman Imram, Agriculture Officer and Mr. Sameen Jan. Supdit alongwith Mr. Ziaulian, Government Pleader for official respondents and counsel for private respondents No. 10.13 and 14 (Mr. Ghulam Nabi, Advocate) present. 2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 for issuing appropriate directions to respondents No. 1 to 5 to assign/award separate designation to the Statistical Investigator (BPS-16) upgraded to (BPS-17) from the designation already assigned to statistical Officers (BPS-17) Supervisory directly selected through Public Service Commission in BPS-17 or promoted to BPS-17 from the post of Statistical Investigator (BPS-16) in the Department, Appellant prayed that on acceptance of the instant appeal, appropriate directions to		5.170.		Order or othe recention	1697 - square (
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(Magsood-ur-Rehman -vs- Govi: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others). ### ABDUL LATIF MEMBER: 19.10.2015			Proceedings		mil registrate
(Magsood-ur-Rehman -vs- Govi: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others). ### ABDUL LATIF MEMBER: 19.10.2015					
(Magsood-ur-Rehman -vs- Govi: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others). ### ABDUL LATIF MEMBER: 19.10.2015	.'			KHYBER PAKHTUNIA	
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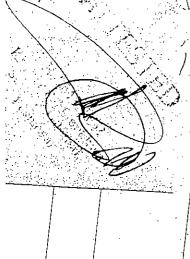
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Brief facts giving rise to the instant appeal are that the appellant was appointed as Assistant Statistical Officer (BPS-17 on the recommendation of the Khyber Pakhtunkhwa Public Service Commission vide order dated 01.05.1987. That initially the rules for recruitment, appointment of the employees of the Agriculture Department were promulgated in the year 1981, however, subsequently an amendment was introduced vide notification dated 03.09.1989 under which, there became two categories of Officers in Crop Reporting Services of the Agriculture Department. According to the Rules ibid, Assistant Statistical Officer (BPS-1.7) was to be promoted to the post of Statistician (BPS-18) and Statistical Investigator (BPS-16) to the post of Assistant Statistical Officer (BPS-17). That vide Notifications dated 27.06.1997 the department upgraded and redesignated both the categories of officers w.e.f 01.07.1997 as Assistant Statistical Officer (BPS-17) upgraded to Statistical Officer BPS-17+Rs.150/- Supervisory and Statistical Investigator (BPS-16) up-graded to Assistant Statistical Officer (BPS-17). It is important to mention here that the Seniority lists of both the categories have been separately maintained by the Department till date. The last approved seniority list of Statistical Officer



(Supervisory) confirms that presently the appellant is the seniormost Supervisory Officer in the Department. That in the year 2008, some of the Statistical Investigators (BPS-16) filed service appeals in the Service Tribunal for up-gradation of their posts to BPS-17 from their dates of appointments instead of 01.07.1997 in the light of the Finance Department notification dated 02.03.1978 which was accepted vide judgment dated 26.03.2009. That due to the misinterpretation of the judgment and non-awarding separate exclusive designation to the upgraded Non-Supervisory Statistical Officer (BPS-17), an anomaly of seniority of both the categories i.e Supervisory and Non-Supervisory Statistical Officers has been created by the Department, which has adversely affected the rights of the appellant and other similar officers, therefore, appellant preferred a departmental appeal on 07.04.2012 to the competent authority which was not responded, hence the instant appeal.

Counsel for the appellant argued that respondents had not treated appellant in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully amalgamated the category of Statistical Officers (BPS-17) with special pay of Rs. 150/- and the category of Statistical Officers since up-graded from Statistical Investigator (BPS-16) pursuance of the Khyber Pakhtunkhwa Service Tribunal judgment in Appeal No. 752/2008. He further argued that while allowing similar upgradation to BPS-16 Officers in other attached Departments of the Agriculture Department a different designation was allowed to the up-graded Officers and their seniority was never integrated with



the supervisory Officer in the Department as is evident from notification dated 02.03.1978 and from the comparison as noted

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2. Livestock	Again	- 11
1	Assistant	-11
3. Soil	Director Veterinary Officer	$\dashv I$
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1 301 AICE	Officer Statistical	1
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He further submitted that a different yardstick only with respect to Crop Reporting Services (CRS) was discriminatory and clear violation of the Service Tribunal judgment cited above. He further argued that the Director General Agriculture Extension vide letter dated 02.07.2010 to the Secretary Agriculture had pointed out the anomaly and had proposed for maintaining separate seniority list for two category Officers. Similarly the departmental committee constituted on the directive of the Government also recommended that Supervisory and non-supervisory were two different category and their seniority could not be unified. He further argued that neither Supervisory Statistical Officers were party before the Service Tribunal nor were they heard or provided opportunity of defense therefore the judgment was not binding on them, be that as it may, the cited judgment had never touched the question of seniority between the two rival categories of Officers. He further contended that the judgment was only with regard to the financial

examined on merits to meet the ends of natural justice and requirements of equality as enunciated in the Constitution. The case is accordingly remitted to the respondent-department with the direction to revisit the case on merits strictly in accordance with law and decide the same within a period of two months after receipt of the instant-judgment. Parties are left to bear their own costs. File be consigned to the record.

This judgment will also dispose of the connected appeal No. 1549 of 2011 titled Magsood-ur- Rehman-vs- Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others as the fate of the case in hand has a close linkage and bearing on the said case.



GOVERNMEN F KHYBER PAKHTUNKHWA IVESTOCK & COOPERATIVE A GRICUL<u>T</u> DEPARTMENT

NO.SO, (AD)14-53/07 Dated Peshawar, the December 6, 2017

Mr.Magsood-ur-Rehman,. Statistical Officer.

Crop Reporting Services, Shangla

Annex N

STRVICE APPEAL MO.255/2016 1N EXECUTION DELLLION UBJECT:-NO 804\3015

I am directed to refer to the subject noted above and to state that In light of the decision of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in the Execution Petition No.255/2016 in Service Appeal No.804/2014 passed on 03.11.2017 it is informed that the upgradation of the post of Statistical Investigator (BS-16) to Statistical Officer (BS-17) was made in light of the court judgment and this department is unable to consider the appeal for assigning separate designation to the Statistical Investigator BS-16 upgraded to BS-12-from-the designation already assigned to Statistical Officer (BS-17) directly appointed through Public Service Commission in 1987.

> (RAIER GAMH \mathcal{J} RH \mathcal{E}_2 G) SECTION OFFICER-ESTT:

Endst. of even No. & Date.

Copy to the:

Director, CRS, Kliyber Pakhtunkhwa Peshawar for information.

P.S to Secretary Agriculture department.

SECTION OFFICER-ESTT:

thop Rescribe Services, i Khyber Palahunkhyra, Pashawar

To.

The Secretary,

Government of Khyber Pakhtunkhwa,

Agriculture, Livestock & Coop: Deptt:, Peshawar,

District New 37 of the Statistical Office Corp Reporting Services District Shangta at Alpurl 12t = 22.12 201;

Through

Proper Channel

Annee O"

Subject: -

DEPARTMENTAL APPEAL AGAINST THE FINAL ORDERS PASSED IN SERVICE APPEAL NO: 804/2012, MAQSOOD UR RAHMAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.

-71

Dear Sir

Kindly refer to the final orders passed vide your office letter No: SOE (AD) 14-53/07 dated 6th December, 2017 in the Service Appeal No: 804/ 2012. I have the honor to submit my Departmental Appeal against the same on the following grounds.

That I was appointed as Assistant Statistical Officer (BS-17) under the Service Rules approved in 1981. According to the said Service Rules, there were two categories of officers in CRS.

Assistant Statistical Officer, BS-17

(District In-charge) .

ii. Statistical Investigator, BS-16

(Tehsil / Circle In-charge)

That from 01.07.1997 the Department had up-graded and re-designated both category of officers through two separate notifications as under.

S.#	Post	Up-graded to
i,	Assistant Statistical Officer (BS-17)	Statistical Officer BS-17+Rs.150/-Supervisory
ii.	Statistical Investigator (BS-16)	Assistant Statistical Officer (BS-17)

The seniority of both the categories was separately maintained till amalgamation of their seniority vide Notification dated 22.12.2016.

The Government of Khyber Pakhtunkhwa. Agriculture Department vide Notification dated 2.3.1978 up-graded all those BS-16 posts to BS-17 with effect from 1.5.1977 for which the minimum qualification was a "Graduate Degree in Agriculture or DVM".

The incumbents were allowed Monetary Benefits only and were assigned a separate designation from the Officers appointed directly in BS-17 through Public Service Commission Or promoted to BS-17 in the Department (Annex-A).

That in spirit of the Notification at annexure-A above, the Government of Khyber Pakhtunkhwa vide Notification dated 26.4.1978, up-graded those BS-16 posts to BS-17 with effect from 1.5.1977 for which the minimum qualification was a "Graduate Degree in other science subjects. The incumbents were allowed Monetary Benefits only and were assigned a separate designation from the Officers appointed directly in BS-17 through Public Service Commission in the Department Or promoted to BS-17.

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Officer (BPS-17) was circulated on 09.12.2011 against which no objection was raised by the appellant. He also argued that notification pertaining to three categories where appellant was merged with private respondents was never challenged by the appellant, hence it was useless to cry over the spelt milk. He relied on 1994 SCMR 1033, 2006 SCMR 518, 2006 SCMR 1630, 2011 PLC (C.S) 596, PLD Supreme Court 338 and PLD 2014 Supreme Court. He prayed that the appeal being devoid of any merits may be dismissed.

The learned Government Pleader resisted the appeal and argued that the appeal had not impugned any final order before the Service Tribunal as required by the Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 hence the appeal is not maintainable in its present form. He further argued that framing of rules and amendment therein sell in the executive domain of Government and the same could not be challenged before any court of law nor the Tribunal enjoyed jurisdiction to pass any directions to the Government in this regard. He further argued that the appellant never challenged up-gradation of 2010 in respect of the private respondents nor did he make any mention of the same in his departmental appeal. He further argued that the appellant was in the knowledge of all cases on the instant subject as he represented Government in all the cases before the Tribunal. He relied on 2006 SCMR 1630, 2015 SCMR 269 and 1994 SCMR. 1033. He prayed that the appeal being devoid of any merits may be dismissed.

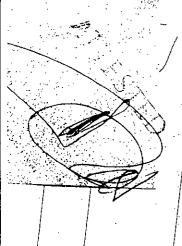
benefits and therefore the same could not be stretched to encroach upon the seniority rights of the Supervisory Statistical Officers. He further argued that Sec-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides that seniority in various cadres of civil servant appointed by initial recruitment viz-a-viz those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre provided if the two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment. That due to the impugned re-designation the Supervisory Statistical Officers (BPS-17) have become juniors to the crstwhile Statistical Investigators (BPS-16) who were previously their subordinates. which has resulted into serious miscarriage of justice and resentment.

The learned counsel for private respondents argued that prayer made by the appellant requesting the Service Tribunal for passing appropriate direction to the government was not in conformity with the law as the Service Tribunal had no such jurisdiction to make any directions to the government. He further argued that notification dated 06.06.2011 clearly spelt out various categories of Officers borne on the Establishment of Crop Reporting Services (CRS) of the Agriculture Department and the appellant failed to challenge the said notification which had since attained finality. He further argued that up-gradation of 18 Officers was notified in the year 2010 but the appellant then remained silent hence the present appeal was badly barred by time. further contended that tentative seniority list of Statistical

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7. Arguments of learned counsels for the parties heard at length and record perused with their assistance.

From perusal of the record of the case it transpired that the appellant was appointed as Assistant Statistical Officer (BPS-17) through Khyber Pakhtunkhwa Public Service Commission in the year 1987. Under the relevant recruitment rules of the Agriculture Department of 1981 the post of Assistant Statistical Officer (Being District Head) used to be filled in 50% on the basis of promotion from Statistical Investigator (BPS-16) (Tehsil Level Officer). The post of Assistant Statistical Officer was up-graded on 27.06.1997 as Statistical Officer (BPS-17) and re-designated as Statistical Officer Supervisory, the same was however given effect from 01.07.1997. The appellant was placed at S.No.6 of the Seniority of Statistical Officer Supervisory (BPS-17) vide notification dated 01.05.2001. Subsequently the post of Statistical Investigator were up-graded in pursuance of Service Tribunal judgment dated 26.03.2009 in appeal No. 752/2008 wherein the up-gradation was given effect from 01.05.1977. From perusal of the record it reveals that before coming into effect of the Service Tribunal judgment cited above, the appellant enjoyed a senior position viz-a-viz the private respondents. Up-gradation of the private respondents to BPS-17 and given the same effect from 01.05.1997 appears to have created an anomalous situation as the appellant has been ranked junior to his erstwhile juniors in the Crop Reporting Services wing of the Agriculture Department. The Tribunal is therefore, of the considered view that without going into the issue of limitation of the case on technical grounds, the case needs to be



- Likewise, the Research Assistants, Agriculture Department (Research Wing) namely Mr. Buzarg Damahir, Mr. Umar Amin. Mr. Aurangzab and Mr. Noorul Hadi were allowed up-gradation from BS-16 to BS-17 with effect from 1.5.1977 vide Notification dated 15.3.1993 in pursuance to Court Judgment in Appeal No: 27/90 (Annex-B). The incumbents were allowed Monetary Benefits only and their designation (Research Assistant) was kept un-changed
- 6) That Mr. Muhammad Idrees Qazi, appointed as Statistical Assistant BS-16 and promoted as Additional Statistician BS-17 from 18.8.1981 was also up-graded from BS-16 to BS-17 with effect from 1.5.1977 vide Agriculture Department Notification dated 15.1.2007 in pursuance of the judgment of Supreme Court of Pakistan in CP No: 642/ 2005 (Annex-C). His designation (statistical Assistant) was kept unchanged. He was allowed Monetary Benefits only.
- In the same line, Mr. Ilyas Khan Additional Statistician BS-17 and Mr. Murtaza Khan, Assistant Statistician BS-16 Agriculture Department (Research Wing) were upgraded to BS-17 from the date of their appointment as Assistant Statistician BS-16 vide Agriculture Department Notification dated 25.6.2008. The incumbents were allowed Monetary Benefits only and their designation (Assistant Statistician) was kept un-changed (Annex-D).
- 8) In 2008, the Statistical Investigators (BS-16) prayed to the Service Tribunal Khyber Pakhtunkhwa for up-gradation of their post to BS-17 with effect from 1.5.1977 on the nexus of the Notifications and judgments quoted under Para-3, 4, 5 & 6 above. The Court accepted their appeal on grounds of discrimination (Annex-E). The judgment reads.

"...In light of the above, we do not have any other alternative, but to accept the present in light of the previous judgments, with costs. We direct the official respondents to give the same benefits to the present appellants (who are B.Sc 2nd Division in other, Sciences like Economics, Physics) which have been declared for the other similarly placed persons who were qualified in B.Sc (Agri:) or B.Sc (2nd Division) or B.Sc Statistics or Mathematics with Statistics as a subject and who had litigated as mentioned above".

9) Thus by assigning the designation of Statistical Officers BS-17 (District Heads) to the 36 Statistical Investigators (Tehsil incharge) BS-16 up-graded to BS-17 with effect from 1.5.1977 vide Notifications dated 17.2.2010, 7.4.2012 and 24.2.2014, the Department has violated the Court judgment that allowed relief given to the Statistical Investigators in line with the relief provided to other Officers in the same Department through chain of judgments/ Notifications.

In view of above, it is humbly requested to kindly withdraw the letter quoted under the reference above and up-grade the post of Statistical Investigators BS-16 to BS-17 with offect from 1.5.1977 without changing their designation, the precedent being followed in pursuance of the previous judgments and the criteria being followed in up-gradation of all the Agricultural and Non-Agricultural graduates through numerous notifications in the Department.

To:

The Secretary to Govt. of Khyber Pakhtunkhwa

Agriculture; Livestock and Cooperation

Department, Peshawar.

Annes

Subject:

UP-GRADATION OF THE POSTS OF STATISTICAL, INVESTIGATION WITH INCUMBENTS FROM BS-16 TO BS-17 AND RE DESIGNATION AS STATISTICAL OFFICER IN LIGHT OF JUDGEMENT OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR IN APPEALS NO 740-758 AND 767.

Memo:

10.6.2010

Kindly refer to your office letter No.SOE (AD) 17-167/2008 dated

In this regard it is submitted that CRS Wing of Agriculture Extension. Department before the arrival of the judgement of the Tribunal 7 up gradation of the posts of Statistical Investigator BS-16 to the post of Statistical Officer BS-17, before the up gradation of the post the following two categories of officers were exists at the strength of this department.

ar-Assistant Statistical Officer (BS-17)

Being District Head

Brastistical Investigator (BS-16)

Tensil level officer (BS-16)

According to the recruitment and appointment rules, 1989 Annexure-A, the post of Assistant Statistical Officer and Statistical Investigator will be filled in with the following manner.

1. Assistant Statistical Officer

- a. 50% by initial recruitment; and
- b. 50% by promotion non-the basis of Seniority cum fitness from amongst Statistical investigator with at least five years service

2. Statistical Investigator.

- i. 25% by initial recruitment; and
- ii. 75% by promotion on the basis seniority cum fitness, from amongst Statistical Computer/Crop Reporter with at least ten years experience of working in the Statistical cell.

post of ASO carry special pay of Rs: 150/- P.M. and the seniority of both the cadres are maintaine a separately and have never been questioned by any officer Copy of last-circulated seniority list is attached as Annexure B & C

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It is worth mentioning that all the post of Assistant Statistical Officers (17) were re-designated as Statistical Officers (BS-17) with effect from 1.7.1997 w allowing special pay of Rs.150/-p.m. and also given the status of supervisory vide year office Notification No.SOE (AD)II(2)286/91 dated 27.6.1997 Annexure-D, and all the posts of Statistical Investigator BS-16 were re designated as Statistical Officer BS-17 with effect from 1.7.1997 vide your office Notification of even No & dated 27.6.1997 Annexure-E. Upon the up gradation of the post of Statistical Investigator BS-16 to BS-17 and re-designation the post of Statistical Officer BS-17 with effect from 1.5.1977, or from the date of their appointment in light of the judgment of the tribunal dated 26.3,2009 in appeal No.740 /2008 thus this Notification has created anomaly and the officers who had already attained the status of supervisory officers le Statistical Officer (BS-17) with special pay of Rs.150/- being incharge of the District have feared to become junior to those Statistical Investigator BS-16 now up-graded and re-designated as Statistical Officer (BS-17) as a result of creating this anomaly can disturb the whole structure of CRS Agriculture Extension Department if the anomaly persists, the same. may become a point of further litigation for the officers. Because the Statistical Officers already exist in the Department before the up gradation they were directly appointed in BS-17 on the recommendation of the Public Service Commission for example M/s. Magsood ur Rehman, Fazle Wahab & Sardar Aslam vide your office Notification No.SOE (AD) II (2) 270/86 dated 1.5.1987 Annexure-F are at S.No.5. 7 & 8 of the seniority list of Statistical Officer BS-17 at stood on 1.5.2004 and rest of their seniors at. S.No.1 to 5 were promoted from the post of Statistical Investigator BS-16 attached as annexure-B above.

Keeping in view of the position explained above it is submitted that this office may be advise as to whether this office; prepare the seniority list separately of those officers who have already attained the status of supervisory officer i.e. Statistical Officer plus special pay of Rs.150/-p.m. and the officers who were recently up-graded and re-designated as Statistical Officer with effect from 1.5.1977 or from the date of appointment on the analogy of technical cadre post of this department as per detail given below or otherwise

S.No.	Department	Re-designated post	
	Agriculture Extension	Agricultural Officer . ·	EADA (E&M), APPO, AHO
		BS-17	SMS, Assistant Agronomist
<u> </u>			and Junior Instructor BS-17/+
$\mathbf{T}_{\mathbf{r}}$			and special pay of Rs. 150/-per
: s	<u> </u>		month:

DIRECTOR GENERAL AGRICULTURE (EXTENSION KHYBER PATHUNKHWA PESHAWAR



REGORD NOTE OF THE COMMITTEE CONSTITUTED FOR PREPARATION OF TENTATIVE SENIORITY LIST OF STATISTICAL OFFICERS, CROP REPORTING SERVICES, KHYBER PAKHTUNKHWA

Annex 0"

In pursuance of the office order No.12/40/Estt/12559-61/DG dated 14.7.2011, a meeting of the committee constituted for preparation of tentative seniority list was held on 15.7.2011 for perusal of relevant record and Judgement of Service Tribunal, Peshawar dated 26.3.2009.

According to Service Rules notified vide Govt. of KPK, S&GAD (Regulation Wing) Notification No.SOR-II(S&GAD)2-11/78 dated 1.2.1981 amended in 1989 the 3 were two cadres, one was Assistant Statistical Officer (BS-17) and the other was Statistical Investigator (BS-16). (Annexure-A).

Seniority list of these posts was maintained separately by the Department. These officers were governed by different rules i.e. the Statistical Investigator (BS-16) was to be promoted to the post of Assistant Statistical Officer (BS-17) as evident from the Govt. of KPK, Agriculture Department Notification No.SOE(AD)II(2) 286/81 dated 27.12.1964 and No.SOE(AD)II(2) 286/85 dated 17.9.1985. (Annexure-B & C).

Later-on the post of Assistant Statistical Officers (ES-17) of Agriculture Extension Department was re-designated as Statistical Officer (BS-17) with Rs.150/- PM as supervisory pay with effect from 1.7.1997 vide Govt. of KPK, Agriculture Department Notitication No.SOE(AD)II(2)286/91 dated 27.6.1997. (Annexure-D).

Similarly the posts of Statistical Investigators (BS-16) was upgraded and re-designated as Assistant Statistical Officer (BS-17) with effect from 1.7.1997 vide Govt, of KPK. Agriculture Department Notification No.SOE(AD)II(2)286/91 dated 27.6.1997. (Annexure-E).

The Seniority list of Statistical Officer BS-17 (Supervisory) as it stood on 1.6.2004 and seniority list of Assistant Statistical Officer (BS-17) as it stood on 1.3.2003 were circulated vide Director General, Agriculture (Extension) circular letter No.11/98/Estt/ 8404-3/DG dated 26.5.2004 and No.11/98/Estt/9895-9014/DG dated 29.3.2003 (Annexure-F & G).

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Since it is crystal clear that there were two hierarchies i.e. one was Statistical Officer (Supervisory) cadre with special pay of Rs.150/- PM and the other was Statistical Officer (non-supervisory).

Due to Devolution Plan of 2001, the post of Assistant Statistical Officers was abolished and the post of Statistical Officer (Supervisory) was remained intact. The incumbents of the post of Statistical Investigator who were upgraded from BS-16 to BS-17 were adjusted against the post of Statistical Officer BS-17 (Sup) with effect from 01.07.2001 and they are working against these posts till date. These facts have been admitted by seven Nos. Statistical Officers in their application addressed to the Secretary Agriculture KPK. (Annexure-H).

The existing Service Rules, 1989 was not amended wherein the post of Assistant Statistical Officer (re-designated as Statistical Officer) was required to be filled in by the following manners;

- a) Fifty percent by initial recruitment, possessing Master Degree in Statistics or Math's, or Economics with specialization in Statistics from a recognized University.; and
- b) Fifty percent by promotion on the basis of seniority-cum-fitness from amongst Statistical Investigator with at least five years service as such.

Now the existing Service Rules, 1989 have been amended vide Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department Notification No.SOE(AD)II(2)429/2010 dated 06.06.2011 wherein the post of Statistical Officer (Supervisory) BS-17 is to be filed in by initial recruitment possessing Master Degree in Statistics or Economic or Mathematics with Statistics as compulsory subject in BA/B.Sc. from a recognized university. (Annexure-I).

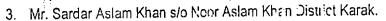
It is evident from the foregoing facts, that the following officers were appointed as Assistant Statistical Officer (sup) by the Public Service Commission vide Govt. of KPK, Agriculture, Forests and Cooperation Department Notification No.SOE(AD)II(2)270/86 dated 1.4.1987 and having qualification of Master Degree in Statistics or Math's, or Economics with specialization in Statistics from a recognized University. (Annexure-J).

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- 1. Mr. Magsoodur Rehman s/o Mashuqur Remman District Dir.
- 2. Mr. Fazli Wahab s/o Abdul Ghafoor District Dir



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Similarly the following officers were also appointed through Public Service Commission vide Govt. of KPK, Agriculture, Livestock and Cooperation Notification No.SOE(AD)II(2)286/KC dated 30.5.1994. (Annexure-K).

- 1. Syed Altaf Ahmad s/o Syed Mehtab-ud-Din District Peshawar.
- 2. Zahldullah s/o Saifullah District Bannu.

It is further added that Mr. Munir Ahmad who was promoted to the post of Assistant Statistical Officer was placed later in the seniority list after the names of officers mentioned at S No.1-3 above.

Section-8 of the KPK Civil Servants Act, 1973 framed which provides that seniority in various cadres of Civil Servants appointed by initial recruitment vis-a-viz those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre provided if the two dates are the same, the person appointed otherwise, shall rank senior to the persons appointed by initial recruitment.

Due to up-gradation of the post of Statistical Investigator from BS-16 to BS-17 along with incumbents and re-designation of these posts as Statistical Officers with effect from 01.05.1977 or from the date of their appointment vide Govt. of KPK, Agriculture Department Notification No.SOE(AD)III(2)/201/2009 dated 17.2.2010. Anomalies of seniority have been cropped up amongst the Statistical Officers of Crop Reporting Services.



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It is further stated that if deem appropriate the seniority dispute may be referred to the Government for re-examining the case by referring to Establishment Department. Khyber Pakhtunkhwa to remove anomaly /dispute once for all in light of C.P.No.325-P of 2005, judgment dated 3.5.2005, the KPK Service Tribunal, Peshawar passed in Applications No.52 & 84-A of 2004 in Service Appeal No.1201 of 2002, decided on 12.6.2006, the August Supreme Court of Pakistan in para-4 of the order held that; (Annexure-L)

"We have heard the learned ASC for the petitioner at some length but could not find any infirmity in the impugned judgment. It may be added that a mistake or error committed by a court or forum is never sufficient by itself to declare that the resultant judgment was the result of some fraud or miss-representation or suffered from a factum jurisdictional fault. Needless to add that the petitioner had other remedies spent to them to question the above mentioned earlier judgment dated 10.5.2004 and could even now explore the possibility of invoking some other remedies which may be available to them under the law."

The above authority is on all fours.

In view of the foregoing facts draft/tentative seniority list of Statistical Officers of both tiers have been prepared in light of the existing Service Rules and submitted for perusal and further necessary action.



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