

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.846/2014

Mr. Irfan Ali (PMS BS-17) and others **VERSUS** Govt. of Khyber Pakhtunkhwa & others

1. Fahad Ikram Qazi (PMS BS-17)
2. Isthiq Ahmed (PMS BS-17)
3. Mr. Daulat Khan (PMS BS-17)
4. Muhammad Ali (PMS BS-17)
5. Yasir Qayyum (PMS BS-17)
6. Jibreel Raza(PMS BS-17)
7. Aziz Ullah Jan (PMS BS-17)
8. Masaud Jan (PMS BS-17)
9. Tariq Ullah (PMS BS-17)
10. Alamgir Khan (PMS BS-17)
11. Dr. Azmat Ullah Wazir (PMS BS-17)
12. Anwar Khan (PMS BS-17)
13. Beenish Imran (PMS BS-17)
14. Irum Shaheen (PMS BS-17)
15. Misbah Riaz (PMS BS-17)
16. Fazeelat Jehan (PMS BS-17)
17. Shahab Muhammad Khan (PMS BS-17)
18. Shakeel Jan (PMS BS-17)
19. Israr Khan (PMS BS-17)
20. Zameen Khan (PMS BS-17)
21. Asmat Ullah Wazir (PMS BS-17)
22. Zahid Usman Kakakhel (PMS BS-17)
23. Through Akhtar Nawaz s/O Gul Rehman (PMS BS-17) presently posted as Section Officer, Governor's Secretariat, Khyber Pakhtunkhwa Peshawar.

..... (Respondents)

**PARAWISE REPLY ON BEHALF OF CURRENTLY IMPLEADED
AFOREMENTIONED RESPONDENTS**

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appeal is badly time barred as regular promotion of the appellants was issued on 04.10.2012 and the appellants preferred departmental appeal after lapse of considerable time on 10.07.2013 (**Annex-I & II**).

2. The appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
3. That the appeal is not maintainable.
4. That the appellants have presented the facts in manipulated form which disentitles him for any relief whatsoever.
5. That the appellants have not come to this Tribunal with clean hands.
6. That the appellants are bad for non-joinder of necessary parties.

ON FACTS:

1. Correct.
2. Correct.
3. Incorrect as per notification dated 21.12.2011 the appellants were not promoted rather appointed on acting basis against the posts falling in the quota of initial recruitment (**Minutes of PSB are enclosed at Annex-III**). Moreover, the appellants were also deficient of the required length of service mandatory for promotion to PMS BS-17 as they have been appointed as Tehsildar on 22.01.2009.
4. Provincial Government calls meeting of PSB when they need promotion of officers to next higher grade keeping in view workload in upper scale and financial implications. Hence, the claim of the appellants that delay of PSB on May 5, 2012 has suffered their service career is baseless and technically incorrect.
5. PSB in its meeting held on 05-09-2012 considered the case of promotion of Tehsildars to the post of PMS BS-17 keeping in view need of their services in next higher grade. After approval from Competent Authority, their promotion was notified on 04-10-2012. As per rules, promotion is always notified with immediate effect. Since, the appellants are performing their duties as PMS Officers since 04.10.2012, therefore, their claim for the benefits from back date, where they have not rendered services as PMS Officers, is baseless, not justifiable and against the norms of justice.
6. Incorrect. Every case has got its own peculiar facts & circumstances and therefore the facts of one case cannot be generalized to all other cases. Similarly, cases of

Iqbal Khattak and Fazal Hussain have their own peculiar facts which are totally different in nature from the instant case. Mr. Fazal Hussain was appointed on acting charge basis on 25.03.2010 while he was fulfilling all requisite conditions for regular promotion to the post of PMS BS-17. However, the appellants were deficient of required length of service at the time of their acting charge appointment, therefore, their case has no similarity with the case of Mr. Fazal Hussain. Likewise, the benefit of judgment in Appeal No. 612/2008 (Muhammad Iqbal Khattak) cannot be extended to the appellant as Mr. Iqbal Khattak was temporary promoted to PCS EG (BS-17) on 06.03.1996 besides the fact that clear vacancies were available in his share for his promotion and was later on promoted on regular basis on 19.02.2008 after a lapse of almost 12 years while in the instant case the appellants were appointed on acting charge basis to PMS BS-17 against the quota reserved for initial recruitment on 21.12.2011 as they were deficient of required length of service, hence, the plea of the appellants for regular promotion against the posts which did not fall in promotion quota is not justifiable and hence baseless (**Annex-IV & V**).

ON GROUNDS:

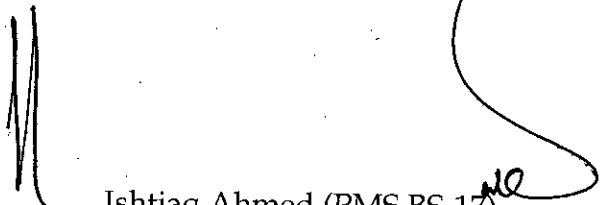
- A. **Incorrect.** The said order is according to merit, justified, legally covered and according to the law.
- B. **Incorrect.** The appellant alongwith others were appointed to the post of PMS BS-17 on acting charge basis on 21-12-2011 against the share pertaining to initial recruitment in the light of Rule 9(3) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer Rules), 1989. Later on they were promoted to the post of PMS BS-17 on regular basis on 30-10-2012 against 20% share of Tehsildars reserved in PMS Posts. Hence, plea of the appellants is misleading.
- C. **Incorrect.** The benefits of judgment reported in 2006 in SCMR 1938 is only extendable to the appellants where posts are available for promotion in the quota reserved for promotion of the appellants, however, in the instant case the appellants were appointed on Acting Charge Basis against the quota

reserved for initial recruitment. Hence, the acting charge appointment of the appellants against the quota reserved for initial recruitment do not accrue any right of regular promotion under the rules, laws and policies.

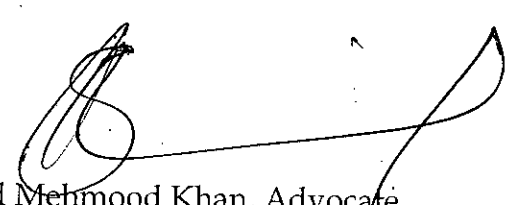
- D. As already explained in para-6 of the facts.
- E. As already explained in para-6 of the facts.
- F. **Incorrect.** The benefits SCMR 1996, page 1185, 2009 SCMR page-1, cannot be given to the appellants being completely a different nature of case as explained above.
- G. **Incorrect.** As the officers referred to as juniors are directly recruited PMS BS-17 officers appointed as PMS BS-17 on 27.05.2012 before the promotion of the appellants to PMS BS-17 and are hence senior. Therefore, the word junior is misleading. No junior of appellants were promoted to PMS BS-17 during the period mentioned by the petitioner.
- H. **Incorrect.** As explained in para-4 of the facts.
- I. No comments.

It is, therefore, most humbly prayed that on acceptance of these response, the instant appeal may very graciously be dismissed.

Through:


Ishtiaq Ahmed (PMS BS-17)
Presently posted as Section Officer
Establishment Department, Peshawar

Through:


Shahid Mehmood Khan, Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.846/2014

Mr. Irfan Ali (PMS BS-17) and others **VERSUS** Govt. of Khyber Pakhtunkhwa & others

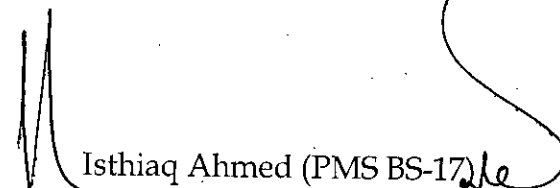
1. Fahad Ikram Qazi (PMS BS-17)
2. Akhtar Nawaz (PMS BS-17)
3. Mr. Daulat Khan (PMS BS-17)
4. Muhammad Ali (PMS BS-17)
5. Yasir Qayyum (PMS BS-17)
6. Jibreel Raza (PMS BS-17)
7. Aziz Ullah Jan (PMS BS-17)
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13. Beenish Imran (PMS BS-17)
14. Irum Shaheen (PMS BS-17)
15. Misbah Riaz (PMS BS-17)
16. Fazeelat Jehan (PMS BS-17)
17. Shahab Muhammad Khan (PMS BS-17)
18. Shakeel Jan (PMS BS-17)
19. Israr Khan (PMS BS-17)
20. Zameen Khan (PMS BS-17)
21. Asmat Ullah Wazir (PMS BS-17)
22. Zahid Usman Kakakhel (PMS BS-17)
23. Through Isthiaq Ahmed (PMS BS-17) presently posted as Section Officer, Establishment Department, Civil Secretariat Khyber Pakhtunkhwa Peshawar.

..... (Respondents)

AFFIDAVIT

I the respondent solemnly declare that contents of the parawise comments are correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Through:


Isthiaq Ahmed (PMS BS-17)
Presently posted as Section Officer
Establishment Department, Peshawar

Through:

Shahid Mehmood Khan, Advocate.

Dated Peshawar the October, 04, 2012



NOTIFICATION

NO.SOH.H(D) 2(192)2012-

Consequent upon the recommendations of the Provincial Selection Board, the competent authority is pleased to order the promotion of the following PMS BS-17 (A/C) / Tehsildars to the post of Provincial Management Service (BS-17), on regular basis with immediate effect-

S.#	Name of Officer
1.	Syed Gul Jamal
2.	Mr. Naqem Akhtar
3.	Mr. Niaz Muhammad
4.	Mr. Abdul Majeed Qasim
5.	Mr. Shaukat Hussain
6.	Mr. Gul Nawaz Ali
7.	Mr. Nosrwan
8.	Qazi Altaf-Rahman
9.	Mr. Saleem Jan
10.	Mr. Irfan Ali
11.	Mr. Coher Ali

2. On promotion the above officers will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act 1973, read with Rule-15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. Consequent upon above, the following postings/transfers are ordered with immediate effect-

S.#	Name of Officer	from	To	Remarks
1.	Syed Gul Jamal	PD(O)	Peshawar	Retained on the same post and station
2.	Mr. Naqem Akhtar	Asst. to Commissioner	Commissioner (Dev), Mulkand	Retained on the same post and station
3.	Mr. Niaz Muhammad	PD(O), Swat	HRDO, Swat	Only for activation of his promotion for one day whereafter he will continue as DOR, Swat in his own pay & scale.

Remarks

4.	Mr. Abdul Mateen Qasuria	DDO(J), D.I.Khan	Retained on the same post
5.	Mr. Shaukat Hussain	DDO(J), Abbottabad	Retained on the same post
6.	Mr. Gul Nawaz Ali	Settlement Officer, Mansehra	DDO(F), Mansehra against the vacant post
7.	Mr. Nowsherwan	Tehsildar, Palas Kohistan	DDO(R) Palas Kohistan against the vacant post.
8.	Qazi Atta-ur-Rehman	DDO(R), Haripur	Retained on the same post
9.	Mr. Saleem Jan	Research Officer, FATA Sectt	Retained on the same post.
10.	Mr. Irfan Ali	APA, Mir Ali N.W. Agency	Retained on the same post
11.	Mr. Gohar Ali	Tehsildar, Takhtbhai Mardan	DDO(J), Katlang Mardan against the vacant post.

7

Only for actualization of his promotion for one day whereafter he will continue as Settlement Officer, Mansehra in his own pay & scale.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN

A copy is forwarded to:-

1. Additional Chief Secretary, FATA
2. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. Secretary to Governor, Khyber Pakhtunkhwa
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. All Divisional Commissioners in Khyber Pakhtunkhwa.
6. All District Coordination Officers in Khyber Pakhtunkhwa.
7. Secretary (Admn. & Coord), FATA Secretariat.
8. Accountant General, Khyber Pakhtunkhwa.
9. Accountant General (PR), Sub-Office, Peshawar.
10. All District Accounts Officers in Khyber Pakhtunkhwa.
11. General Manager, SNGPL, Peshawar.
12. Director (Land), NFIA, Khyber Pakhtunkhwa Region, Peshawar.
13. SO(Secret)/SO(Admn)/ EO/Librarian, F&A Department.
14. PS to Chief Secretary, Khyber Pakhtunkhwa.
15. PS to Secretary Establishment.
16. PS to Special Secretary(Istt), Establishment Department.
17. PAs to AS(E)/DS(E) Estab. Deptt.
18. Officers concerned.
19. Office order file.
20. Personal file of the officers concerned

najam

(NAJAM US-SAHAR)
SECTION OFFICER(E-II)

380
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8/88

PS/O.S Khyber Pakhtunkhwa
Diary No. 467
Date. 13-1-14

To
The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Deputy Secretary (Estab.)
Estab. & Admin. Department
Diary No. 1650
Dated. 15-01-14

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

It is stated before your goodself that I have been promoted to the post of PMS Officer (B-17) on Acting Charge basis in December, 2011. Further-more in the month of May, 2012, the Establishment Department has announced PSB meeting for our promotion, but due to certain unknown reasons, the meeting has not been convened. After that different dates for the said meeting have been fixed, but at the 11th hours, the meeting could not convene.

It is further added that I have promoted on Regular basis after the induction of new PMS Batch. Thus my seniority is badly suffered as I was entitled to be promoted prior the induction of the new PMS Batch.

In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Secretary to
Establishment
13-1-14

DSB

Dated: 9th January, 2014

Sincerely yours,

Salim Jan
(Salim Jan)

PMS (B-17),

APA FR D.I.Khan

13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: Estab.

2nd 15/01
E/11
02

37/372
13-1-14

9

Deputy Secretary (Estab.)
Estab. & Admin. Department
Diary No. 1641
Dated 15-01-14

PS/C.S Khyber Pakhtunkhwa
Diary No. 464
Date 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

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Sincerely yours,

Shah Jamil
(Shah Jamil)
PMS (B-17),
AAC Dir

Dated: 9th January, 2014

Secretary to
Establishment
13/1
15/1

P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: ESTB

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13-1-14

To Deputy Secretary (Estab.)
Estab. & Admin. Department

Diary No. 1644

Dated. 15-01-14

PS/CS Khyber Pakhtunkhwa
Diary No. 472
Date. 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

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Sincerely yours,

Dated: 9th January, 2014

AM
13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: ESTAB.

Navid Akbar
(Navid Akbar)

PMS (B-17),
APA FR Peshawar

Private Secretary to
Secretary Establishment
ASB

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P-UP
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13-1-14

PS/C.S Khyber Pakhtunkhwa
Diary No. 473
Date 13-1-14

Deputy Secretary (Estab.)
Estab. & Admn. Department
Diary No. 1645
Dated 15-01-14

To

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

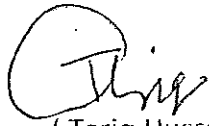
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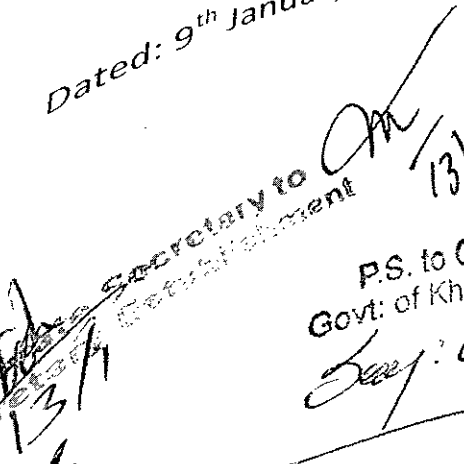
Sincerely yours,

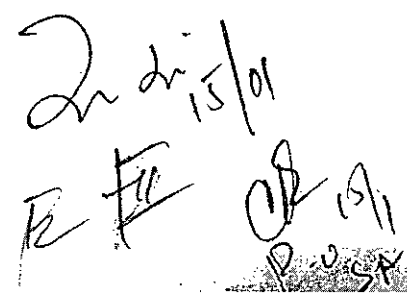

(Tariq Hussain)

PMS (B-17),

S.O. Home Deptt

Dated: 9th January, 2014


Secretary to
Establishment
13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Diary: ESTAB:


In di 15/01
R. H. C. S. P.

372
13-1-14

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Deputy Secretary (Estab.)
Estab. & Admin. Department
Diary No. 1643
Dated. 15-01-14

PS/C.S Khyber Pakhtunkhwa
Diary No. 470
Date. 13-1-14

To

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

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Sincerely yours,

Amanullah Saeed
(Amanullah Saeed)

PMS (B-17),

AAC

Dated: 9th January, 2014

[Signature]
13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: ESTB

Private Secretary to
Secretary Establishment
3/1

[Signature]

[Signature]
PMS (B-17)

[Signature]
15/01

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373
13-1-14

To
Deputy Secretary (Estab.)
Estab. & Admin. Department
Diary No. 1642
Dated. 15-01-14.

PS/C.S Khyber Pakhtunkhwa
Diary No. 971
Date. 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

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In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,

Hamid Ali Giggan
(Hamid Ali Giggan)
PMS (B-17),
AAC Charsadda

dated: 9th January, 2014

13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa

Secy: ESTB:

2nd Jan 15/01
12/Jan
15/1/14

Secretary to Establishment
13/1

To
Deputy Secretary (Estab.)
Estab. & Adm. Department
Diary No. 1646
Dated. 15-01-14

376
13-1-14
PS/C.S Khyber Pakhtunkhwa
Diary No. 474
Date. 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

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In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,

Sohail Ahmad

(Sohail Ahmad)

PMS (B-17),

APA Bajaur Agency

Dated: 9th January, 2014

13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa

Secy: ESTB:

*Secretary to
Establishment*

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Deputy Secretary (Estab.)
Estab. & Admin. Department

To
Diary No. 1647
Dated 15-01-14

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PS/O.S Khyber Pakhtunkhwa
Diary No. 475
Date 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

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Sincerely yours,

M. Imran
(Muhammad Imran)

PMS (B-17),
AAC Malakand

Dated: 9th January, 2014

Private Secretary to
Secretary Establishment

13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa

Secy: ESTAB.

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Deputy Secretary (Estab.)
Estab. & Admin. Department
Diary No. 1648
Dated. 15-01-14

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103
PS/C.S Khyber Pakhtunkhwa
Diary No. 476
Date. 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

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It is stated before your goodself that I have been promoted to the post of PMS Officer (B-17) on Acting Charge basis in December, 2011. Further-more in the month of May, 2012, the Establishment Department has announced PSB meeting for our promotion, but due to certain unknown reasons, the meeting has not been convened. After that different dates for the said meeting have been fixed, but at the 11th hours, the meeting could not convene.

It is further added that I have promoted on Regular basis after the induction of new PMS Batch. Thus my seniority is badly suffered as I was entitled to be promoted prior the induction of the new PMS Batch.

In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,

Yousaf Karim

(Yousaf Karim)

PMS (B-17),

AAC Peshawar

Dated: 9th January, 2014

[Signature]
Deputy Secretary to
Secretary Establishment
3/11

[Signature]
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa

[Signature]
Secy. Estab.

[Signature]
15/01
D. U.P. 15/01

Deputy Secretary (Estab.)
Estab. & Adm. Department

Diary No. 1649

Dated. 15-01-14

379
13-1-14

PS/C.S Khyber Pakhtunkhwa

Diary No. 468

Date. 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

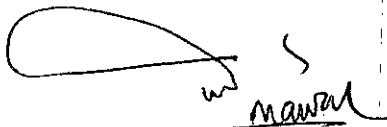
R/Sir,

It is stated before your goodself that I have been promoted to the post of PMS Officer (B-17) on Acting Charge basis in December, 2011. Further-more in the month of May, 2012, the Establishment Department has announced PSB meeting for our promotion, but due to certain unknown reasons, the meeting has not been convened. After that different dates for the said meeting have been fixed, but at the 11th hours, the meeting could not convene.

It is further added that I have promoted on Regular basis after the induction of new PMS Batch. Thus my seniority is badly suffered as I was entitled to be promoted prior the induction of the new PMS Batch.

In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,


(Sajid Nawaz)

Dated: 9th January, 2014

PMS (B-17),

DSM PPHI Mardan

Deputy Secretary to
Secretary Establishment
13/1

13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa

Secy: Estab.

22 di
15/01
P.O.P



15/1

Diary No. 383
Date 13/1

15
TOS

To Deputy Secretary (Estab.)
Estab. & Admin. Department
Diary No. 1653
Dated 15-01-14

PS/C.S Khyber Pakhtunkhwa
Diary No. 479
Date 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

It is stated before your goodself that I have been promoted to the post of PMS Officer (B-17) on Acting Charge basis in December, 2011. Further-more in the month of May, 2012, the Establishment Department has announced PSB meeting for our promotion, but due to certain unknown reasons, the meeting has not been convened. After that different dates for the said meeting have been fixed, but at the 11th hours, the meeting could not convene.

It is further added that I have promoted on Regular basis after the induction of new PMS Batch. Thus my seniority is badly suffered as I was entitled to be promoted prior the induction of the new PMS Batch.

In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,

Gohar Ali

(Gohar Ali)
PMS (B-17),
A.A.C. (R),
Mardan

Private Secretary to
Secretary Establishment

Dated: 9th January, 2014

Indi
15/1
R-4

13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: ESTB:

PUP OR
15/1

Deputy Secretary (Estab.)
Estab. & Admin. Department

382
13/11

Diary No. 1652

Dated 15-01-14

PS/C.S Khyber Pakhtunkhwa

Diary No. 477

Date 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

It is stated before your goodself that I have been promoted to the post of PMS Officer (B-17) on Acting Charge basis in December, 2011. Further-more in the month of May, 2012, the Establishment Department has announced PSB meeting for our promotion, but due to certain unknown reasons, the meeting has not been convened. After that different dates for the said meeting have been fixed, but at the 11th hours, the meeting could not convene.

It is further added that I have promoted on Regular basis after the induction of new PMS Batch. Thus my seniority is badly suffered as I was entitled to be promoted prior the induction of the new PMS Batch.

In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,

Khalid Qayum
(Khalid Qayum)

PMS (B-17),
AAC Perowa,
D.I.Khan

13
Deputy Secretary to
Secretary Establishment

Dated: 9th January, 2014

Indri 15/01
R. T. I

13/11
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: ESTB:

P.O.P
19/1

P/S/Secy (Estab)

Dir. No. 381

Date 13/1

20/10/14

Deputy Secretary (Estab)
Estab. & Admin. Department

Diary No. 1651

Dated 15-01-14

PS/C.S Khyber Pakhtunkhwa

Dir. 478

Date 13-1-14

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- Appeal for regular promotion to the post of PMS Officers w.e.f. Acting Charge basis or w.e.f. occurrence of vacancies.

R/Sir,

It is stated before your goodself that I have been promoted to the post of PMS Officer (B-17) on Acting Charge basis in December, 2011. Further-more in the month of May, 2012, the Establishment Department has announced PSB meeting for our promotion, but due to certain unknown reasons, the meeting has not been convened. After that different dates for the said meeting have been fixed, but at the 11th hours, the meeting could not convene.

It is further added that I have promoted on Regular basis after the induction of new PMS Batch. Thus my seniority is badly suffered as I was entitled to be promoted prior the induction of the new PMS Batch.

In view of the above, I submit request through this appeal that I may kindly be given due seniority on regular basis w.e.f. date of our promotion on acting charge basis or from the date of occurrence of vacancies.

Sincerely yours,

Secretary to
Secretary Establishment
13-1-14

Dated: 9th January, 2014

M. 13/1
P.S. to Chief Secretary
Govt. of Khyber Pakhtunkhwa
Secy: ESTAB

Kashmir Khan
(Kashmir Khan)

PMS (B-17),
D.M.O. (Edu)
Bannu/Lakki Marwat

Indi 15/01
Re file

P-UP
8/0
15/1

Addl: Item No.4

ESTABLISHMENT DEPARTMENT
(Meeting of PSB held on 23.11.2011)

7/6/2011

SUBJECT: - APPOINTMENT OF TEHSILDARS TO THE POST OF PMS BS-17 ON ACTING CHARGE BASIS.

~~Secretary Establishment apprised the Board that one hundred and eighty three (183) posts are vacant in the quota of initial recruitment for which a requisition has been placed with the Public Service Commission and the posts are vacant. Out of which forty (40) posts be filled on acting charge basis as per Section 9-(3) of (Appointment, Promotion and Transfer) Rules, 1989.~~

2. According to service rules, the posts are filled as under: -
"Twenty percent from amongst Tehsildars who are graduate, on the basis of seniority cum fitness having three years service as Tehsildars/Naib Tehsildars and have passed the prescribed departmental examination".

Note

As per Section 7 of rule ibid the condition of graduation shall not apply for a period of seven years from the date of coming into force of these rules to the existing incumbents for promotion against BPS-17

3. The service record of the officers included in the panel was discussed as follows:-

S.NO	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1	Mr. Saleem Jan	His date of birth is 07.06.1975. He joined government service on 07.01.2002. He was appointment as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good. The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.
2	Mr. Irfan Ali	His date of birth is 12.04.1976. He joined government service on 02.02.2009 as Tehsildar BS-16. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good. The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.
3	Mr. Gohar Ali	His date of birth is 03.02.1979. He joined government service on 02.02.2009 as Tehsildar BS-16. He has not yet completed the prescribed length of service. He has not passed the departmental examination. No enquiry is pending against him. The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.
4	Mr. Sajid Nawaz	His date of birth is 14.04.1977. He joined government service on 24.2.1998. He was promoted as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service.

Amir
Amir
Deputy Secretary (HRD)
Govt. of Khyber Pakhtunkhwa
Establishment Department

CONFIDENTIAL

of service. He has passed the departmental examination. Enquiry is pending against him. His service record is generally good.

The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.

5 Mr. Kashmir Khan

His date of birth is 16.04.1982. He joined government service on 02.02.2009 as Tehsildar BS-16. He has not yet completed the prescribed length of service. He has not passed the departmental examination.

The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.

6 Mr. Khalid Qayum

His date of birth is 03.02.1972. He joined government service on 02.02.2009 as Tehsildar BS-16. He has not yet completed the prescribed length of service. He has not passed the departmental examination.

The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.

7 Mr. Muhammad Yousaf Karim

His date of birth is 20.11.1977. He joined government service on 02.02.2009 as Tehsildar BS-16. He has not yet completed the prescribed length of service. He has not passed the departmental examination.

The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.

8 Mr. Arshad Khan

His date of birth is 02.03.1980. He joined government service on 02.02.2009 as Tehsildar BS-16. He has not yet completed the prescribed length of service. He has not passed the departmental examination.

The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.

9 Mr. Muhammad Imran.

His date of birth is 03.05.1978. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.

The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.

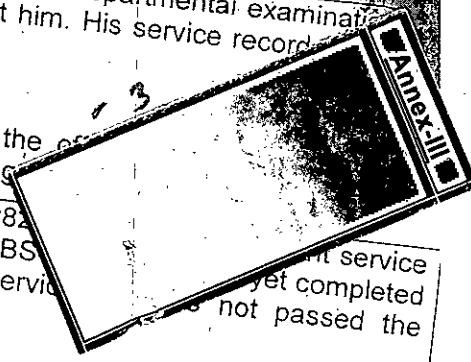
10 Mr. Sohail Ahmed Khan.

His date of birth is 01.04.1976. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.

The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.

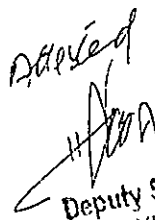
11 Mr. Muhammad Shah Jamil

His date of birth is 15.10.1976. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service.



raised
Ahmed
Deputy Secretary (HRD),
Govt. of Khyber Pakhtunkhwa
Establishment Department

		The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.
12	Mr. Naveed Akber	<p>His date of birth is 17/06/1980. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.</p> <p style="text-align: center;">16</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>
13	Mr. Tariq Hassan	<p>His date of birth is 15/11/1978. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.</p> <p style="text-align: center;">17</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>
14	Mr. Hamid Ali Gagigyani	<p>His date of birth is 28/08/1979. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His PER for the year 2010 is not available. His remaining service record upto 2009 is generally good.</p> <p style="text-align: center;">18</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to earning satisfactory PER for the year 2010 otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement.</p>
15	Mr. Amanullah Saeed	<p>His date of birth is 03/04/1978. He joined government service as Tehsildar BS-16 on 02.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.</p> <p style="text-align: center;">19</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>
16	Mr. Muhammad Ayub	<p>His date of birth is 10.01.1952. He joined government service on 10.07.1975. He was promoted as Tehsildar BS-16 on 26.02.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p style="text-align: center;">N.C. X</p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
17	Mr. Akber Shah	<p>His date of birth is 10.02.1956. He joined government service on 23.05.1974. He was promoted as Tehsildar BS-16 on 26.02.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p style="text-align: center;">N.C. X</p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>

Approved

 Deputy Secretary (HRM)
 Govt. of Khyber Pakhtunkhwa
 Establishment Department

Examination
 up to 2010

to the

18	Mr. Shah Naseem	<p>His date of birth is 04.04.1958. He joined government on 19.03.1977. He was promoted as Tehsildar BS-26.02.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p align="right"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
19	Mr. Muhammad Ali Shah	<p>His date of birth is 19.11.1964. He joined government service on 11.05.1988. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.</p> <p align="right"><i>✓ 10</i></p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>
20	Mr. Shah Jehan	<p>His date of birth is 02.01.1956. He joined government service on 09.09.1972. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p align="right"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
21	Mr. Muhammad Zaman Khattak	<p>His date of birth is 06.05.1959. He joined government service on 26.07.1979. He was promoted as Tehsildar BS-16 on 26.02.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.</p> <p align="right"><i>✓ 11</i></p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>
22	Mr. Bagh Bostan	<p>His date of birth is 07.10.1957. He joined government service on 16.05.1979. He was promoted as Tehsildar BS-16 on 26.02.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p align="right"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
23	Mr. Amjid Ali	<p>His date of birth is 13.04.1958. He joined government service on 26.6.1980. He was promoted as Tehsildar BS-16 on 26.02.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p align="right"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
24	Mr. Safdar Azam Qureshi	<p>His date of birth is 01.04.1970. He joined government service on 01.07.1995. He was promoted as Tehsildar BS-16 on 28.03.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p align="right"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>

Received
[Signature]
 Deputy Secretary (HR)
 Govt of Punjab Police
 Establishment Depart.

31
Appointment service
Tehsildar BS-15
Completed length
of service
post of
Tehsildar
on

25	Mr. Muhammad Pervez	<p>His date of birth is 28.04.1959. He joined government service on 25.05.1977. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p style="text-align: center;"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
26	Mr. Sajid Hussain	<p>His date of birth is 09.03.1965. He joined government service on 04.06.1988. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p style="text-align: center;"><i>NC X</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
27	Mr. Pervez Iqbal	<p>His date of birth is 15.10.1960. He joined government service on 20.11.1984. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His missing PERs have been completed. His service upto 2010 is generally good.</p> <p style="text-align: center;"><i>12</i></p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>
28	Mr. Lal Said	<p>His date of birth is 20.01.1961. He joined government service on 12.06.1983. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has not passed the departmental examination.</p> <p style="text-align: center;"><i>NC</i></p> <p>The Board did not consider him for appointment to the post of PMS BS-17 on acting charge basis.</p>
29	Mr. Israr Ahmed	<p>His date of birth is 14.01.1957. He joined government service on 20.04.1981. He was promoted as Tehsildar BS-16 on 10.04.2009. He has not yet completed the prescribed length of service. He has passed the departmental examination. No enquiry is pending against him. His service record upto 2010 is generally good.</p> <p style="text-align: center;"><i>13</i></p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis.</p>

M. A. Khan

M. A. Khan

Deputy Secretary (HR)
Govt. of Khyber Pakhtunkhwa
Establishment Department



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the December, 21.2011

NOTIFICATION

NO.SOE.II(ED)3(45)2011- Consequent upon the recommendations of the Provincial Selection Board, the competent authority is pleased to appoint the following Tehsildars as PMS Officers (BS-17) on acting charge basis with immediate effect:-

S.#	Name of Officer
✓ 1.	Mr. Saleem Jan
2.	Mr. Irfan Ali
3.	Mr. Sajid Nawaz
4.	Mr. Muhammad Imran
5.	Mr. Sohail Ahmad Khan
6.	Mr. Naveed Akbar
7.	Mr. Tariq Hassan
8.	Mr. Amanullah Saeed
9.	Mr. Muhammad Ali Shah
10.	Mr. Muhammad Zaman Khattak
11.	Mr. Pervez Iqbal
12.	Mr. Israr Ahmad

2. Resultantly the following postings/transfers are ordered with immediate effect:-

S.#	Name of Officer	From	To
1.	Mr. Saleem Jan	Tehsildar Serai Naurang, Lakki Marwat	Services placed at the disposal of FATA Secretariat for further posting as Section Officer.
2.	Mr. Irfan Ali	Tehsildar, Swabi	Services placed at the disposal of FATA Secretariat for further posting as Section Officer.
3.	Mr. Sajid Nawaz	Tehsildar, Razar Swabi	Services placed at the disposal of FATA Secretariat for further posting as Section Officer.
4.	Mr. Muhammad Imran	Tehsildar, Charbagh, Swat	HRDO, Buner against the vacant post.
5.	Mr. Sohail Ahmad Khan	Political Tehsildar, Khar Bajaur Agency	HRDO, Dir Lower vice Sr.No.13
6.	Mr. Naveed Akbar	Tehsildar, Anti Corruption Establishment	Services placed at the disposal of FATA Secretariat for further posting as Section Officer.
7.	Mr. Tariq Hassan	Tehsildar, Dargai Malakand	DDO(F), Malakand against the vacant post.
8.	Mr. Amanullah Saeed	Tehsildar, Oghi Manshra	DDO(J), Battagram against the vacant post.

Mr. Yehoramai	Political Agent, Swabi	Retained on II
Mohammed	Political, Tehsildar, Orakzai	DDO(R), Paharpur against the vacant post
M. Peter Khan	Tehsildar, Mansehra	DDO(J), Katlang, Mard relieving Mr. Habib-ur-Rehman, PMS BS-17 of the additional charge.
M. Ismael Ahmad	Tehsildar, Chitral	HRDO, Chitral against the vacant post.
M. Saad-ur-Rehman, BS-16 (surplus of Dir Chakdarat)	HRDO, Dir Lower	DDO(I), Dir Lower against the vacant post in his own pay & scale purely on temporary basis.
M. Matloob-ur-Rehman, PMS BS-17	Awaiting posting in E&AD	DDO(J), Fakhthbhai against the vacant post.
M. Mansoor Qaiser, PMS BS-17	Awaiting posting in E&AD	DDO(I), D.L.Khan against the vacant post.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN

1. Additional Chief Secretary, FATA.
2. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. Secretary (Admin & Coord), FATA Secretariat.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All District Coordination Officers in Khyber Pakhtunkhwa.
8. Accountant General, Khyber Pakhtunkhwa.
9. Accountant General (PR), Sub-Officer, Peshawar.
10. Political Agents, Orakzai / Bajaur Agency.
11. All District Accounts Officer in Khyber Pakhtunkhwa.
12. Agency Accounts Officers, Orakzai / Bajaur.
13. SO/Secretary/EO/Librarian, E&A Department.
14. PS to Chief Minister, Khyber Pakhtunkhwa.
15. PS to Senior Minister for P&D, Khyber Pakhtunkhwa.
16. PS to Chief Secretary, Khyber Pakhtunkhwa.
17. PS to Secretary Establishment.
18. PS to AS(E) / DS(E) Estab: Deptt.
19. Officers concerned.
20. Office order file.
21. Personal file of the officers concerned.

Faryal Kazim
(FARYAL KAZIM)
SECTION OFFICER(E-II)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL



Appeal No. 1398/2010,

Date of Institution. .. 30.7.2010
Date of Decision .. 11.1.2012

Fazal Hussain, PMS Officer (BPS-17)
Posted as ACO, Peshawar.

(APPELLANT)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Secretary, Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST NOTIFICATION NO.SOE.II(ED)2(192) 2009 DATED 25.3.2010 WHEREBY APPELLANT IS APPOINTED/ PROMOTED AS PMS OFFICER (BPS-17) ON ACTING CHARGE BASIS, WITH IMMEDIATE EFFECT.

MR. BILAL AHMAD KAKAIZAI, &
MR. MUHAMMAD ASIF YOUSAFZAI,
Advocates

For appellant.

MR. TAHIR IQBAL,
Addl. Government Pleader

For respondents.

MR. NOOR ALI KHAN,
MR. SULTAN MAHMOOD KHATTAK,

... MEMBER
... MEMBER

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

NOOR ALI KHAN, MEMBER. - This appeal has been filed by Fazal Hussain, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against notification No.SOE.II(ED)2(192) 2009 dated 25.3.2010, whereby appellant has been appointed/promoted as PMS Officer (BPS-17) on Acting Charge basis with immediate effect. It has been prayed that on acceptance of the appeal, the impugned notification dated

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modified to the extent that appellant be appointed/promoted as PMS Officer (BPS-17) on regular basis w.e.f. 7.11.2008 or 3.3.2009 when his batch mates were promoted.

Brief facts of the case as averred in the memo of appeal are that the appellant was appointed as Tehsildar (BPS-16) on regular basis vide notification dated 6.9.2008 along with others vide notification dated 3.3.2009, who are batch mates of the appellant were promoted as PMS Officer (BPS-17) on regular basis but appellant due to unknown reasons was not promoted. On 25.3.2010, vide the impugned notification, although appellant on the recommendations of Provincial Selection Board has been promoted from Tehsildar to PMS Officer (BPS-17) but on acting charge basis and that too with immediate effect. The appellant is holding the post of ACO, Peshawar since long whereas he was posted as Deputy District Officer (Judicial) Nowshera vide notification dated 2.6.2009. On 3.4.2010, appellant submitted his departmental appeal/representation for his regular promotion w.e.f. 7.11.2008 at least from 3.3.2009 but no reply to the said representation has been received within the statutory period of 90 days, hence the present appeal.

After admission of the appeal, notices were issued to the respondents for submission of written reply. Respondents have filed their joint written reply and contested the appeal. Arguments heard and record perused.

The learned counsel for the appellant argued that according to Rule 9 of the Khyber Pakhtunkhwa Civil Servants Act (Appointment, Promotion and Transfer) Rules, 1980 acting charge appointment can only be made where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned who is otherwise eligible for promotion, does not possess the specified length of service. The learned counsel for the appellant further argued that the appellant was appointed as PMS Officer (BPS-17) on acting charge basis with immediate effect vide order dated 25.3.2010, despite the fact that there were clear vacancies of PMS Officer (BPS-17) vacant in the department in promotion quota. The appellant along with others should have been considered for regular promotion against the said posts from the date when clear vacancies were available for them. He stated that other batch mates of the appellant were promoted w.e.f. 3.3.2009 and 7.11.2008, on regular basis, therefore, the appellant has also should have been considered for promotion w.e.f. the date when the post was lying vacant and the appellant was holding the same on acting charge basis. In December, 2009, two PSBs meetings were held but the appellant had not been considered for promotion without any plausible reasons despite the fact that he was eligible for promotion, so he has been

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discriminated. Articles 25 and 27 of the Constitution of Islamic Republic of Pakistan that all citizens are equal before law and are entitled to equal protection of law. No citizen otherwise qualified for appointment in the service of Pakistan/province shall be discriminated whatsoever. He also stated that as per Rule 9(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 if a person is otherwise eligible for further promotion but his length of service is short, then he can be promoted/appointed on acting charge basis but in the appellant's case, his seniors have been given acting charge for the reason that they have not passed departmental examination and not completed their PERS, which is wrong and this wrong action/decision cannot be made a reason for not promoting those juniors who were eligible for regular promotion in all respect. Even sub-rule (2) of Rule 9 of the aforementioned rules has now been deleted. He further stated that during pendency of the appeal, the appellant has been promoted as PMS BPS-17 on regular basis with immediate effect vide notification dated 21.12.2011 instead of ante-dation of his promotion w.e.f the date when a vacancy was available for him as per judgments of the august Supreme Court of Pakistan in reported in 1997-SCMR-515, and 2010-SCMR-1466. He requested that the appeal may be accepted as prayed for.

5. The learned AGP, on the other hand argued that the appeal is bad for non-joinder and mis-joinder of necessary parties. In case, the appeal allowed some officers will be effected who have not been impleaded as private respondents. He further argued that there were some vacant posts of PMS (BPS-17), against promotion quota and Tehsildars, senior to the appellant were considered and promoted on regular basis w.e.f. 3.3.2009. The appellant being junior had not been considered. Even the appellant had not challenged order dated 2009 in time and the present appeal is time-barred. He stated that it is true that vacant posts of PMS (BPS-17) were available in the department but meant for direct recruits. He maintained that vide notification dated 25.3.2010, the appellant was not promoted as PMS (BPS-17) but appointed on acting charge basis as per provision of Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Promotions and promotions on acting charge basis are always made with immediate effect and under Rule 9 (6) confer no vested right for regular promotion. Moreover, claim of appellant is not clear and has not specified the date to be considered for promotion as PMS (BPS-17) on regular basis.

The Tribunal observes that the appellant was eligible for promotion as PMS (BPS-17) on regular basis w.e.f. 3.3.2009 but he was not considered. On 25.3.2010, on the directions of PSB, he was promoted as PMS (BPS-17) on acting charge basis. Vide notification dated 21.12.2011, he has been promoted on regular basis with immediate effect.

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In the minutes of PSB meeting held on 29.12.2009, it has been clearly stated that the appellant was eligible for promotion on regular basis and 11 posts were available, in which 10 candidates were promoted as PMS Officer on regular basis. Due to deficiencies of service record, some candidates were not promoted and the appellant was 11th but was promoted on acting charge basis without any plausible reason. The Tribunal agrees with the arguments put forth by the learned counsel for the appellant.

6. In view of the above, the appeal is accepted, and the respondents are directed to ante-date promotion of the appellant as PMS (BPS-17) with effect from 25.3.2010, with all back/consequential benefits.

7. This order will also dispose off connected service appeals No. 1400/2010, Hidayatullah Khan, No. 1401/2010, Muhammad Nasir Khan, No. 1403/2010, Syed Kazim Hussain Shah, in the same manner.

8. So far as the appellant in Service Appeal No. 1404/2010, namely Habibullah Arif is concerned, his services have been regularized on 21.12.2011 but his appeal cannot be entertained for ante-dated promotion 25.3.2010 for the reason that only 11 posts were available and he comes at S.No.12 in eligible candidates in the minutes of PSB meeting held on 29.12.2009.

9. Since services of the appellants in Service Appeals No. 1372/2010, Abdul Mateen Qasuria, No. 1399/2010, Naem Akhtar, and 1402/2010, Niaz Muhammad, have not been regularized so far, the respondents are directed to consider them for regular promotion as and when vacancies become available for them.

10. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
11.1.2012.

(SULTAN WAHMOOD KHATTAK)
MEMBER

(NOOR ALI KHAN)
MEMBER

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL



Appeal No. 1398/2010,

Date of Institution. 30.7.2010
Date of Decision 11.1.2012

Fazal Hussain, PMS Officer (BPS-17)
Posted as ACO, Peshawar.

(APPELLANT)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Secretary, Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST NOTIFICATION NO.SOE.II(ED)2(192) 2009 DATED 25.3.2010 WHEREBY APPELLANT IS APPOINTED/ PROMOTED AS PMS OFFICER (BPS-17) ON ACTING CHARGE BASIS, WITH IMMEDIATE EFFECT.

MR. BILAL AHMAD KAKAIZAI, &
MR. MUHAMMAD ASIF YOUSAFZAI,
Advocates

For appellant.

MR. TAHIR IQBAL,
Addl. Government Pleader

For respondents.

MR. NOOR ALI KHAN, MEMBER
MR. SULTAN MAHMOOD KHATTAK, MEMBER

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

NOOR ALI KHAN, MEMBER.- This appeal has been filed by Fazal Hussain, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against notification No.SOE.II(ED)2(192) 2009 dated 25.3.2010, whereby appellant has been appointed/promoted as PMS Officer (BPS-17) on Acting Charge basis with immediate effect. It has been prayed that on acceptance of the appeal, the impugned notification dated

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2010 be modified to the extent that appellant be appointed/promoted as PMS Officer (BPS-17) on regular basis w.e.f. 7.11.2008 or 3.3.2009 when his batch mates were promoted.

Brief facts of the case as averred in the memo of appeal are that the appellant was promoted as Tehsildar (BPS-16) on regular basis vide notification dated 6.9.2008 along with others. Vide notification dated 3.3.2009, who are batch mates of the appellant were promoted as PMS Officer (BPS-17) on regular basis but appellant due to unknown reasons was not promoted. On 25.3.2010, vide the impugned notification, although appellant on the recommendations of Provincial Selection Board has been promoted from Tehsildar to PMS Officer (BPS-17) but on acting charge basis and that too with immediate effect. The appellant is holding the post of ACO, Peshawar since long whereas he was posted as Deputy District Officer (Judicial) Nowshera vide notification dated 2.6.2009. On 3.4.2010, appellant submitted his departmental appeal/representation for his regular promotion w.e.f. 7.11.2008 or at least from 3.3.2009 but no reply to the said representation has been received within the statutory period of 90 days, hence the present appeal.

After admission of the appeal, notices were issued to the respondents for submission of written reply. Respondents have filed their joint written reply and contested the appeal. Arguments heard and record perused.

The learned counsel for the appellant argued that according to Rule 9 of the Punjab Civil Servants Act (Appointment, Promotion and Transfer) Rules, 1955 acting charge appointment can only be made where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned who is otherwise eligible for promotion, does not possess the specified length of service. The learned counsel for the appellant further argued that the appellant was promoted as PMS Officer (BPS-17) on acting charge basis with immediate effect vide order dated 25.3.2010, despite the fact that there were clear vacancies of PMS Officer (BPS-17) posts vacant in the department in promotion quota. The appellant along with others should have been considered for regular promotion against the said posts from the date when clear vacancies were available for them. He stated that other batch mates of the appellant were promoted w.e.f. 3.3.2009 and 7.11.2008, on regular basis, therefore, the appellant has also a right to be considered for promotion w.e.f. the date when the post was lying vacant and the appellant was holding the same on acting charge basis. In December, 2009, two PSB meetings were held but the appellant had not been considered for promotion without any plausible reasons despite the fact that he was eligible for promotion, so he has been

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discriminated. Articles 25 and 27 of the Constitution of Islamic Republic of Pakistan that all citizens are equal before law and are entitled to equal protection of law. No citizen otherwise qualified for appointment in the service of Pakistan/province shall be discriminated whatsoever. He also stated that as per Rule 9(2) of the Khyber Pakhtunkhwa: Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 if a person is otherwise eligible for further promotion but his length of service is short, then he can be promoted/appointed on acting charge basis but in the appellant's case, his seniors have been given acting charge for the reason that they have not passed departmental examination and not completed their PERs, which is wrong and this wrong action/decision cannot be made a reason for not promoting those juniors who were eligible for regular promotion in all respect. Even sub-rule (2) of Rule 9 of the aforementioned rules has now been deleted. He further stated that during pendency of the appeal, the appellant has been promoted as PMS BPS-17 on regular basis with immediate effect vide notification dated 21.12.2011 instead of ante-dation of his promotion w.e.f the date when a vacancy was available for him as per judgments of the august Supreme Court of Pakistan in reported in 1997-SCMR-515, and 2010-SCMR-1466. He requested that the appeal may be accepted as prayed for.

5. The learned AGP, on the other hand argued that the appeal is bad for non-joinder and mis-joinder of necessary parties. In case, the appeal allowed some officers will be effected who have not been impleaded as private respondents. He further argued that there were some vacant posts of PMS (BPS-17), against promotion quota and Tehsildars, senior to the appellant were considered and promoted on regular basis w.e.f. 3.3.2009. The appellant being junior had not been considered. Even the appellant had not challenged order dated 2009 in time and the present appeal is time-barred. He stated that it is true that vacant posts of PMS (BPS-17) were available in the department but meant for direct recruits. He stated that vide notification dated 25.3.2010, the appellant was not promoted as PMS (BPS-17) but appointed on acting charge basis as per provision of Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Appointments and promotions on acting charge basis are always made with immediate effect and under Rule 9 (6) confer no vested right for regular promotion. Moreover, claim of appellant is not clear and has not specified the date to be considered for promotion as PMS (BPS-17) on regular basis.

The Tribunal observes that the appellant was eligible for promotion as PMS (BPS-17) on regular basis w.e.f. 3.3.2009 but he was not considered. On 25.3.2010, on the basis of recommendations of PSB, he was promoted as PMS (BPS-17) on acting charge basis. Vide notification dated 21.12.2011, he has been promoted on regular basis with immediate effect.

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In the minutes of PSB meeting held on 29.12.2009, it has been clearly stated that the appellant was eligible for promotion on regular basis and 11 posts were available, in which 10 candidates were promoted as PMS Officer on regular basis. Due to deficiencies of service record, some candidates were not promoted and the appellant was 11th but was promoted on acting charge basis without any plausible reason. The Tribunal agrees with the arguments put forth by the learned counsel for the appellant.

In view of the above, the appeal is accepted, and the respondents are directed to ante-date promotion of the appellant as PMS (BPS-17) with effect from 25.3.2010, with all back/consequential benefits.

This order will also dispose off connected service appeals No. 1400/2010, Hidayatullah Khan, No. 1401/2010, Muhammad Nasir Khan, No. 1403/2010, Syed Kazim Hussain Shah, in the same manner.

So far as the appellant in Service Appeal No. 1404/2010, namely Habibullah Arif is concerned, his services have been regularized on 21.12.2011 but his appeal cannot be entertained for ante-dated promotion 25.3.2010 for the reason that only 11 posts were available and he comes at S.No.12 in eligible candidates in the minutes of PSB meeting held on 29.12.2009.

Since services of the appellants in Service Appeals No. 1372/2010, Abdul Mateen Qasuria, No. 1399/2010, Naeem Akhtar, and 1402/2010, Niaz Muhammad, have not been regularized so far, the respondents are directed to consider them for regular promotion as and when vacancies become available for them.

Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
11.1.2012.

(SULTAN WAHMOOD KHATTAK)
MEMBER

(NOOR ALI KHAN)
MEMBER

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawa

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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR



Appeal No. 612/2008

Date of Institution. .. 16.04.2008
Date of Decision .. 13.03.2009

Muhammad Iqbal Khattak,
Assistant Political Agent, Khar Bajaur Agency. ... (Appellant)

VERSUS

1. Government of NWFP through Secretary Establishment Department, Peshawar.
2. Govt. of NWFP through Chief Secretary, Peshawar. ... (Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO.SO.E.II (E&D) 2 (192)2007 DATED 19.2.2008 WHEREBY THE APPELLANT WAS PROMOTED ON REGULAR BASIS W.E.F. 19.2.2008 INSTEAD OF 30.11.1999 AND ORDER NO.SO.E-II (E&D) 2(192) WHEREBY HIS DEPARTMENTAL APPEAL WAS DISMISSED.

MR. SHAKEEL AHMAD,
Advocate ... For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader, ... For respondents.

MR. JUSTICE (R) SALIM KHAN, .. CHAIRMAN.
MR. BISMILLAH SHAH, .. MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.-The present appeal No. 612 of 2008 by Muhammad Iqbal Khattak and appeal No. 613 of 2009 by Ahmad Khan involved similar questions of law, therefore, these are taken together for arguments and disposal.

2. Muhammad Iqbal Khattak was promoted as Tehsildar on regular basis vide order dated 28.12.1988. He was promoted to PCS(E.G) (BPS-17) on temporary basis vide notification dated 06.03.1996. He contended that many posts became vacant, but the appellant was promoted to (BPS-17) on regular basis on 19.2.2008 with immediate effect, instead of ante-dating of his promotion to the date on which the vacancy fell to his turn in the

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of officers of PCS (E.G). His departmental appeal was rejected. The present appeal was filed on 16.4.2008 which is within the time limit. The case of Ahmad Khan (Appellant) is similar to the case of Muhammad Iqbal Khattak on facts also. His appeal is also within time.

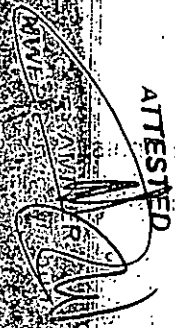
3. The respondents contested the appeal on many grounds, including the ground that no one could claim a vested right in promotion or in the terms and conditions for promotion to a higher post.

4. We heard the arguments and perused the record.

5. The learned counsel for the appellants contended that the appellants were temporarily posted to BPS-17 post on 06.3.1996, but they remained silent, because they did not have a vested right for promotion to a higher post. The appellants have already been considered for promotion and have been found eligible and fit for regular promotion to BPS-17 post, therefore, the principles embodied in the judgment of the August Supreme Court of Pakistan reported as 1990 SCMR 1321 are not applicable to their cases. In fact, the vacancies had become available for the appellants as early as on 30.11.1999, and it was the responsibility of the official respondents to expeditiously deal with the cases of the appellants for their regular promotion. The appellants could not be punished for no fault on their side, or for delay caused by the official respondents in processing the cases of the appellants. He relied on 1997-PLC (C.S) 77, wherein it has been held in para 3 as under:-

"On behalf of the Government it is contended that no civil servant has a right to claim that he should be promoted from a back date, even though a vacancy may be existing on the date from which the promotion is being claimed. This is no doubt true but there are no orders by the Government that the respondents/petitioners should be held up for some time. The delay in making the promotions occurred entirely due to the reason that the officials of the Education Department could not carry out a fairly simple exercise within a reasonable period. In the circumstances it will not be appropriate for this Civil Petition to interfere with the order of the Service Tribunal. Leave is refused."

This judgment was in the petition for leave to appeal against the judgment dated 19.02.1995 of the Punjab Service Tribunal. It is worth-mentioning that

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the judgments cited as 1990 SCMR 1321 and cited as 1997 PLC (C.S) 77 are on two different aspects of the same subject.

6. Ante-dating of promotion, after consideration of the candidate aspiring for such promotion, after he was found eligible and fit for such promotion and is promoted, is an established principle of law. Such a candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore, has to be ante-dated to the date on which the vacancy for his turn became available or to the date on which he actually took charge of the post on officiating/acting charge basis, whichever is later.

7. The A.G.P contended that the present appeals were miserably time-barred and both the appellants were estopped by their own conduct to file the present appeals. In fact, the principle embodied in the judgment reported as 1990 SCMR 1321 was applicable to the cases of the appellants from 06.3.1996 to 18.2.2008. They could not claim promotion as of right. The principle embodied in the judgment reported as 1997 PLC (C.S) 77 became applicable to their case on 19.2.2008. Cause of action arose to the appellants for claiming ante-dation of their promotion as prayed for only when their cases were considered for promotion, they were found eligible and fit for promotion, and their promotion orders were issued, though with immediate effect. They filed their departmental appeals within time from the date of the impugned order dated 19.2.2008, and their appeals were rejected on 22.3.2008. They filed Service Appeals on 16.04.2008. The departmental appeals as well as the Service Appeals were well within time.

8. The A.G.P further contended that, according to the proviso contained in sub-section (2) of Section 22 of the N.W.F.P Civil Servants Act 1973, "no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade." Judgment cited as 1990 SCMR 1321 was, then, applicable and appellants could not file representation. This stage has already passed. The appellants have been considered for holding the higher post after their promotion to that higher post, and their fitness for such promotion and holding of post has already been determined. The judgment cited as 1997

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EXAMINER
NWFP Service Tribunal
Peshawar

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P.C (C.S) 77 has become applicable after determination of fitness of the appellants. The question in these cases is not the determination of fitness but is the right of ante-dation of their promotion. The appellants had vested right for consideration of promotion on their turn, whenever it was, and, when found fit on determination of fitness, at any stage, they had a right to claim ante-dation of their promotion to the dates on which the vacancies were available for their respective turns or from the dates on which they actually took the charge of their respective posts, whichever were later in time.

The A.G.P. also contended that according to sub-rule (6) of Rule 9 of the N.W.F.P Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 "acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis." The appellants have never claimed any vested right for regular promotion to the post which they held on acting charge basis, on the basis of acting charge appointment. In fact, they did not have such a right. They remained silent for a long time, knowing that they did not have such a right on the basis of acting charge appointment. They, however, had a vested right, as civil servants, for consideration for promotion, when the authority was to consider someone for promotion against the vacancy. No other person could be considered till the appellants were so considered. They, therefore, had a vested right for ante-dation of their promotion only when they were regularly promoted, but from the date when the vacancy became available for their turn.

10 The A.G.P further contended that, according to the North West Frontier Province, Provincial Management Service Rules, 2007, notified on 11.05.2007 vide No. SOE.II(ED)2(14)2007, The NWFP Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 were repealed. He was of the view that the N.W.F.P Provincial Management Service Rules, 2007 had come into force at once w.e.f. 11.05.2007, while the orders of promotion of the appellants were issued on 19.02.2008. He submitted that the promotion orders were covered by the new rules, therefore, the appellants could not claim any benefit out of the already repealed rules of 1997. In order to clarify this controversy, it is necessary to reproduce the relevant Rule 8 of the N.W.F.P Provincial Management Service Rules, 2007 which is as under:-

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EXAMINER
NWFP Provincial Tribunal
Peshawar

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"8. Repeal:- The North-West Frontier Province Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50:50. The existing incumbents of PCS (E.G) and (S.G) in different pay scales, for the purpose of their promotion shall continue to be governed under the said service rules till the retirement of the last such incumbent."

The above rule, by itself, clarifies that the rules of 1997 shall not stand repealed before the retirement of the existing incumbents of both the cadres of Secretariat/Executive Groups, and shall remain in force till the retirement of the last such incumbent. It further clarified that separate seniority list of both the cadres shall be maintained under the existing rules. The existing rules for such incumbents are the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997. It was also clarified that such incumbents shall be promoted at the ratio of 50:50. It means that out of each two vacancies, one vacancy shall be given to Secretariat Group, while another vacancy shall be given to the Executive Group. Further clarification is to the effect that the existing incumbents of PCS (E.G) and (S.G) in different pay scales shall continue to be governed under the rules of 1997 for the purpose of their promotion, and this process is to continue till the retirement of last such incumbent. Both the appellants belonged to the Executive Group of Civil Servants. They were to be governed under the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 before 11.05.2007, and they have to be governed under the above mentioned rules of 1997 till the retirement of the last incumbent of a post in Secretariat Group/Executive Group.

The cases of the appellants are, therefore, to be governed in accordance with the provisions of Section 8 (quoted above) of the new N.W.F.P Provincial Management Service Rules, 2007. The record shows that vacancies were available for the appellants but they were not promoted at the due time and their cases for promotion were delayed unnecessarily without any fault of the appellants. They, therefore, are entitled to ante-dation of their promotion, against the first available vacancy falling to the lot of each of them or from the date of taking over the charge of that vacancy on officiating/acting charge basis, whichever is later.

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In the light of the above, we accept both the appeals, and direct the official respondents to ante-date the promotion of each of the two appellants to the respective dates on which a vacancy became available for the respective turn of the appellants or from the respective dates of their taking charge of such vacancy on officiating/acting charge basis, whichever is later. The appellants are entitled to the costs of their respective litigation from the official respondents.

ANNOUNCED
11.03.2009

Chief Justice C.S. Jadhav
Chairman
Dr. B.S. Mishra
Member

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[Signature]
Secretary

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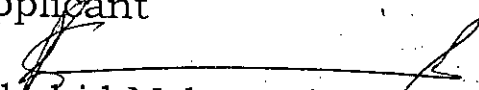
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- ix. Tariq Ullah District Monitoring officer District Swabi.
- x. Alamgir Khan Assistant Commissioner, Chitral
- xi. Dr. Azmat Assistant Commissioner Lower Kurram District Lower Kurram.
- xii. Anwar Khan Assistant Commissioner Nawagai District Bajour
- xiii. Beenish Imran Assistant Director IMO, Education
- xiv. Irum Shaheen Section Officer Establishment department
- xv. Misbah Riaz Section Officer Establishment department
- xvi. Fazeelat Jehan Section Officer Section Officer Establishment department
- xvii. Shahab Muhammad Khan section officer Establishment.
- xviii. Shakeel Jan Section Officer Establishment department FATA Secretariat
- xix. Israr khan Assistant Commissioner Upper Dir.
- xx. Zameen Khan Assistant Commissioner Charbagh Swat.
- xxi. Asmat Wazir Assistant Commissioner Bara District Khyber.
- xxii. Zahid Usman Kakakhel Assistant Commissioner Upper Dir.

THROUGH

Akhtar Nawaz S/o Gul Rehman (PMS BS-17)
Presently posted as section officer, in
establishment department Khyber Pakhtunkhwa
Peshawar Section officer Governor Secretariat.

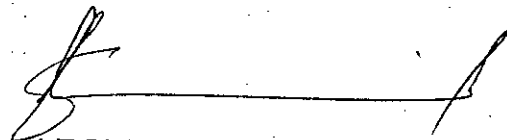
It is, therefore, most humbly prayed that on acceptance of this Civil Misc/application, the addresses alongwith designation of applicants may kindly be placed on file and may please be considered.

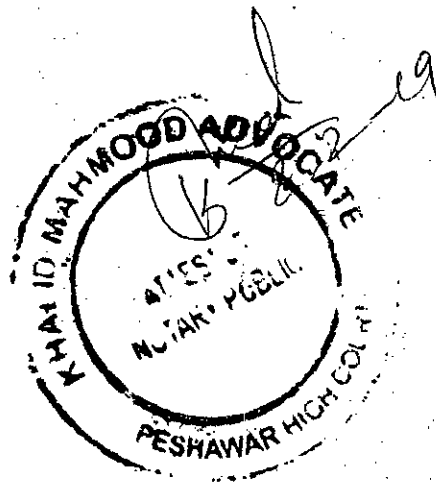
Applicant
Through 
Shahid Mehmood Khan
Advocate, High court
Peshawar
Cell No. 0333-9306491

Dated: 08/02/2019

AFFIDAVIT

As per instruction of my client, do hereby solemnly affirm and declare that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


ADVOCATE



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 846 /2014

Jafar Ali

V/S

Govt: of KPK.

.....
**APPLICATION FOR RESTRAINING THE RESPONDENTS FROM
MAKING PROMOTIONS TO THE EXTENT OF BPS-17 to BPS-18 (PMS
OFFICER) FOR WHICH THE PSB IS SCHEDULED TO BE HELD ON
20.04.2019.**

.....
RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 15.05.2014, whereby the departmental appeal of the appellant for ante dated promotion from the date of occurring of vacancy or acting charge basis promotion has been rejected for no good grounds.
2. That the respondent department wants to make different cadre of promotion in which promotion from BPS-17 to BPS-18 (PMS Officers) are also included and the respondents want to finalize the promotion on the basis of disputed seniority and in this respect meeting for PSB is schedule to be held on 20.04.2019 vide letter dated 14.02.2019 and in this respect cutoff date for submission of working paper for placement before PSB is fixed as 31.03.2019. (Copy attached)
3. That the instant appeal is fixed on 28.03.2019 for arguments and the appellant has good prime facie case and if respondents makes promotion on PSB to BPS-18 which is schedule to be held on 20.04.2019, then legal complications will be created in the adjustment of the appellant if the instant appeal is accept in the favour of the appellant.
4. That it will be in interest of justice to restrain the respondents from making


It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from making promotions to the extent from BPS-17 to BPS-18 (PMS Officers) till the date fixed. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

& 

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

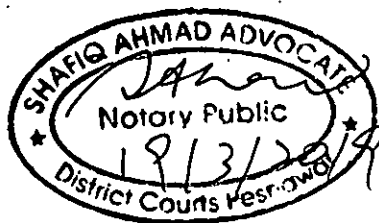
AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 846 /2014

Yusuf Ali

V/S

Govt: of KPK.

.....
APPLICATION FOR RESTRAINING THE RESPONDENTS FROM
MAKING PROMOTIONS TO THE EXTENT OF BPS-17 to BPS-18 (PMS
OFFICER) FOR WHICH THE PSB IS SCHEDULED TO BE HELD ON
20.04.2019.


.....
RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 15.05.2014, whereby the departmental appeal of the appellant for ante dated promotion from the date of occurring of vacancy or acting charge basis promotion has been rejected for no good grounds.
2. That the respondent department wants to make different cadre of promotion in which promotion from BPS-17 to BPS-18 (PMS Officers) are also included and the respondents want to finalize the promotion on the basis of disputed seniority and in this respect meeting for PSB is schedule to be held on 20.04.2019 vide letter dated 14.02.2019 and in this respect cutoff date for submission of working paper for placement before PSB is fixed as 31.03.2019. (Copy attached)
3. That the instant appeal is fixed on 28.03.2019 for arguments and the appellant has good prime facie case and if respondents makes promotion on PSB to BPS-18 which is schedule to be held on 20.04.2019, then legal complications will be created in the adjustment of the appellant if the instant appeal is accept in the favour of the appellant.
4. That it will be in interest of justice to restrain the respondents from making

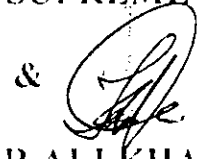
It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from making promotions to the extent from BPS-17 to BPS-18 (PMS Officers) till the date fixed. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

& 

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT



SECRETARY
 Sports, Culture, Tourism, Youth, & Mass
 Technology & Information
 Khyber Pakhtunkhwa
 Dairly No: 1879
 Date: 14/2/2019

GOVERNMENT OF KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-25/2019/KC
 Dated Peshawar, the 14.02.2019

To

All Administrative Secretaries to the Govt.
 Of Khyber Pakhtunkhwa.

Subject: STREAMLINING OF PROVINCIAL SELECTION BOARD (PSB) MEETING.

Dear Sir,

I am directed to refer to this Department's letter No. SO(PSB)ED/1-25/KC dated 11.12.2017 on the subject and to say that next meeting of the Provincial Selection Board will be held on 20.04.2019 tentatively. The cut off date for submission of working papers for placement before the PSB is 31.03.2019 after which no working paper will be entertained for the said meeting.

2 It is, therefore, requested that working paper for promotion to be considered in next PSB meeting may be furnished well before the cut off date positively.

Yours faithfully,

[Signature] 14/2/2019
 (Abdul Hameed)
 Section Officer (PSB)

Endst. No & date even.

Copy forwarded to:

1. All Section Officers in Regulation Wing of Establishment Department.
2. PS to Secretary (Establishment) Establishment Department.
3. PS to Special Secretary (Reg) Establishment Department.
4. PAs to Additional Secretary (Reg) Establishment Department.
5. PAs to Deputy Secretary (Reg) Establishment Department.

[Signature] 14/2/2019
 Section Officer (PSB)

SO (PSB)

28

SPB/TS

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 846 /2014

Yasir Ali

V/S

Govt: of KPK.

.....
APPLICATION FOR RESTRAINING THE RESPONDENTS FROM
MAKING PROMOTIONS TO THE EXTENT OF BPS-17 to BPS-18 (PMS
OFFICER) FOR WHICH THE PSB IS SCHEDULED TO BE HELD ON
20.04.2019.

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RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 15.05.2014, whereby the departmental appeal of the appellant for ante dated promotion from the date of occurring of vacancy or acting charge basis promotion has been rejected for no good grounds.
2. That the respondent department wants to make different cadre of promotion in which promotion from BPS-17 to BPS-18 (PMS Officers) are also included and the respondents want to finalize the promotion on the basis of disputed seniority and in this respect meeting for PSB is schedule to be held on 20.04.2019 vide letter dated 14.02.2019 and in this respect cutoff date for submission of working paper for placement before PSB is fixed as 31.03.2019. (Copy attached)
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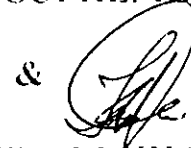
It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from making promotions to the extent from BPS-17 to BPS-18 (PMS Officers) till the date fixed. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

& 

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT



SECRETARY
 Special, Culture, Tourism, Youth, Sports,
 Archaeology & Museums, Government of
 Khyber Pakhtunkhwa
 Dairy No: 1829
 Date: 14/2/2019

GOVERNMENT OF KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-25/2019/KC
 Dated Peshawar, the 14.02.2019

To

All Administrative Secretaries to the Govt.
 Of Khyber Pakhtunkhwa.

Subject: STREAMLINING OF PROVINCIAL SELECTION BOARD (PSB) MEETING.

Dear Sir,

I am directed to refer to this Department's letter No. SO(PSB)ED/1-25/KC dated 11.12.2017 on the subject and to say that next meeting of the Provincial Selection Board will be held on 29.04.2019 tentatively. The cut off date for submission of working papers for placement before the PSB is 31.03.2019 after which no working paper will be entertained for the said meeting.

It is, therefore, requested that working paper for promotion to be considered in next PSB meeting may be furnished well before the cut off date positively.

Yours faithfully,

[Signature] 14/2/2019
 (Abdul Hameed)
 Section Officer (PSB)

Endst. No. & date even.

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2. PS to Secretary, Establishment Department.
3. PS to Special Secretary, Establishment Department.
4. PAs to Additional Secretary, Establishment Department.
5. PAs to Deputy Secretary, Establishment Department.

[Signature] 14/2/2019
 Section Officer (PSB)

SO

SBYTS

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 846 /2014

Isfhan Ali

V/S

Govt: of KPK.

.....
APPLICATION FOR RESTRAINING THE RESPONDENTS FROM
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It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from making promotions to the extent from BPS-17 to BPS-18 (PMS Officers) till the date fixed. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

& 

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT



SECRETARY
 Planning, Culture, Tourism & Youth Affairs
 Establishment Department
 Peshawar
 Date: 14/2/2019

ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-25/2019/KC
 Dated Peshawar, the 14.02.2019

To

All Administrative Secretaries to the Govt.
 Of Khyber Pakhtunkhwa.

Subject: - STREAMLINING OF PROVINCIAL SELECTION BOARD (PSB) MEETING.

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I am directed to refer to this Department's letter No. SO(PSB)ED/1-25/KC dated 11.12.2017 on the subject and to say that next meeting of the Provincial Selection Board will be held on 20.04.2019 tentatively. The cut off date for submission of working papers for placement before the PSB is 31.03.2019 after which no working paper will be entertained for the said meeting.

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Yours faithfully,

(Signature) 14/2/2019
 (Abdul Hameed)
 Section Officer (PSB)

Endst. No & date even.

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3. PS to Special Secretary (Reg.) Establishment Department.
4. PAs to Additional Secretary (Reg.) Establishment Department.
5. PAs to Deputy Secretary (Reg.) Establishment Department.

(Signature) 14/2/2019
 Section Officer (PSB)

SO

SPBTS

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 846 /2014

Isfan Ali

V/S

Govt: of KPK.

.....
APPLICATION FOR RESTRAINING THE RESPONDENTS FROM
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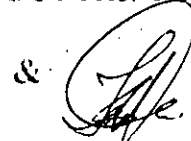
It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from making promotions to the extent from BPS-17 to BPS-18 (PMS Officers) till the date fixed. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

& 

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT



SECRETARY
 Sports, Culture, Tourism & Youth Affairs
 Khyber Pakhtunkhwa
 Dairiy No: 1879
 Date: 14/2/19

GOVERNMENT OF KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-25/2019/KC
 Dated Peshawar, the 14.02.2019

To

All Administrative Secretaries to the Govt.
 Of Khyber Pakhtunkhwa.

Subject: - STREAMLINING OF PROVINCIAL SELECTION BOARD (PSB) MEETING.

Dear Sir,

I am directed to refer to this Department's letter No. SO(PSB)ED/1-25/KC dated 11.12.2017 on the subject and to say that next meeting of the Provincial Selection Board will be held on 20.04.2019 tentatively. The cut off date for submission of working papers for placement before the PSB is 31.03.2019 after which no working paper will be entertained for the said meeting.

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5. PAs to Deputy Secretary (Reg.) Establishment Department.

(Signature) 14/2/2019
 Section Officer (PSB)

SO

SPORTS