

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Amended S.A No 7925/2021

Eng Muhammad Ayub S/o Ghulam Serwar Khan R/o Phase 7, Hayat Bad
House No.443, Street No.10, Sector E, Peshawar

..... Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa, Peshawar and others

..... Respondents

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Dated: 08-06-2021

Appellant

Through


GOHAR RAHMAN KHATTAK

**ADVOCATE,
HIGH COURT PESHAWAR**

Office: I.A Nasir Mansion
Shoba Bazar, Railway Road II,
Peshawar. Cantt

1

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

Amended S.A No 7925 /2022

Eng Muhammad Ayub S/o Ghulam Serwar Khan R/o Phase 7, Hayat
Abad House No.443, Street No.10, Sector E, Peshawar

..... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar
2. Secretary Communication and Works Khyber Pakhtunkhwa, Peshawar
3. Secretary Finance, Khyber Pakhtunkhwa, Peshawar
4. Secretary Establishment & Admn department, Khyber Pakhtunkhwa

..... Respondents

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

PRAYER IN APPEAL:

On acceptance of this appeal the impugned action of respondents and order/letter dated 13-04-2021 of the respondent may please be set aside /declare null and void and the Honorable Court may please be directed the respondents to consider the Appellant for promotion as Chief Engineer BS-20 from the date on which vacancy had become vacant/available of Chief Engineer BS-20 along-with all back benefits according to rules and law.

Any other relief which the Appellant is found fit in law, justice and equity.

RESPECTFULLY SHEWETH:

2

1. That the Appellant is the permanent resident of Kohat and presently residing at Phase 7, Hayat Abad House No.443, Street No.10, Sector E, Peshawar
2. That the Appellant was initially appointed as Assistant Engineer BS-17 in the C&W Department on 16-09-1987. **(Copy of appointed order is attached as annexure A)**
3. That the Appellant was promoted time to time on different posts and with different duties and lastly as Superintendent Engineer BS-19 on 09-12-2014.
4. That the Appellant was transferred from Superintending Engineer Provincial Building (Construction) Peshawar to centre as Engineer (Centre) C&W Peshawar in his own pay and scale against the vacant post vide notification dated 02-03-2017. **(Copy of the notification dated 02-03-2017 is attached as annexure B)**
5. That on 18-12-2019, working paper for appointment of Superintendent Engineers BS-19 to Chief Engineer BS-20 on acting charge basis for two positions, one Riaz Arshid was appointed as Chief Engineer BS-20 on acting charge basis while Appellant was ignored illegally.
6. That one Mr. Muhammad Shahab Khattak (Secretary to Khyber Pakhtunkhwa C&W Department) was retired on 04-04-2020 and another Mr Riaz Arshid retired on 24-11-2020 and again two posts were falls vacant and Appellant was eligible to be promoted on the said post (BS-20) before his retirement. **(Copies attached as annexure C)**
7. That Appellant being most senior officer as per seniority list was proposed for appointment as Chief Engineer on regular basis through working paper (sent on 08-12-2020) against two vacant posts but was again ignored by the respondents. It is to mention here that after retirement of Mr Shahab Khattak and Mr Riaz Arshad to posts were available and Appellant was eligible for the same. **(Copy attached as annexure D)**

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8. That the Finance Department has also created various posts/positions including 5 No's of posts of Chief Engineer BS-20 on 17-02-2021 and all the post are referred to be filled by way of promotion amongst Superintendent Engineers (BS-19) C&W department. It is to mention here that the C&W Department has submitted working paper of Appellant to Establishment Department through letter dated 23-02-2021 and Appellant was retired on 31-03-2021. (Copy attached as annexure E)
9. That despite of written request for promotion to the next higher grade BPS-20 pretty a long time before retirement of Appellant, no action was taken in this very important service matter and Appellant was retired 31-03-2021 while working on his own pay and scale on the post of Chief Engineer BS-20. (Copy attached as annexure F)
10. That the Appellant submitted an application through proper channel to the Honorable Chief Minister Khyber Pakhtunkhwa on 25-03-2021 for Special PSB for promotion of the Appellant to BS-20. (Copy attached as annexure G)
11. That the respondent No. 4 through Section Officer (Regulation wing) regretted the plea of the Appellant vide order/letter dated 13-04-2021. (Copy attached as annexure H)
12. That Appellant aggrieved from the said act by not promoting the Appellant from back date and order/letter dated 13-04-2021 of the respondents. (S 4 (b)) Service Tribunal Act, 1973 barred the Appellant by approaching Tribunal , having no other adequate and efficacious remedy is available to Appellant filed writ petition before the Honorable Peshawar High Court Peshawar which was converted into appeal and sent to this Honorable Tribunal vide order dated 15-12-2021. (Copy of Writ Petition and order is attached as annexure I)
13. That the appellant filed application for granting permission to file amended appeal which was allowed, hence this appeal on the following grounds:

(4)

GROUNDS:

- A. That the action/impugned order dated 13-04-2021 is illegal, unlawful and against the law.
- B. That the services of the Appellant had to be considered as regular after retirement order of the Mr. Shahab Khattak and Eng Riaz Arshid which attained finality after Supreme Court Judgment and Ordinance issued by the Khyber Pakhtunkhwa Government regarding re-fixing age of retirement to 60 years.
- C. That the Appellant was transferred from Superintending Engineer Provincial Building (Construction) Peshawar to center as Engineer (Centre) C&W Peshawar in his own pay and scale against the vacant post vide notification dated 02-03-2017, which is clear that the post was vacant at that time and Appellant was eligible for regular appointment/promotion to BS-20.
- D. That the act of the respondents are in violation of article 4,8,25,27,30, of the Constitution of Islamic republic of Pakistan 1973.
- E. That as usual, the Appellant's case for promotion fell prey to the red-tappism and it was delayed till his retirement from service vide notification dated 31-03-2021.
- F. That the Appellant had served the department for almost 34 years on the lower posts and was entitled for the regular post of Chief Engineer BS-20 as the posts were vacant before his retirement.
- G. That the Appellant was moved written request for the promotion to the next higher grade, but it seems that it was buried and no order, whatsoever, either of the grant

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or refusal of promotion was conveyed to the Appellant before retirement.

- H. That the Appellant has not been dealt with in accordance with law rather has been discriminated and deprived from legal right bestowed on him by the law and rules of the subject.
- I. That there is no reason for denial of the grant of promotion to the Appellant to the subject post, when he fulfills all the prescribed criteria and when the posts are required to be filled on promotion.
- J. That the case of the Appellant was delayed upto his retirement for no reason, other than malafide and malice on the part of the respondents.
- K. That the Appellant had been deprived from his legal right and was ignored with malafide intention which is illegal, unlawful, against the law and natural justice.
- L. That the Appellant has the right to agitate any other additional grounds/fact at the time of arguments after the stance of the respondents with permission of this Honourable court.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned action of respondent and order/letter dated 13-04-2021 of the respondent may please be set aside /declare null and void and the Honorable Court may please be directed the respondents to consider the Appellant for promotion as Chief Engineer BS-20 from the date on which vacancy had become vacant/available/took acting charge of Chief Engineer BS-20 along-with all back benefits according to rules and law.

6

Any other relief which the Appellant is found fit
in law, justice and equity.

Dated: -----06-2022

Appellant

Through


GOHAR RAHMAN KHATTAK

Advocate,
High court Peshawar

 &
Muhammad Arif (Firdous)

Advocate, High Court

Office: 1.A Nasir Mansion
Shoba Bazar. Railway Road II,

Peshawar, Cantt

Cell# 0333-9107724

0334-9215356

Email:khattak_law_chamber@yahoo.com

No such like appeal has earlier been filed before this Honorable Tribunal.


ADVOCATE

(7)

(P-1)

A

GOVERNMENT OF N. W. F. PROVINCE
COMMUNICATIONS & WORKS DEPARTMENT.

Dated Peshawar, the September 16, 1987

O R D E R.

No. SO(E)C&W/4-1/78 The Provincial Government are pleased to appoint the following candidates as Temporary Assistant Engineers in OPS-17 (Rs. 2065-155-3925) plus usual allowances in the C&W Department NWFP against the posts of trainee/leave reserve on purely temporary and adhoc basis for a period of six months in the first instance subject to the approval by the NWFP Public Service Commission, Peshawar or till the regular selectees of the NWFP Public Service Commission Peshawar are made available which-ever is earlier and production of medical fitness certificates from an authority appointed by the Government. They should report for duty on or before 1/10/87:-

*Mohd Ayub
Wikeje & P.O
Shahkhan-darai Tal
& Dis H Kohat
Mohd Malik
is-had.*

1. Mr. Sajjad Afzal Afridi S/O Khen Afzal Afridi.
2. Mr. Hamidullah Khan S/O Mir Alam Khan.
3. Mr. Peer Muhammad Khan S/O Akram Khan.
4. Mr. Ghiasuddin S/O Muhammad Mukhtiar.
5. Mr. Azhar Majeed S/O Abdul Majeed Mohmand.
6. Mr. Arshad Iqbal S/O Muhammad Umar Jan Khan.
7. Mr. Hamidullah Khan S/O Ayub Khan.
8. Syed Yousef Shah s/o S. Rehmat Shah.
9. Mr. Ahmad Nabi Sultan S/O Abdul Rashid Khan.
10. Mr. Muhammad Uzair S/O Aminullah Khan.
11. Mr. Muhammad Tariq S/O Usman Chani.
12. Mr. Muhammad Ayaz Khan S/O Muhammad Khalil Khan.
13. Mr. Javed Akber S/O Fazal Gul.
14. Mr. Muhammad Adil S/O Muhammad Aurangzeb.
15. Mr. Muhammad Ayub S/O Ghulam Sarwar.
16. Mr. Shahid Aziz S/O Ghulam Jilani.
17. Mr. Shakir Ishaq S/O Muhammad Ishaq Jan.
18. Mr. Abdul Ghafoor S/O Abdul Jebbar.
19. Mr. Rafiq Din S/O M. S. Haq.
20. Mr. Jamil Ahmad S/O Wali Muhammad Khan.
21. Mr. Aziz Ahmad S/O Haji Sher Khan.
22. Mr. Abdul Dayum S/O Jaffer Khan.

(ABDUL WAJID MOHAMMAD)
SECRETARY TO GOVERNMENT N.W.F.P
COMMUNICATIONS & WORKS DEPTT:

6782-6842

Endst. No. SO(E)C&W/4-1/78 Dated Peshawar, the September 16, 1987.

A copy is forwarded for information and necessary action to:-

1. The Accountant General, NWFP, Peshawar.
2. All District Accounts Officer/All Agency Accounts Officer.
3. The Secretary to Chief Minister, NWFP.
4. The Private Secretary to Minister for C&W, NWFP.
5. The Private Secretary to Chief Secretary, NWFP.
6. The Secretary to Govt of NWFP, S&CAD, Peshawar.
7. The Secretary to Govt of NWFP, Finance Deptt Peshawar.
8. All Chief Engineers/All S.E. in the C&W Deptt NWFP.
9. All Executive Engineers in the C&W Deptt NWFP.
10. The Director Health Services NWFP, Peshawar.
11. The Section Officer(C) C&W Department.
12. The Asstt Accounts Officer C&W Department.
13. Officers concerned.
14. The Private Secretary to Secretary C&W Department.
15. O/O file/P.Fn/atc.

ASHIO
7697987

M. Bashir Ahmad
(MIRZA BASHIR AHMAD)
SECTION OFFICER (E)
C & W DEPARTMENT.

[Signature]
ATTACHED

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(P-2)

GOVERNMENT OF N. W. F. PROVINCE
COMMUNICATIONS & WORKS DEPARTMENT

Dated Peshawar, the September 16, 1987

O R D E R.

NO. SO(E)C&W/4-1/78 In continuation of this Department's order of even number dated 16/9/1987, on the appointment of the following Temporary Assistant Engineers on purely temporary and adhoc basis against the posts of trainee/leave groovee in the C&W Department, their services are hereby placed at the disposal of the Executive Engineers noted against each, with immediate effect, for under-going 4 months practical training according to rules. They will have to pass prescribed test after completion of 4 months practical training :-

S.No.	Name of T.A.Es.	Place of Posting/training
1.	Mr. Sajjad Afzal Afridi.	XEN Building Project No.3 Peshawar.
2.	Mr. Hamidullah Khan.	XEN C&W Division Bannu.
3.	Mr. Peer Muhammad Khan.	XEN (Dev)C&W Division Tank.
4.	Mr. Ghiasuddin.	XEN C&W Division Dir at Timergarah.
5.	Mr. Azhar Majeed.	XEN Building Project No.1 Peshawar.
6.	Mr. Arshad Iqbal.	XEN C&W Division Bannu.
7.	Mr. Hamidullah Khan Khalil.	XEN Building Maintenance Division Peshawar.
8.	Syed Yousef Shah.	XEN Building Division A'Abad.
9.	Mr. Ahmad Nabi Sultan.	XEN Building Division, Swat.
10.	Mr. Muhammad Uzair.	XEN C&W Division Malakand.
11.	Mr. Muhammad Tariq.	XEN C&W Division Malakand.
12.	Mr. Muhammad Ayaz Khan.	XEN C&W Division Malakand.
13.	Mr. Javed Akbar.	XEN Highway Project Division Peshawar.
14.	Mr. Muhammad Adil.	XEN Building Project Division No.2 Peshawar.
15.	Mr. Muhammad Ayub.	XEN C&W Division Kohat. ✓
16.	Mr. Shahid Aziz.	XEN C&W Division Mansahra.

Mr. L. Ayub will + P.O.
Shakar alara Tel. & dist
Kohat Mr. Malik Ichel

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Place of Posting/Training

S.No.	Name of T.A.Es.	Place of Posting/Training
17.	Mr. Shakir Ishaq.	XEN Building Division Peshawar.
18.	Mr. Abdul Ghafoor.	XEN Building Division Mardan.
19.	Mr. Refi-ud-Din.	XEN Highway Division Abbottabad.
20.	Mr. Abdul Qayum.	XEN (Dev) C&W Division Chellanay, Mohmand Agency.
21.	Mr. Jamil Ahmed.	XEN Highway Division, Swat.
22.	Mr. Aziz Ahmed.	XEN C&W Division Karak.

ABDUL MAJID MOHMAND
 SECRETARY TO GOVERNMENT N.W.F.P
 COMMUNICATIONS & WORKS DEPARTMENT.

Endst.No.50(E)C&W/A-1/78 / 6984-7065
 Dated Peshr. the September 15, 1987.

A copy is forwarded for information and necessary action to :-

1. The Accountant General, N.W.F.P, Peshawar.
2. The District Accounts Officers Bannu/Dir/Abbottabad/Swat/
Kohat/Mansehra/Karak.
3. The Agency Accounts Officers Tank/Palokand/Mohmand.
4. The Secretary to Chief Minister, NWFP.
5. The Private Secretary to Minister for C&W, NWFP.
6. The Private Secretary to Chief Secretary, NWFP.
7. The Secretary to Government: P NWFP, S&GAD, Peshawar.
8. The Secretary to Govt of NWFP, Finance Department Peshawar.
9. All Chief Engineers/All Superintending Engineers in NWFP.
10. All Executive Engineers in the C&W Department NWFP.
11. The Director Health Services NWFP, Peshawar.
12. The Section Officer(G) C&W Department.
13. The Assistant Accounts Officer C&W Department.
14. Officers concerned.
15. The Private Secretary to Secretary C&W Deptt, Peshawar.
16. G/O file/P.Fs/etc.

Mirza Bashir Ahmad
 (MIRZA BASHIR AHMAD)
 SECTION OFFICER (E)
 C & W DEPARTMENT.

ASHIO

Mirza Bashir Ahmad

(B) 10

GOVERNMENT OF N. W. F. P.
COMMUNICATION AND WORKS DEPARTMENT.

Dated Peshawar the 26th May, 1988.

NOTIFICATION

NO. SO(E)C&W/4-14/79-II. On their selection by the N.W.F.P. Public Service Commission, Peshawar the Provincial Government are pleased to appoint the following as Temporary Assistant Engineers in the Communication and Works Department, NWFP in BPS-17 plus other allowances as admissible under the rules with immediate effect :-

1. Mr. Muhammad Uzair
2. Mr. Fazli Dadkus
3. Mr. Muhammad Tariq
4. Mr. Muhammad Shahab Khattak
5. Mr. Ziaur Rehman
6. Mr. Shahid Huesain
7. Mr. Munir Khan Nayyar
8. Mr. Syed Muhammad Ilyas Shah
9. Mr. Riaz Arshad
10. Mr. Muhammad Ayub
11. Mr. Abdul Sattar
12. Mr. Arshad Khan
13. Mr. Noor-us-Saeed Shah
14. Mr. Amer Nadeem Burrani
15. Mr. Nafi-ud-Din
16. Mr. Shakir Habib
17. Mr. Ahmad Nabi Sultan
18. Mr. Hamid Ajmal Khan
19. Mr. Aurangzeb
20. Mr. Habibur Mahim
21. Mr. Muhammad Nawaz
22. Mr. Bakht Rawan
23. Mr. Munir Hussain
24. Mr. Muhammad Tariq Khan
25. Mr. Sajjad Arzal Afridi
26. Mr. Abdul Ghafoor
27. Mr. Bahadar Said
28. Mr. Rahmat Hakim
29. Mr. Kifayatullah
30. Mr. Muhammad Nazar

2. Their seniority will be determined in accordance with the merit assigned by the NWFP Public Service Commission.

3. On their appointment the services of the following 23 Temporary Assistant Engineers are hereby placed at the disposal of Chief Engineer (Rev)/Executive Engineers not against back for undergoing 4 months practical training against the existing vacancies. They have also to pass the prescribed test on completion of 4 months training :-

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training, are hereby placed at the disposal of Superintending Engineers/Executive Engineers for further posting against the existing vacant posts :-

S.NO.	N.A.M.E	SERVICES PLACED AT THE DISPOSAL OF
1)	Mr. Muhammad Uzair	Executive Engineer, C&W Division Malakand.
2)	Mr. Muhammad Tariq	Executive Engineer, C&W Division Malakand.
3)	Mr. Muhammad Ayub	Superintending Engineer, C&W Circle Kohat.
4)	Mr. Rafi-ud-Din	Superintending Engineer, C&W Circle, Abbottabad.
5)	Mr. Ahmad Nabi Sultan	Superintending Engineer, C&W Circle Swat.
6)	Mr. Sajjad Afzal Afriwi (Leave reserve)	Superintending Engineer, Rtdg, Circle Peshawar.
7)	Mr. Abdul Ghafoor (Leave reserve)	Superintending Engineer, Highway Circle Peshawar.

(FAOIR AHMAD PARACHA)
SECRETARY TO GOVERNMENT OF NWFP
COMMUNICATION & WORKS DEPARTMENT.

ENDST.NO.50(E)C&W/4-14/70-III, Dated Peshawar the 26th May, 1988.

A copy is forwarded to :-

- 1) The Accountant General, N.W.F.P., Peshawar.
- 2) All District Accounts Officers/Agency Accounts Officers, NWFP.
- 3) Secretary to Chief Minister, N.W.F.P.
- 4) Private Secretary to Minister for C&W N.W.F.P.
- 5) Private Secretary to Chief Secretary, NWFP.
- 6) The Secretary, Services & General Admn: Department, NWFP.
- 7) The Secretary, Finance Department, NWFP.
- 8) The Secretary Planning and Development Deptt. NWFP.
- 9) All Chief Engineers/Superintending Engineers in the C & W Department NWFP.

[Handwritten signature]

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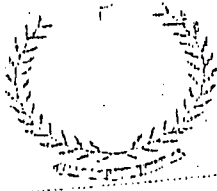
~~12~~

- 10) All Executive Engineers in the C&W Department.
- 11) Deputy Secretary C&W Secretariat.
- 12) Administrative Officer Provincial Urban Development Board, NWFP Peshawar with reference to his letter No. U1283/10/3037 dated 30.3.1988.
- 13) Deputy Director (Admn:)E-1, Chief Engineer(Admn:) Water, WAPDA Lahore, with reference to his Memo. No. W.CR-4-489/88/E-1/1348 dated 10.2.1988.
- 14) The Section Officer (Establishment), Irrigation & Public Health Engineering Department with reference to his letter No. SO(E)I&PHE/1-4/87, dated 16.3.1988.
- 15) Superintending Engineer, Malakand Irrigation Circle Gulkada, Saidu Sharif Swat with reference to his Memo No. 2583-84/6-E dated 8.3.1980.
- 16) Officers concerned.
- 17) The Manager Government Printing & Stationery Department for publication in the next Government Gazette.
- 18) Private Secretary to Secretary D & W.
- 19) O/P file 4-7/77/Seniority File/4-1/78 etc.

Mirza Rashir Ahmad
 (MIRZA RASHIR AHMAD,)
 SECTION OFFICER(E)

HABIB

Mirza Rashir Ahmad
 ATTESTED



**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

Dated Peshawar, the March 2, 2017

NOTIFICATION

NO. SO(E-1)E&AD/9-232/2017. The Government of Khyber Pakhtunkhwa is pleased to order posting/transfer of the following officers, in the public interest, with immediate effect:-

S. #	NAMES OF OFFICERS	FROM	TO
1	Engr. Syed Daud Jan Chief Engineer (BS-20 A.C.B)	Chief Engineer (North) C&W Peshawar.	Report to C&W Secretariat Peshawar
2	Engr. Muhammad Tariq SE (BS-19)	Superintending Engineer C&W Circle Swat.	Chief Engineer (North) C&W Peshawar in his own pay & scale, vice Sr. No.1.
3	Engr. Muhammad Ayub SE (BS-19)	Superintending Engineer Provincial (Construction) Peshawar.	Chief Engineer (Central) C&W Peshawar in his own pay & scale against the vacant post.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Encl. No & Date even. 11.

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt of Khyber Pakhtunkhwa, C&W Department.
4. All Divisional Commissioner in Khyber Pakhtunkhwa
5. Accountant General, Khyber Pakhtunkhwa.
6. Managing Director, Pakhtunkhwa Highways Authority, Peshawar
7. Chief Engineer (Central) C&W, Peshawar.
8. Chief Engineer (North) C&W, Peshawar.
9. Chief Engineer (FATA), Works and Services, Warsak Road, Peshawar.
10. District Accounts Officer, Swat.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Secretary Establishment, E&A Department/SO (Secret)/DS(Admn)/PA to
Director (Protocol) E&AD/ACO Cypher E&AD.
13. Officers concerned.
14. Controller, Government Printing Press, Peshawar.

W. KASHIF IQBAL JILANI
SECTION OFFICER (ESST-I)
PH: & FAX #091-9210529



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR.

No. 5-E/ 1628 / CEC / C&WD

Dated Peshawar the 02 / 03 / 2017

14

ASSUMPTION OF CHARGE

In pursuance to Govt. of Khyber Pakhtunkhwa Establishment Department Peshawar Notification No.SO(E-1) E&AD/ 9-232/2017 dated 02-03-2017 I, Engr. Muhammad Ayub, hereby assume the charge of the post of Chief Engineer (Centre) C&W Department Peshawar, today on the After-noon of 2nd March, 2017.

P/F
Engr. Muhammad Ayub
Chief Engineer (Centre)
C&W Department
Khyber Pakhtunkhwa Peshawar

Copy forwarded to the :-

1. Principal Secretary to Governor Khyber Pakhtunkhwa Peshawar.
2. Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
3. Secretary to Govt. of Khyber Pakhtunkhwa, C&W Deptt: Peshawar.
4. All Divisional Commissioner in Khyber Pakhtunkhwa
5. Accountant General Khyber Pakhtunkhwa Peshawar.
6. All Chief Engineers in C&W Department Khyber Pakhtunkhwa.
7. Managing Director PKHA C&W Department Peshawar.
8. Deputy Commissioner Peshawar.
9. Project Director PMU C&W Department Peshawar.
10. All Superintending Engineers in C&W Deptt. KPK.
11. PSO to Advisor to Chief Minister for C&W Department, Peshawar.
12. All Executive Engineers in C&W Deptt. KPK.
13. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
14. Secretary Establishment E&A Department, Peshawar.

14



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the June 18, 2020

NOTIFICATION:

No.SOE/C&WD/1-12/88:

Without prejudice to the legal remedies available to Provincial Government and in pursuance of judgment of the Peshawar High Court Peshawar dated 19.02.2020 in W.P No. 5673-P/2019, Engr. Muhammad Shahab Khattak Chief Engineer (BS-20), while performing duty as Secretary to Govt of Khyber Pakhtunkhwa C&W Department stand retired from Government Service on 04.04.2020 (A.N) on attaining the age of superannuation, as his date of birth is 05.04.1960, subject to CPLA/Appeal of the Provincial Government against aforementioned judgment of Peshawar High Court Peshawar and any order contrary as and when issued by the Apex Court of Pakistan.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department, Peshawar
3. PSO to Chief Secretary Khyber Pakhtunkhwa Peshawar
4. PS to Secretary, C&W Department Peshawar
5. Officer concerned
6. Office order File/Personal File

(ABDUR RASHID KHAN)
SECTION OFFICER (Estb)

Attested

(16)

16

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the March 31, 2021

NOTIFICATION:

No. SOE/C&WD/1-16/88: In pursuance of section 13A(1) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), and in supersession of Notification No. SOE/C&WD/1-16/88 dated 01.12.2020, Engr. Riaz Arshad Superintending Engineer (BS-19) C&WD, while posted as Chief Engineer (Reconstruction) PERRA, Abbottabad in his own pay & scale and authorized for the purpose of pay against the post of Superintending Engineer Provincial Building (Construction) Peshawar stands retired from Government Service with effect from 24.11.2020 on attaining sixtieth (60th) year of age, as his date of birth is 25.11.1960.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (North/Centre/CDO) C&W Peshawar
3. Chief Engineer (Merged Areas) C&W Peshawar
4. Chief Engineer (East) C&W Abbottabad
5. DG-cum-Secretary PERRA Abbottabad
6. Chief Engineer (Reconstruction) PERRA Abbottabad
7. Superintending Engineer (Construction) Peshawar
8. Project Director PaRRSA/USAID Directorate Swat stationed at Peshawar
9. District Accounts Officer Swat/Abbottabad
10. PS to Secretary Relief, Rehabilitation & Settlement Department Peshawar
11. PS to Secretary, C&W Department Peshawar
12. Officer concerned
13. Office order File/Personal File

ATTESTED

Zahoor Shah
31.03.2021
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

17

Department: Communication & Works Department

1. Nomenclature of the post/Basic Scale Chief Engineer (BPS-20)
2. Service/Group/Cadre Engineering (C&W)
3. Sanctioned strength of the Cadre Total posts 6 (5-regular and 01 Ex-Cadre) Annex-I

		Direct	Promotion	Transfer
4. i.	Percentage of share		100%	
ii.	No. of posts allocated to each category	-	06	-
iii.	Present occupancy position			
	1) Regular		04	
	2) Acting charge		00	
iv.	No. of vacancies in each category:			
	a. Regular		00	
	b. Acting charge		01	

v. How did the vacancy(ies) under promotion quota accrue and since when

Position of 01 No. Acting charge Appointment

a. Due to posting of Engr. Ejaz Hussain Ansari CE (BS-20) as Secretary C&W Department Therefore, the appointment of one (01) No. senior SE (BS-19) as CE (BS-20) is required on acting charge basis, under Section-9 of APT Rule (Annex-II).

vi. Recruitment Rules

By selection, on merit from amongst Superintending Engineers/Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc. Engineering (Civil) from a recognized University and have successfully completed Senior Management Course Training (Annex-III).

vii. Required length of service

At least 17 (seventeen) years of service in BPS-17 and above

viii. Whether to be promoted on regular basis or appointed on acting charge basis?

Acting-charge appointment = 01 post

ix. Mandatory training, if any S.M.C

x. Minimum required score on EI. 70

SECRETARY
C&W

Dated 28 /12/2020

Secretary to
Govt. of Khyber Pakhtunkhwa
C&W Department

(Handwritten Signature)

CERTIFICATE





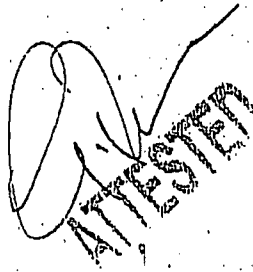
It is certified that:-

1. The officers included in the panel are eligible in terms of length of service required for promotion.
2. No disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officer included in the panel.
3. The seniority list of the officers, included in the panel issued on 04.06.2020 is final (Annex-IV).
4. As per record, the officers included in the panel are neither involved in any NAB case nor entered into plea bargaining/VR agreement with NAB authorities.


SECRETARY
C&W

Dated 08 /12/2020

Secretary to
Govt. of Khyber Pakhtunkhwa
C&W Department


ATTESTED

~~SECRET~~
PANEL OF OFFICERS FOR CONSIDERATION

PS

Sl. No.	Ser. No.	Name of Officer with Qualification	Date of Birth	Date of 1 st entry into Govt Service	Date of Appointment/promotion to BS-19	Date of regular Appointment/promotion to the present scale	Whether fulfill the prescribed length of service	Quantified score	Whether FERS (if any)	Whether any protest charge (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	1	Muhammad Ayub B.Sc/MS (Civil)	03.02.1961 Kohat	26.09.1987	09.12.2014	09.12.2014	Yes	66.53	—	—	—	—	—	CE (CDO) C&W Peshawar (OPS)	Exempted from SMC training as he has attained the age of 59 years
2	2	Abdul Sattar B.Sc (Civil)	07.03.1961 Orakzai	26.05.1988	01.09.2015	01.09.2016	Yes	67.14	—	—	—	—	—	SE (Southern) C&W Circle Tribal Districts at Bannu	Exempted from SMC training as he has attained the age of 59 years
3	3	Mahid Khan B.Sc (Civil)	02.10.1961 Mardan (Swabi)	26.05.1988	21.11.2019	21.11.2019	Yes	58.13	—	—	—	—	—	Director (P&D) PKHA Peshawar	Exempted from SMC training as he has attained the age of 58 years

1. Certified that the officers included in the panel are eligible for promotion/ appointment to the post of BS-20 on acting charge basis in all respects.
2. Certified that the officers included in the panel are not involved in any NAB case or entered into plea bargain or VR with National Accountability Bureau (NAB).

Signature: _____

Date: 08/12/2020

Secretary to
Govt. of Khyber Pakhtunkhwa
C&W Department



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/2020
Dated Peshawar, the Feb 23, 2021

To

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: PROMOTION OF SUPERINTENDING ENGINEERS (BS-19) TO
THE RANK OF CHIEF ENGINEERS (BS-20) C&W DEPARTMENT
ON REGULAR BASIS

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along-with related documents duly completed in all respect for promotion of Superintending Engineers (BS-19) to the rank of Chief Engineers (BS-20) on regular basis for placing before Provincial Selection Board (PSB) for consideration, please.

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. PS to Secretary C&W Department, Peshawar
2. PA to Additional Secretary C&W Department, Peshawar
3. PA to Deputy Secretary (Admin) C&W Department, Peshawar

Zahoor
23.02.2021
SECTION OFFICER (Estb)

RECEIVED

(21)

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: Communication & Works Department

1. Nomenclature of the post/Basic Scale Chief Engineer (BPS-20)
 2. Service/Group/Cadre Engineering (C&W)
 3. Sanctioned strength of the Cadre Total regular posts 10 Nos
Annex-I

	Direct	Promotion	Transfer
4. i. Percentage of share		100%	
ii. No. of posts allocated to each category.	-	10	-
iii. Present occupancy position	-		-
1) Regular		05	
2) Acting charge		00	
iv. No. of vacancies in each category:	-		-
a. Regular		05	
b. Acting charge		00	

- v. How did the vacancy(ies) under promotion quota accrue and since when

Position of 05 Nos Regular Post

- a. Due to New creation (Annex-II) --- 05 Nos

Total: --- 05 Nos

- vi. Recruitment Rules

By selection, on merit from amongst Superintending Engineers/Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc. Engineering (Civil) from a recognized University and have successfully completed Senior Management Course Training (Annex-III).

- vii. Required length of service

At least 17 (seventeen) years of service in BPS-17 and above

- viii. Whether to be promoted on regular basis or appointed on acting charge basis?

Regular = 05 posts

- ix. Mandatory training, if any S.M.C

- x. Minimum required score on EI. 70

SECRETARY
C&W

Dated 23/02/2021

Secretary to
Govt. of Khyber Pakhtunkhwa
C&W Department

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227

PANEL OF OFFICERS FOR CONSIDERATION

PSB-II

Sl. No.	Sen. No.	Name of Officer with qualification	Date of Birth	Date of 1 st entry into Govt Service	Date of Appointment/promotion to BS-19	Date of regular Appointment/promotion to the present scale	Whether fulfill the prescribed length of service	Qualified score	Missing PERs (if any)	Disciplinary proceedings (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	1	Muhammad Ayub B.Sc/MS (Civil)	03.02.1961 Kohat	26.09.1987	09.12.2014	09.12.2014	Yes	66.53	--	--	--	--	--	CE (CDO) C&W Peshawar (OPS)	Exempted from SMC training as he has attained the age of 58 years
2	2	Abdul Sattar B.Sc/MS (Civil)	07.03.1961 Orakzai	26.05.1988	01.09.2016	01.09.2016	Yes	67.14	--	--	--	--	--	SE (Southern) C&W Circle Tribal Districts at Bannu	Exempted from SMC training as he has attained the age of 58 years
3	3	Arshad Khan B.Sc (Civil)	02.10.1961 Swabi	26.05.1988	21.11.2019	21.11.2019	Yes	58.13	--	--	--	--	--	Director PKHA Peshawar	Exempted from SMC training as he has attained the age of 58 years
4	4	Noor-us-Saeed Shah B.Sc (Civil)	02.03.1962 Mardan	26.05.1988	05.06.2015	05.06.2015	Yes	64.85	--	--	--	Yes Annex- IV	--	Principal Design Engineer O/O CE (CDO) C&W Peshawar	--
5	5	Amer Nadeem Durrani B.Sc (Civil)	28.04.1962 Peshawar	26.05.1988	05.06.2015	05.06.2015	Yes	66.48	--	--	Yes	Nil	--	MD PKHA Peshawar (OPS)	Exempted from SMC training as he has attained the age of 58 years. Moreover, the officer was involved in VR case with NAB amounting to Rs.5,10,011/-. In pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-V).

6	6	Rafi-ud-Din B.Sc (Civil)	01.05.1962 Abbottabad	26.09.1987	01.09.2016	01.09.2016	Yes	67.49					Nil		SE C&W Circle Mardan	Exempted from SMC training as he has attained the age of 58 years
7	7	Shakir Habib B.Sc (Civil)	30.03.1964 Kohat	26.05.1988	05.06.2015	05.06.2015	Yes	68.00					Nil		SE C&W Circle Peshawar	
8	8	Ahmad Nabi Sultan B.Sc (Civil)	30.01.1964 Swat	26.09.1987	01.09.2016	01.09.2016	Yes	56.87	01.01.2016 to 31.12.2019				Nil		CE (OPS) C&W Abbottabad	
9	9	Hamid Ajmal Khan B.Sc (Civil)	01.08.1962 Abbottabad	26.05.1988	01.09.2016	01.09.2016	Yes	63.05				Yes	Nil		SE (HQ) O/O CE C&W Abbottabad	Exempted from SMC training as he has attained the age of 58 years. Moreover, the officer was involved in VR case with NAB amounting to Rs.1,00,431/- . In pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-V)
10	10	Fazli Wahab B.Sc (Civil)	01.09.1961 Swat	26.05.1988	01.09.2016	01.09.2016	Yes	54.31	01.01.2016 to 31.12.2019				Nil		SE PBMC C&W Peshawar	Exempted from SMC training as he has attained the age of 58 years
11	11	Muhammad Nawaz B.Sc (Civil)	15.02.1962 Mohmand	26.05.1988	21.11.2019 (conditionally)	21.11.2019 (conditional ly)	Yes	55.51	01.01.2019 to 31.12.2019			Yes	Nil		SE (HQ) O/O CE (North) Peshawar	Exempted from SMC training as he has attained the age of 58 years. Moreover, the officer was involved in VR case with NAB amounting to Rs.1,61,515/- . In pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-V)

12	Bakht Rawan B.Sc (Civil)	05.03.1962 Malakand	26.05.1988	09.10.2018	09.10.2018	Yes	51.06	01.01.2018 to 31.12.2019				Nil		Principal Design Engineer O/O CE (CDO) C&W Peshawar	Exempted from SMC training as he has attained the age of 58 years
13	Munir Hussain B.Sc/M.Sc (Civil)	10.04.1962 Mansehra	26.05.1988	05.01.2018	05.01.2018	Yes	66.14					Nil		Director PKHA Peshawar	Exempted from SMC training as he has attained the age of 58 years
14	Muhammad Tariq B.Sc (Civil)	12.01.1964 Malakand	26.05.1988	09.10.2018	09.10.2018	Yes	59.03	01.01.2018 to 31.12.2019	Yes			Nil		PD PRIP C&W Peshawar	Formal inquiry under E&D Rules, 2011 against him has been initiated, as he is involved in inquiry case Establishment of Girls Degree College at Dargal District Charsadda (ADP No.425/80389 (2014-15) (Annex-VI)
15	Jamil Ahmad B.Sc (Civil)	20.11.1962 Malakand	16.09.1987	22.01.2019	22.01.2019	Yes	58.01	01.01.2018 to 31.12.2019				Nil		SE C&W Circle Swat	Exempted from SMC training as he has attained the age of 58 years

1. Certified that the officers included in the panel are eligible for promotion to the post of BS-20 on regular basis in all respects except Sr.No.14.

2. Certified that the officers included in the panel are not involved in any NAB case nor entered into plea bargain or VR with National Accountability Bureau (NAB) except Sr.No.5, 09 & 11.

Signature: _____

Date: 23-02/02/2021

Secretary to
Govt. of Khyber Pakhtunkhwa
C&W Department

[Handwritten Signature]
ATTESTED

CERTIFICATE




25

It is certified that:-

1. The officers included in the panel are eligible in terms of length of service required for promotion.
2. No disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officer included in the panel except Sr.No.14.
3. The seniority list of the officers, included in the panel issued on 01.06.2020 is final (Annex-VII).
4. As per record, the officers included in the panel are neither involved in any NAB case nor entered into plea bargaining/VR agreement with NAB authorities except Sr.No.5, 09 & 11.


SECRETARY
C&W

Dated 23 /02/2021


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the March 31, 2021

26

F

NOTIFICATION:

No. SOE/C&WD/1-4/87:

In pursuance of sub-section (2) of section 13A of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act, No. XVIII of 1973), read with sub-section (3) thereof, Engr. Muhammad Ayub Superintending Engineer (BS-19) C&WD, while posted as Chief Engineer (CDO) C&W Peshawar in his own pay & scale stands retired from Government Service with effect from 02.02.2021 on attaining sixtieth (60th) year of age, as his date of birth is 03.02.1961.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (Centre/CDO) C&W Peshawar
3. PS to Secretary, C&W Department Peshawar
4. PA to Additional Secretary, C&W Department Peshawar
5. PA to Deputy Secretary (Admn), C&W Department Peshawar
6. Officer concerned
7. Office order File/Personal File

Zaheer Shah
31.03.2021
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

ATTACHED

To: The Honorable Chief Minister
(Khyber Pakhtunkhwa
(Competent Authority)

Order No: 3027
Date: 23/02/2021
Secretary, C&W Department
Peshawar

Through: PROPER CHANNEL
Subject: PROMOTION TO BS-20

Respected Sir,

I, Engr. Muhammad Ayub, Superintending Engineer (BS-19) presently holding the post of Chief Engineer (CDO) C&W Department Peshawar submit the following few lines for your kind perusal and favorable consideration:-

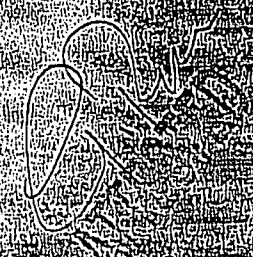
1. Due to restructuring of C&W Department 05 No. new posts of Chief Engineer (BS-20) have been created vide Finance Department No BO/FO/1-61/2020/2 dated 17/02/2021 (Annex-1)
2. As per seniority list of Superintending Engineers (BS-19) C&W Department as stood on 01/06/2020 the name of the undersigned is appearing at Sl. No.02 (Annex-1)
3. The officer at Sl. No.1 of the Seniority list has since been retired from Govt Service hence the position of the undersigned right now is at Sl. No.1
4. Administrative Department has already forwarded working papers to Establishment Department for placing before the Provincial Selection Board (PSB) on 23/02/2021 for consideration
5. The undersigned has attained the age of superannuation i.e. 60 years on 02/02/2021. However, the PSB has not yet considered my promotion case. Now the age limit of employees is fixed as 60 years as decided by Provincial Cabinet on 6/03/2021
6. It is pertinent to mention here that the Supreme Court of Pakistan has set aside the decision of Peshawar High Court Peshawar dated 19-02-2019 through Order dated 07-01-2021 meaning thereby the retirement age limit of Govt. Employees is fixed as 63 years with effect that the undersigned was properly working as Chief Engineer (OPS) Central Design Office, C&W Department Peshawar. Hence my plea taken in the aforesaid lines is justified and entitle for promotion on the basis that the Finance Department created 05 No posts of Chief Engineers (BS-20) in C&W Department on 17-02-2021

Keeping in view the above it is requested that a special PSB may please be convened for my promotion to BS-20 being still Govt. Servant for approval of my promotion to BS-20 through circular by PSB please

DA/As above

(Engr. Muhammad Ayub)
CHIEF ENGINEER (CDO)
C&W Department Peshawar

- Copy to the:
1. Chief Secretary Govt. of Khyber Pakhtunkhwa (Chairman Provincial Selection Board) with similar request as above please.
 2. Secretary to Govt. of Khyber Pakhtunkhwa C&W Department with the request to forward my application to the competent authority for favourable consideration please.



CHIEF ENGINEER (CDO)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/20
Dated Peshawar, the March 29, 2021

20

67

To

The Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department
Peshawar

Subject: PROMOTION TO BS-20

Dear Sir,

I am directed to refer to the subject noted above and to state that Engr. Muhammad Ayub and Engr. Abdul Sattar Superintending Engineers (BS-19) C&W Department have submitted applications with the request that a special PSB may be convened for their promotion to the rank Chief Engineer (BS-20) C&W Department (copy enclosed).

2. I am further directed to say that restructuring of C&W Department approved by the Competent Authority, whereby various positions, including 05 Nos posis of Chief Engineer (BS-20) have been created by the Finance Department on 17.02.2021. The referred posts are filled by way of promotion amongst Superintending Engineers (BS-19) C&W Department. Therefore, this department has submitted a working paper to Establishment Department through letter dated 23.02.2021 for placing before PSB for consideration. In the panel of working paper, the name of the aforesaid officers are at Sr.No. 1 & 2. Now the retirement age of Government employees has reverted back to 60 years; rather both the officers have attained the age of superannuation i.e. 60 years w.e.f. 03.02.2021 and 07.03.2021 respectively.

3. In view of above, this department is requested that the proforma promotion of Engr. Muhammad Ayub and Engr. Abdul Sattar Superintending Engineers (BS-19) C&W Department to the rank of Chief Engineer (BS-20) C&W Department may be considered with effect from their retirement dates i.e. 03.02.2021 and 07.03.2021 respectively, if promotion policy permits, please.

Yours' faithfully

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Ends/ even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar.

Zahoor Shah

29.03.2021

SECTION OFFICER (Estb)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No.SOR-V(E&AD)/1-1/C&W/2019/Vol-V
Dated 13th April, 2021

H 29

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.

Subject: PROMOTION TO BS-20.

Dear Sir,

I am directed to refer to your letter No.SOE/C&WD/4-2/20 dated 29.3.2021 and to state that in light of the Provincial Government Promotion Policy proforma promotion is allowed in cases where seniority is disputed in Court of Law and restored back on Court decision after retirement of the employee.

Since, both the officers retired on superannuation on 03.2.2021 and 07.3.2021 respectively and proforma promotion in the instant case is not covered under Provincial Government Promotion Policy, therefore, may be regretted, please.

Yours faithfully,

SECTION OFFICER (REG-V)

Endst: of even No. & Date.

Copy forwarded to PA to Deputy Secretary (R-III) Establishment Department.

SECTION OFFICER (REG-V)

1

**IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].**

30

I

Writ Petition No.2580-P/2021

Eng. Muhammd Ayub son of Ghulam Sarwar Khan,
r/o Sector-E Hayatabad, Peshawar.

Petitioner (s)

VERSUS

Government of Pakistan,
Through Chief Secretary Khyber Pakhtunkhwa,
Peshawar and others.

Respondent (s)

For Petitioner (s) :- Mr. Gohar Rehman, Advocate.
For Respondent(s) :- Mr. Khalid Rehman, AAG.
Date of hearing: 15.12.2021

JUDGMENT

ROOH-UL-AMIN KHAN, J:-By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Eng. Muhammad Ayub, the petitioner, seeks issuance of an appropriate writ to the effect that respondents be directed to grant him proforma promotion against the post of Chief Engineer BS-20 from the date on which the vacancy had become vacant.

2. Learned counsel for the petitioner heard at length and record annexed with the petition perused.

3. Admittedly, petitioner is civil servant who got retired as Superintendent Engineer BS.19 from Communication & Works Department, Khyber Pakhtunkhwa, Peshawar on 31.03.2021. Through the instant petition he is seeking proforma promotion against the post of Chief Engineer BS.20 allegedly lying vacant

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to be true copy

since 04.04.2020. Without dilating upon merit of the case lest it may prejudice the case of either side, suffice it to say that the Hon'ble Supreme Court in its recent judgment dated 01.07.2021, rendered in Civil Petition No.10971-L of 2020, titled, "Chief Secretary Government of Punjab Lahore etc Vs Ms. Shamim Usman" has held that proforma promotion is a kind of promotion, the jurisdiction of which is vested in the Service Tribunal.

4. In view of the above this writ petition is not maintainable, however, we instead of dismissing it, in light of judgment of the Ho'ble Apex Court in case titled, "Mian Asghar Ali Vs Govt of Punjab through Secretary (Colonies) BOR Lahore and others" (2017 SCMR 118), convert it into appeal and transmit to the Service Tribunal for onward proceedings, where the petitioner may file an application for amendment of appeal in accordance with law and subject to limitation.

Announced:
15.12.2021
M. Straj, A/P/11/PS

Rooh ul Amin
Senior Puisne Judge

[Signature]
JUDGE

Di. of Mr. Justice Rooh ul Amin Khan Hon'ble Senior Puisne Judge; and
Hon'ble Mr. Justice Ijaz Anwar.

ATTESTED
to be true Copy