

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7881 /2021

Mr. Maqsood Ur Rehman,
Ex-Statistical Officer (Supervisory),
Crop Reporting Services,
District Swat, Malakand Division.....Appellant.

Versus

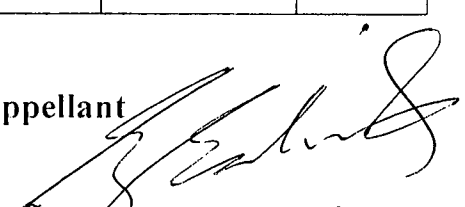
The Govt. of Khyber Pakhtunkhwa,
Through Chief Secretary,
Civil Secretariat, Peshawar & others.....Respondents.

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Appellant

Through


Syed Yahya Zahid Gillani,
Advocate,
High Court, Peshawar

Dated:07/12/2021

Service Appeal No. _____/2021

Mr. Maqsood Ur Rehman,
Ex-Statistical Officer (Supervisory),
Crop Reporting Services,
District Swat, Malakand DivisionAppellant.

Versus

1. The Govt. of Khyber Pakhtunkhwa,
Through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Agriculture, Livestock & Cooperative Department,
Civil Secretariat, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Finance Department,
Civil Secretariat, Peshawar.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 AGAINST THE NON UPGRATATION OF
APPELLANT TO BS-18 (PERSONAL) IN
PERSUANCE OF NOTIFICATION ENDST.
NO.SOE(AD)23-13/2012 DATED PESHAWAR THE
JULY 5TH, 2017 NOTIFIED IN COMPLINANCE OF
THE JUDGMENT OF THIS HONORABAL
TRIBUNAL DATED 26-07-2010 IN SERVICE
APPEAL NO. 1831 – 1843 of 2009 AND 1856 – 1862
of 2009 AND FOR WHICH APPELLANT FILED
DEPARTMENTAL APPEAL, WHICH IS STILL
PENDING WITH DISPOSAL.**

Prayer:-

On acceptance of this service appeal, this Hon'ble Court may graciously be pleased to:-

1. **Declare the non up gradation of the appellant to BPS-18 (Personal) along with his colleagues and junior to him vide Notification dated 05-07-2017 w.e.f 27-07-2010; is against the spirit and substance of consolidated judgment of this Hon'able Tribunal dated 26-07-2010 rendered in service appeal No.1831 to 1843 and 1856 to 1882 and also against the reported judgment of the Hon'ble Supreme Court of Pakistan reported as 2005 SCMR 499, 1996 SCMR 1185 and 2009 SCMR 1 and others.**
2. **Direct the respondents to grant the appellant proforma up gradation to BS-18 (Personal) with all attached benefits with effect from the date his colleagues and junior to him; have been granted up gradation to BS-18 (Personal) i.e with effect from 27-07-2010 till the date of retirement.**
3. **Any other relief which this Honorable Court deems appropriate but not specifically asked for may also be granted.**

Respectfully Sheweth.

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

1. That appellant was enrolled in the respondent department w.e.f 03-05-1987 as Statistical Officer in BPS-17 on the recommendation of Public Service Commission and now has been got retired on attaining the age of superannuation w.e.f dated 23-10-2021 (**Annexure-A**).
2. That the colleagues of the appellant approached the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar through Service Appeals No.1831 – 1843 of 2009 and 1856 – 1862 of 2009 for upgradation of their posts {Statistical Officer (Supervisory) CRS} to BPS-18 on the nexus of similarly placed officers in the other attached wings of Agriculture Department.
3. That the Hon'ble Service Tribunal, Khyber Pakhtunkhwa, Peshawar vide consolidated Judgment / Order dated 26-07-2010 allowed all

the appeals cited *ibid* with directions to the respondents to submit a summary for re-designation / re-structuring of the posts of Statistical Officer at par with District Soil Conservation Officer, Crops Reporting Service which has been upgraded by the Government of Punjab (**Annexure-B**).

4. That in the light of the Judgment / Order of the Hon'ble Service Tribunal dated 26-07-2010 cited *ibid*, the competent authority (respondent No.2) upgraded the posts of 20 appellants of the appeal cited *ibid* from BS-17 to BS-18 (Personal) with retrospective effect i.e. w.e.f. 27-07-2010 (**Annexure-C**).
5. That the case of the appellant is/was similar and identical with the cases of the above mentioned appellants, whose posts were upgraded from BS-17 to BS-18 (Personal) in the light of the directions of the Hon'ble Service Tribunal Khyber Pakhtunkhwa, Peshawar.
6. That the Hon'ble Supreme Court of Pakistan vide reported Judgments 2005 SCMR 499, 1996 SCMR 1185 and 2009 SCMR 1 etc. has laid down a principle of law which is still in field and thereby observed that "*where a Tribunal or Court decides a point of law relating to the case of a civil servant who litigated and there were other civil servants who may not have taken any legal proceedings, the dictate of justice and rule of good governance demand that the benefit of the Judgment shall also be extended to other civil servants who might not be parties to the litigation instead of compelling them to approach Tribunal or any other legal forum*".
7. That appellant being the colleague of the Judgment holders cited *ibid*, and his case was similar and identical in all respect with the cases of those Statistical Officers whose posts have been upgraded from BS-17 to BS-18 (Personal) vide order dated July 5th, 2017 w.e.f. from 27-07-2010 therefore, he deserves to be treated similarly by granting him up gradation from BS-17 to BS-18 with effect from the date i.e. 27-07-2010.

8. That it is pertinent to mention here that all the posts of statistical investigators (BPS-16) in the respondent department, who were recruited on ad hoc basis during the period 1985 and 1986 and later on regularized were up gradated to BPS-17 w.e.from 01-07-1997 and re-designated as Assistant Statistical Officer and whereas appellant's cadre i.e Assistant Statistical Officer, who were recruited through Public Service Commission in BPS-17 were re-designated as Statistical Officer (BPS-17) with a special pay of Rs.150/pm as supervisory pay with effect from 01-07-1997 vide order dated 27-06-1997. Seniority of both the cadre i.e Assistant Statistical Officer (BPS-17) and appellant cadre i.e Statistical Officers (Supervisory) were maintained separately till 2004.
9. That meanwhile the posts of Assistant Statistical Officer were abolished in the wake of devolution plan, 2001 and whereas the posts of appellant's cadre i.e Statistical Officer (Supervisory) (BPS-17) remain intact.
10. That in order to accommodate the incumbents of abolished posts; all Assistant Statistical Officer were posted against the post of appellant's cadre/posts i.e Statistical Officer (Supervisory) and resultantly their seniority were also amalgamated through Notification dated 22-12-2016 and Assistant Statistical Officer were declared as senior to appellant cadre.
11. That appellant was aggrieved of the amalgamated seniority list dated 22-12-2016; filed departmental appeal which was rejected vide order dated 06-12-2017. Appellant filed Service Appeal No.567 of 2018 which has now been allowed vide Judgment / Order dated 02-09-2021 (**Annexure-D**), thereby appellant has been declared senior to those who were recruited as Assistant Investigators (BPS-16) initially. Since the seniority of the appellant was under legal litigation being a serious threat to his service career because of the same issue therefore, he was unable to approach this Hon'ble Service Tribunal immediately after the up gradation order of 20 Statistical Officers from BS-17 to BS-18 (Personal) notified

vide Notification dated July 5, 2017 cited *ibid* i.e. the order of up gradation of his colleagues.

12. That it is worth mentioning that in due course appellant has been promoted to the post of Statistician (BS-18) of Crop Reporting Services wing of Agriculture, Livestock, Fisheries and Cooperative Department on regular basis vide notification dated January 29, 2021 (**Annexure-E**).
13. That appellant is entitled to be upgraded from BS-17 to BS-18 (Personal) on the strength of Judgment of the Hon'ble Apex Court and this Hon'ble Tribunal being similarly placed person with effect from the date when his other colleagues and juniors to him have been upgraded.
14. That appellant being aggrieved from the discriminatory treatment of the respondent filed departmental appeal before the competent authority (**Annexure-F**) which is still pending without disposal. Since, the statutory period of 90 days has been elapsed therefore, the instant service appeal *inter alia* on the following **grounds**.
 - A. That the respondents have not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 and 10A of the Constitution of Pakistan, 1973. Appellant was serving as Statistical Officer (Supervisory) at the relevant time, when his other colleagues and junior to him were granted up gradation to BS-18 (Personal), therefore he was also entitle for the same benefits, but deprived without any lawful justification, which is nullity in the eyes of law, equity and justice.
 - B. That it has been held by the Hon'ble Supreme Court of Pakistan vide reported Judgment 1996 SCMR 1185, 2005 SCMR 499, 2009 SCMR 1 and others that *"If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and role of good governance demand that the benefits of the said decision be extended to other civil servants also, who may not*

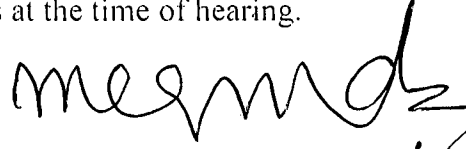
be parties to that litigation, instead of compelling them to approach the Tribunal or other legal forum---All citizens are equal before law and entitled to the equal protection of law as per Articles 4, 25 and 27 of the Constitution of Islamic Republic of Pakistan, 1973."

In this context of the matter, appellant is similarly placed employee and lies on the same pedestal as to those Statistical Officers (Supervisory) (BS-17), to whom benefit of upgradation to BS-18 (Personal) has been extended in the light of the directions of this Hon'ble Tribunal dated 26-07-2010 vide Notification dated July 5, 2017 of the respondent department w.e.f 27-07-2010 therefore, appellant was also entitled for the same benefit alongwith his colleagues but has been deprived of his legitimate accrued right without any legal justification.

- C. That appellant has highly been discriminated; almost all members of the appellant's cadre have been granted up-gradation to BPS-18 (Personal) on the basis of the Judgment of this Hon'ble Tribunal; whereas appellant has been deprived, which is against the spirit and provisions of Article 27 of the Constitution of Islamic Republic of Pakistan, 1973 therefore, this Hon'ble Tribunal has got the jurisdiction to direct the respondents to extend the same benefit in favour of the appellant with effect from the date when colleagues and juniors to him have been granted.
- D. That the act of the respondents by remaining silent over the departmental appeal of the appellant and thereby depriving him of his legitimate right of up-gradation in violation of dictates of justice require judicious indulgence of this Hon'ble Tribunal.
- E. That the impugned act on the part of respondents is arbitrary, malafie and against the spirit of natural justice, fair play and equity.
- F. That every civil servant has legitimate expectation of promotion and consequent financial benefits. Although appellant has been recently retired on attaining the age of superannuation but his deprivation from financial benefits is surviving right with

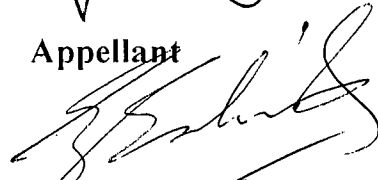
retrospective effects. Consequential denial of financial of financial benefits to appellant amounts to deprivation of a part of due remuneration and the deprivation from remuneration to a civil servant, as whole or partially is against the injunction of Islam.

- G. That appellant would like to seek the permission of this Hon'ble Tribunal to advance more grounds at the time of hearing.

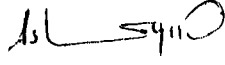


Appellant

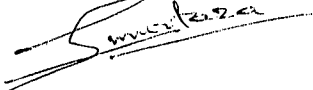
Through




Syed Yahya Zahid Gillani,
Advocate,
High Court, Peshawar



Ashraf Ali Khattak,
Advocate, Peshawar.



Syed Murtaza Gillani,
Advocate,
High Court, Peshawar

& 
Attique Ur Rehman,
Advocate,
High Court Peshawar

Dated:07/12/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. _____/2021**

Mr. Maqsood Ur Rehman,
Ex-Statistical Officer (Supervisory),
Crop Reporting Services,
District Swat, Malakand Division.....Appellant.

Versus

The Govt. of Khyber Pakhtunkhwa,
Through Chief Secretary,
Civil Secretariat, Peshawar & others.....Respondents.

AFFIDAVIT

I, Mr. Maqsood Ur Rehman, Ex-Statistical Officer (Supervisory), Crop Reporting Services, District Swat, Malakand Division hereby solemnly affirm and declare on oath that the contents of this Service Appeal are correct to best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent
15302-0981999-



GOVERNMENT OF **Annexure(A)**
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK FISHERIES & COOPERATIVE
DEPARTMENT

9

Dated Peshawar, the 07th September, 2021

NOTIFICATION

NO.SOE(AD)14-53/88/Maqsood-Ur-Rehman/CRS/21:¹²⁰⁴ In terms of Rule-20 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 and instructions issued from time to time, sanction is hereby accorded to encashment of leave preparatory to retirement, equal to 365 days in favour of Mr. Maqsood-Ur-Rehman, Statistician (BS-18), Crop Reporting Services, Malakand Division at District Swat, w.e.f 22-10-2020 to 23-10-2021.

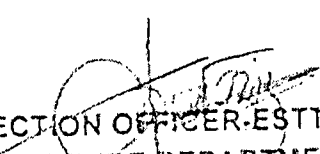
02. In pursuance of Section-13 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, Mr. Maqsood-Ur-Rehman, Statistician (BS-18), Crop Reporting Services, Malakand Division at District Swat, stands retired from Government Service w.e.f 23-10-2021 (A.N) on attaining the sixtieth (60th) years of age, as his date birth is 24-10-1961.

Sd/-
SECRETARY AGRICULTURE

Endst. of Evon No. & Date.

Copy forwarded for information and necessary action to the: -

- 1) The Director General, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.
- 2) The Director, Crop Reporting Services, Khyber Pakhtunkhwa.
- 3) The District Comptroller of Accounts Swat.
- 4) P.S to Secretary, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
- 5) P.A to Deputy Secretary (Admn.), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
- 6) Officer concerned.
- 7) Master file.


SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT

BEFORE THE NWFP SERVICES TRIBUNAL, PESHAWAR



Service Appeal No 1831 /2009

N.W.F.P. Services Tribunal
Entry No 1848
Date 29-10-09

Bakhtiar Khan,
Statistical Officer, Crop Reporting Services, PeshawarAppellant

Versus

1. Government of NWFP through Chief Secretary NWFP, Peshawar.
2. The Secretary Agriculture, Live Stock & Co-Operation Department, Government of NWFP Peshawar
3. Secretary Finance, Government of NWFP, Peshawar.
4. Secretary Establishment Department, Government of NWFP, Peshawar.

.....Respondents

Appeal under section 4 of NWFP Service Tribunal Act, 1974 for directing the Department to treat the appellant at par with the other employees of the Department and for up gradation of incumbents from posts of Statistical Officers BS (17) Supervisory to BS (18).

Filed to-day
29/10

Prayer

On acceptance of this Service Appeal the appellant may be up graded from BS (17) Statistical Officers Supervisory to BS (18).

Referred to AGP and filed

29/10

Respectfully Sheweth,

Brief but relevant facts of the case are as follows

APPEAL FILED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE K.P.K SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1831/2009

Date of institution - 29.10.2009

Date of decision - 26.07.2010



Bakhtiar Khan, Statistical Officer, Crop Reporting Services, Peshawar....(Appellant)

VERSUS

1. Government of NWFP through Chief Secretary, NWFP Peshawar.
2. Secretary Agriculture & Live-stock & Cooperation Department NWFP, Peshawar.
3. Secretary Finance Department, NWFP, Peshawar.
4. Secretary Establishment Department NWFP Peshawar.....(Respondents).

Mr. Roohul Amin, Advocate..... For Appellant.

Mr. Tahir Iqbal, A.G.P..... For Respondents.

MR. ABDUL JALIL.....MEMBER.

SYED MANZOOR ALI SHAH.....MEMBER.

JUDGMENT.

ABDUL JALIL, MEMBER :- This appeal has been filed by the appellant for up-gradation of the post of Statistical Officer (BPS-17) to Supervisory post (BPS-18).

2. Brief facts of the case are that the appellant is serving in Agriculture, Live Stock. Prior to devolution of the Agriculture Department, 34 employees were working in BPS-17. On devolution plan the post of Assistant Statistical Officer was re-designated as Statistical Officer BPS-17 (Supervisory), allowing Rs. 150/- as special allowance. Out of total 34 employees, 24 were adjusted in Agriculture Department i.e. one Statistical Officer in each District. The rest were adjusted in Zakat and Ushr Department. The employees of Extension Wing of Agriculture Department were at par with the appellant (Statistical Officer). The Provincial Government upgraded the employees of Extension Wing (Extra Assistant Director) from BPS-17 to BPS-18. Likewise District Soil Conservation Officer were also upgraded from BPS-17 to BPS-18.

3. The Government of Punjab also upgraded the aforementioned posts of BPS-17 plus special allowance of Rs. 150/- to BPS-18 in the Agriculture Department. Similarly

11/07/2010
 PESHAWAR
 Khyber Pakhtunkhwa Service Tribunal
 Peshawar

the Balushistan Government also upgraded the posts of Assistant Director Statistics BPS-17 to BPS-18. FATA Secretariat also upgraded six posts of Extra Assistant Director from BPS-17 to BPS-18. The appellant preferred a departmental appeal which was not decided within the statutory period. Hence, the instant appeal.

4. — Arguments heard and record perused: —

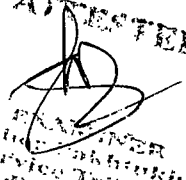
5. The learned counsel for the appellant argued that not upgrading the appellant's post from BPS-17 to BPS-18 is discriminatory, against law, and norms of natural justice. In the same department, the District Officer Agriculture, Live-stock and Soil Conservation Officer were upgraded to BPS-18. The appellant's job description, experience are the same with District Officer and Soil Conservation. In the rest of the Province, the officer of the status of the appellant have been upgraded to BPS-18.

6. The Economic Coordination Committee of Pakistan has also directed all the Provinces to establish an independent Crop Reporting Service on the patron of Punjab. The K.P.K Government has adopted and implemented the Coordination Committee decision but avoided up-gradation.

7. — The appellant is working in a cadre where he sees no chance of promotion to BPS-18. The appellant has served the department for 30 years and to be retired without any future prospect of promotion. Fundamental rights guaranteed the same treatment extended to the counter-parts, rendering service in the same department. The denial of up-gradation by the respondents is against the dictum of the Hon'ble Supreme Court of Pakistan and this Tribunal judgments in numerous appeals/cases are binding on the department to grant the relief to the appellant.

8. The A.G.P argued that the appeal does not fall u/s 4 of the Service Tribunals Act 1974. The appellant was initially appointed Statistical Officer (BPS-16). In pursuance of the Tribunal judgment dated 26.3.2009 the appellant was granted BPS-17 from the date of his appointment and his post was re-designated as Statistical Officer (BPS-17). There were 16 Statistical Officer (BPS-17) and 34 Assistant Statistical Officer in the department. The appellant was working as Assistant Statistical Officer. On abolishment of his post he was adjusted against the vacant post of Statistical Officer.

The Agriculture Department is a provincial subject and each Province is at liberty to

ATTESTED

 PLANNING
 SERVICE TRIBUNAL
 PAKISTAN

differs from those departments quoted by the appellant. There are two tier of BPS-17 officers in all these departments, whereas in CRS KPK only one BPS-17 officer is at the strength of the department at District level. The Agriculture Extension Department also had a position of Deputy Director (BPS-18) at Divisional level. The same was abolished in 1988. Besides this the Agriculture Extension had two or three Supervisory Grade 18 officers at District Offices. Only in Pujab Cropping Service, The post of Assistant Director has been upgraded to BPS-18.

9. Counsel for Fazal Wahab, Maqsoodur Rehman and Zahidullah moved an application through their counsel for their impleadment in the instant appeal as Respondents. In their application they prayed that they are senior most Statistical Officers while the appellant has recently been upgraded. They prayed that they may be impleaded as respondents so that they defend their service rights.

10. In view of the above discussion, the case is remanded to the respondent department. The department may submit a summary for re-designation/re-structuring of the post of Statistical Officer at par with District Soil Conservation Officer, Crops Reporting Service, which has been upgraded by the Government of Punjab.

11. This judgment will also dispose of the other connected appeals bearing Nos. 1835/2009 Shaukat Hayat, 1840/2009 Noor Islam, 1841/2009 Asadullah, 1838/2009 Munir Ahmad, 1862/2009 Islam Khan, 1859/2009 Nadar Khan, 1860/2009 Muhammad Islam Khan, 1843/2009 Muhammad Tariq Usman, 1834/2009 Muhammad Ishaq Khan, 1861/2009 Muhammad Zahid Khan, 1832/2009 Syed Farman Ali Shah, 1842/2009 Samiullah, 1857/2009 Ziaul Islam, 1839/2009 Riaz Hassan, 1858/2009 Sardar Aslam Khan, 1833/2009 Liaqat Ali, 1836/2009 Muhammad Yousaf, 1856/2009 Mian Inayatullah and 1837/2009 Haji Muhammad, involving common question of law, in the same manner.

No order as to costs. File be consigned to the record.

ANNOUNCED.

26.7.2010.

(SYED MANZOOR ALI SHAH)
MEMBER.

(ABDUL JALIL)
MEMBER.

Certified to be true copy

Registrar
Service Tribunal
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

13

Annexure (C)

Dated Peshawar, the / / 2017

NOTIFICATION

NO. SOE (AD)23-13/2012/CRS.-

In light of the Khyber Pakhtunkhwa Service Tribunal judgment dated 26.07.2010 in Appeal NO.1831/2009, the Competent Authority is pleased to upgrade the following 20 posts of petitioners from BS-17 to BS-18 (personal) with retrospective effect i.e. 27.07.2010 in the best public interest:

Sr.No.	Name of officers	Remarks
1.	Bakhtiar Khan	Retired
2.	Syed Farman Ali Shah	do
3.	Liakat Ali	-
4.	M.Ishaq Khan	Retired
5.	Mr.Shaukat Hayat	--
6.	Muhammad Yousaf Khan	--
7.	Haji Muhammad	--
8.	Munir Ahmad	Retired
9.	Fayyaz Ehsan	Retired
10.	Noor Islam	--
11.	Asadullah Khan	--
12.	Samiullah	--
13.	Tariq Usman	--
14.	Mian Inayatullah	--
15.	Ziaul Islam	Retired
16.	Sardar Aslam Khan	Retired
17.	Nadir Khan	--
18.	Muhammad Aslam	Retired
19.	Muhammad Zahid	--
20.	Aslam Khan	--

Sd.-

SECRETARY AGRICULTURE

Endst. No.FD/SO(FR) _____

Dated Peshawar the July , 2017

Copy forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. All District Accounts Officers concerned.

SECTION OFFICER (FR)
GOVERNMENT OF KHYBER PAKHTUNKHWA,
FINANCE DEPARTMENT

Endst. NO. SOE(AD)23-13/2012

Dated Peshawar the July 5, 2017

Copy forwarded for information and necessary action to the:-

1. Director, Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (FR) Government of Khyber Pakhtunkhwa Finance Department.
3. Budget Officer-VII, Finance Department.
4. Officers concerned.
5. PS to Secretary Agriculture, Khyber Pakhtunkhwa
6. Master File.

SECTION OFFICER-ESTT:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. 567 /2018



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

Appellant

VERSUS

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

2. The Secretary to Govt. of KPK,
Agriculture, Livestock & Cooperative
Department, Civil Secretariat, Peshawar

3. Samiullah Khan,
Statistical Officer,
Crop Reporting Services,
District Tank.

4. Muhammad Zahid,
Statistical Officer,
Crop Reporting Services,
District Nowshera.

5. Munir Ahmad,
Statistical Officer,
Crop Reporting Services,
District D.I.Khan.


6. Muhammad Aslam,
Statistical Officer,
Crop Reporting Services,
District D.I.Khan.

7. Shaukat Havat,
Statistical Officer,
Crop Reporting Services,
District Swabi.

8. Haji Muhammad,
Statistical Officer,
Crop Reporting Services,
District Malakand.

9. Aslam Khan,
Statistical Officer,
Crop Reporting Services,
District Bannu.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

post to BS-17 with this Hon'ble

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

Respondents

ATTESTED

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER
PASSED VIDE AGRICULTURE DEPARTMENT LETTER 06.12.2017
PURSUANT TO THE DECISION IN SERVICE APPEAL NO.804/2012
WHEREBY THE RESPONDENTS REFUSED TO ASSIGN A DIFFERENT
DESIGNATION TO THE STATISTICAL INVESTIGATORS BS-16 UP-GRADED
TO BS-17 FROM THE DESIGNATION ALREADY ASSIGNED TO BS-17

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

PRAYER:

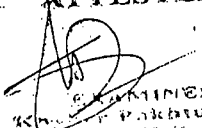
On acceptance of the instant appeal, this honorable Tribunal may graciously set aside the impugned order issued vide letter dated 06.12.2017 and direct the Department to up-grade the post of Statistical Investigators BS-16 to BS-17 with effect from 1.5.1977 either without changing their designation or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

Respectfully Sheweth,

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

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

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

ATTESTED

S. K. KINER
Secretary
Tribunal
Peshawar

Effect from

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 567/2018

Date of Institution ... 12.04.2018
Date of Decision ... 02.09.2021



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

VERSUS

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

ALI AZIM AFRIDI
Advocate

For Appellant

USMAN GHANI
District Attorney

For Official Respondents No.1 & 2

NOOR MUHAMMAD KHATTAK
Advocate

For Private Respondent No.3

SALAH-UD-DIN
ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

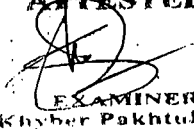
JUDGMENT

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

ATTESTED

Atiq-ur-Rehman Wazir
Member (Executive)
Khyber Pakhtunkhwa Service Tribunal
Peshawar

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

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

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

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

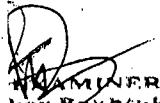
ATTESTED 04.

Learned counsel for private respondent No. 3 has contended that the post of private respondents was up-graded in light of judgment dated 26-03-2009, passed in Service Appeal No. 740/2008 and the appellant was appearing as representative of

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

05. Learned District Attorney appearing on behalf of official respondents No. 1 & 2 has contended that seniority of the two post was amalgamated in light of judgment dated 26-03-2009, as such benefit was granted by this honorable Tribunal to the private respondents, hence in light of such judgment, the private respondents were declared senior to the appellant and others; that seniority takes effect from the date of regular appointment to the post, therefore, the date of up-gradation of the officers is considered as the date of their appointment and thus in conformity with Section-8 of Civil Servant Act, 1973; that seniority of statistical officers was issued after approval of the competent authority i.e. Chief Secretary vide notification dated 22-12-2016; that a critical study of the case was carried out departmentally as well as shared with law and establishment department; that a committee was constituted for the purpose to resolve the issue of seniority and the committee thoroughly examined the issue in light of advice of establishment and law department and formulated recommendations and in light of such recommendations, the seniority of two posts was combined.

06. We have heard learned counsel for the parties and have perused the record.

TESTED

 EXAMINER
 High Court of Khyber Pakhtunkhwa
 Civil Tribunal
 Peshawar

07. Record reveals that in the year 1972, the government upgraded the professional and non-professional posts in agriculture department from BPS-11 to BPS-16. In the year 1978, in the light of Federal Government decision, the provincial government of this province up-graded the posts of Agriculture Assistants, Veterinary

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

08. According to service rules notified vide government notification dated 01-02-1981, the appellant was appointed as Assistant Statistical Officer (BPS-17) in 1987 through initial recruitment on the recommendations of Public Service Commission, but before his appointment, a batch consisting of 28 candidates were appointed as Statistical Investigators (BPS-16) in the year 1985 on adhoc basis in crop estimation project, in which 22 candidates joined duty as Statistical Investigators, who were later on confirmed as Statistical Investigators on permanent basis. In order to open avenues of further promotions for the post of statistical investigators, the said service rules notified on 01-02-1981 were amended in 1989 and according to the amended service rules, there were two categories of officers in crop reporting services i.e Assistant Statistical Officer (BPS-17) District In-charge and Statistical Investigators(BPS-16) Tehsil/Circle In-charge. As per service rules, 50% of the posts of Assistant Statistical Officers were required to be filled in by initial recruitment, whereas the remaining 50% were required to be filled in through promotion from amongst the posts of Statistical investigators based on seniority cum fitness basis with at least five years service as such.

09. In 1997, all the posts of statistical investigators (BPS-16) were up-graded and re-designated as Assistant Statistical Officers(BPS-17) w.e.f 01-07-1997 vide order dated 27-06-1997 and on the same date, all posts of Assistant Statistical Officers (BPS-17) were re-designated as Statistical Officers(BPS-17) with a special pay of Rs. 150/pm as supervisory pay with effect from 01-07-1997 vide order dated 27-06-1997. Separate seniority lists for Assistant Statistical Officers(BPS-17) as stood on 01-03-2003 and for Statistical Officers (Supervisory), as stood on 01-06-2004 were circulated, but in the meanwhile posts of Statistical Investigators (Up-graded as

ATTESTED

EXAMINER
Syed Ishtiaq
Service Tribunal
Peshawar

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

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

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

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

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

11. In the meanwhile, the present appellant filed Service Appeal No. 804/2012 for issuing appropriate directions to respondents to assign/award separate designation to the Statistical Investigators (BPS-16) up-graded to (BPS-17) from the designation already assigned to Statistical Officers in BPS-17 or promoted to BPS-17 from the post of Statistical Investigator (BPS-16) in the department. This Tribunal vide its judgment dated 19-10-2015 remitted the matter to the respondents with observations that up-gradation of the private respondents to BPS-17 and given the same effect from 01-05-1977 appears to have created an anomalous situation as the appellant has been ranked junior to his erstwhile juniors, but in spite of clear observations in the said judgment, the respondents amalgamated the seniority of two distinct groups together vide order dated 04-01-2016 putting the appellant as well as his other colleagues as juniors to their erstwhile juniors, against which the appellant as well as his colleagues preferred departmental appeals.

12. Finally, the respondent departments constituted a committee vide order dated 28-03-2016 to settle the issue of seniority. The committee examined the issue in light of the advice of Establishment Department, Law Department and judgment of this Tribunal Dated 26-03-2009.

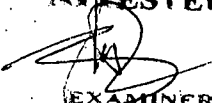
13. We have observed that Agriculture Department as well as Establishment and Law Department did not properly examine the issue of seniority and badly failed

TESTED

EXAMINER
 Dr. Palakulkhwa
 rvice Tribunal
 Peshawar

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

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

15. We are of the considered opinion that respondents misinterpreted the judgment dated 26-03-2009, as up-gradation of a post along-with incumbent with retrospective effect, cannot confer right of seniority upon the incumbents by any canon of law over another cadre/post, whose incumbents were separately recruited through Public Service Commission in 1987 in BPS-17 holding a separate seniority.

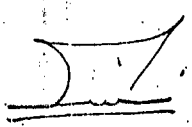
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

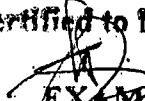
16. In view of the foregoing discussion, the instant appeal as well as the connected service appeal No. 339/2017 are accepted and the impugned orders dated 22-12-2016 and 06-12-2017 are set aside with directions to the respondents to assign separate nomenclature to both the posts as well as to maintain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

ANNOUNCED
02.09.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


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

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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02/09/2021

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK FISHERIES &
COOPERATIVE DEPARTMENT**

Dated Peshawar, the January 29th, 2021

NOTIFICATION

No. SOE(AD)V-7/PSB/CRS/21/126 The Competent Authority, on the recommendations of the Provincial Selection Board, in its meeting held on 30.12.2020, is pleased to promote the following Statistical Officer (BS-17) to the Post of Statistician (BS-18), of Crop Reporting Services Wing of Agriculture Livestock, Fisheries and Cooperative Department, on regular/acting charge basis with immediate effect.

S.No	Name of the Officer	Present Post	Promotion to the post of
01	Mr. Maqsood-ur-Rehman	Statistical Officer (BS-17)	Statistician (BS-18) on regular basis.
02	Mr. Zahid Ullah	Statistical Officer (BS-17)	Statistician (BS-18) on regular basis.
03	Miss. Samina Ahmad	Statistical Officer (BS-17)	Statistician (BS-18) on acting charge basis
04	Miss. Aisha Sareer	Statistical Officer (BS-17)	Statistician (BS-18) on acting charge basis
05	Muhammad Kaleem	Statistical Officer (BS-17)	Statistician (BS-18) on acting charge basis
06	Miss. Mariya Raftab	Statistical Officer (BS-17)	Statistician (BS-18) on acting charge basis
07	Mr. Zafran Zafar	Statistical Officer (BS-17)	Statistician (BS-18) on acting charge basis

02. The officers on promotion will remain on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

03. Their posting/transfer Notification will be issued later on.

Sd/-
Secretary Agriculture

Endst. Of Even No. & Date.

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar for necessary action with the advice to submit adjustment proposal of the promoted officer for approval of the Competent Authority.
3. PS to Minister Agriculture, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. PS to Secretary Establishment, Khyber Pakhtunkhwa.

Annexure (F) F(28)



Government of Khyber Pakhtunkhwa
Office of the Statistician, Crop Reporting Services
Malakand Division at Amankot Swat
Email: maqsoodcrs@gmail.com



No. 225 /SCRS.
Dated Swat the 01/09/2021.

To


The Director General,
Crop Reporting Services
Khyber Pakhtunkhwa, Peshawar

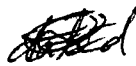
Subject: - DEPARTMENTAL APPEAL FOR PERSONAL UP-GRADATION TO BS-18
WITH EFFECT FROM 27.7.2010 IN LIGHT OF THE COURT JUDGMENT
IN SERVICE APPEAL NO: 1831-1843/ 2009 AND NO: 1856-1862/ 2009
DATED 26.7.2010.

Memo:

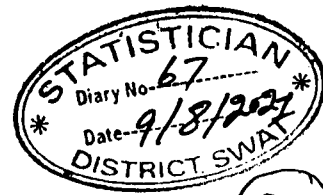
A copy of the Departmental Appeal submitted by Mr. Maqsood ur Rahman Statistician CRS Swat requesting for Personal Up-gradation with effect from 27.10.2010 in light of the court judgment in Service Appeal No: 1831-1843/ 2009 and No: 1856-1862/ 2009 dated 26.7.2010 is enclosed for favor of information and further consideration, please.

(Encl:- 5)


Statistician
Crop Reporting Services
Swat

Delivered to Mr. Tamjid CRS HQ Peshawar on 7/9/2021
Sent vide TCS Swat shipment CN:- 4764739090,


To



(29)

The Secretary
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock & Coop: Deptt:
Peshawar.

Through: - Director General, CRS
Khyber Pakhtunkhwa at Peshawar

Subject: - DEPARTMENTAL APPEAL FOR PERSONAL UP-GRADATION TO BS-18 WITH EFFECT FROM 27.7.2010 IN LIGHT OF THE COURT JUDGMENT IN SERVICE APPEAL NO: 1831-1843/ 2009 AND NO: 1856-1862/ 2009 DATED 26.7.2010.

Dear Sir:

I have the honor to submit my Departmental Appeal for Personal Up-gradation to BS-18 with effect from 27.7.2010 in light of your office Notification No: SOE (AD) 23-13/ 2012 dated 05/7/2017 on the following grounds (Annex: - A).




i) The Statistical Officers (Supervisory) CRS had approached Khyber Pakhtunkhwa Service Tribunal Peshawar vide Service Appeals No: 1831 to 1843/ 2009 and 1856 to 1862/ 2009 for upgradation of their post to BS-18 on the nexus of the similarly placed officers in the other attached wings of Agriculture Department Khyber Pakhtunkhwa. The honorable Service Tribunal Peshawar accepted their Appeal vide judgment dated 26.7.2010 (Annex: - B).

ii) The judgment of the Honorable tribunal dated 26.7.2010 was a judgment-in-rem which is also applicable to similarly placed person. This is a firm principle of jurisprudence upon the broad ground of public policy. The judgment of Supreme Court of Pakistan in 2005 SCMR page No: 506 and 1996 SCMR 1185 also directs that when a tribunal or court decides a point of law relating to the case of a civil servant who litigated, but also of other civil servants who may not have taken any legal proceedings, the dictate of justice and rules of good governance demand that benefits of the judgment be extended to other civil servants who might not be parties to the litigation instead of compelling them to approach tribunal or any other legal forum.

In view of above, I submit my Departmental Appeal to grant me the benefit of Personal Upgradation to BS-18 with effect from 27.7.2010 that has already been allowed to my colleagues (Both Seniors & Juniors) vide your office Notification placed under annexure-A above in compliance to the judgment dated 26.7.2010 in Service Appeal No: 1831 to 1843/ 2009 and 1856 to 1862/ 2009, please.

Acctt.
Put up in file
M
11/8/2021

Yours sincerely,
[Signature]
Maqsood-ur-Rahman
Statistical Officer (Supervisory)
CRS Agriculture Department
09/8/2021

قیمت 50 روپے	86289	  
ایڈوکیٹ: عتیق الرحمن بار کونسل/ایسوسی ایشن نمبر: bc-10-7680 رابطہ نمبر: 0332 9014507		
پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: خیبر پختونخواہ سروسز ٹریڈیونگ کمپنی پشاور

مخانب: Appellant	دعویٰ: سروسز اسٹیل
مقصود الرحمن بنام گورنمنٹ آف خیبر پختونخواہ	علت نمبر: α
	مورخہ: α
	جرم: α
	تھانہ: α
باعث تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے، فیصلہ برحلف دینے، جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا نظر فرما یا اپیل کی برآمدگی اور مستوحی، نیز دائر کرنے اپیل کیروائی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی ہونے کے ساتھ ساتھ اختیار کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا مقدمہ میں سے کسی پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ لیا تاکہ مندرجہ

المقام: _____
 العبادت: _____
 العبادت: _____


مقام کے لیے منظور ہے۔

Accepted by



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


Ateeq-Ur-Rehman
Advocate



Syed Murtaza Zahid Gillani
Advocate



Ashraf An


 Magsood-Ur-Rehman
 (Appellant)