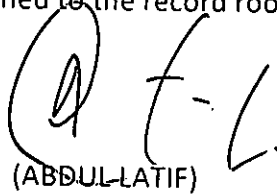


05.10.2015

Appellant with counsel and Mr. Sultan Shah, Supdt. alongwith Mr. Ziaullah GP, for respondents present. Arguments heard and record perused. Vide detailed judgment of today in connected service appeal No. 470/2013 titled "Muhammad Ayaz-vs-Govt. of KPK through Chief Secretary, Peshawar and others" this appeal is also disposed of as per detailed judgment. Parties are left to bear their own cost. File be consigned to the record room.



(ABDULLATIF)



(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED

05.10.2015

(Signature)

(Signature)

110-13-11

(Signature)

(Signature)



Appeal No. 474/2013.
Mr. Sher Afroz

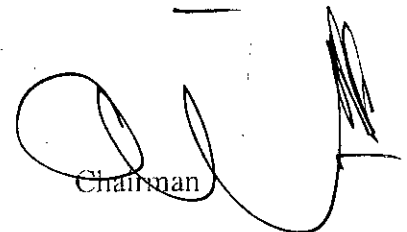
3. 10.4.2013

Counsel for the appellant present and heard. Contended that the appellant was promoted on 25.1.2010 as Section Officer (BPS-17) on acting charge basis but with immediate effect. He was promoted on regular basis on 12.12.2012. The appellant preferred a departmental appeal for the grant of ante-date promotion on 1.2.2012 from the date when he was promoted on acting charge basis but the same was rejected on 29.1.2013. Counsel for the appellant further contended that the appellant had earlier filed a writ petition which was decided on 22.11.2012 wherein, it was held that once the Supreme Court or the High Court enunciated a principle of law, then benefit of the same must be extended to all those similarly placed albeit they had not come to the court for seeking such relief. However, the writ petition was remanded to the respondent department for consideration. The department vide order dated 29.1.2013 refused the ante-date promotion of the appellant as being not covered under the rules. The learned counsel for the appellant in support of his arguments referred to this Tribunal judgment dated 13.3.2009 passed in Appeal No. 612/2008, Appeal No. 425/2005 by Abdul Latif, decided on 1.12.2005 and C.P No. 820/2004. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents. Case adjourned to 19.6.2013 for submission of written reply.


Member.

4. 10.4.2013

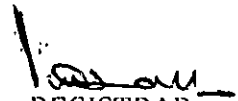

This case be put before the Final Bench P for further proceedings.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 474 /2013

S. No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/02/2013	<p>The appeal of Mr. Sher Akbar presented today by Mr. Nasir Mahmood Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	1-3-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>10-4-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO. 474 \2013

Sher AkbarAppellant

Versus

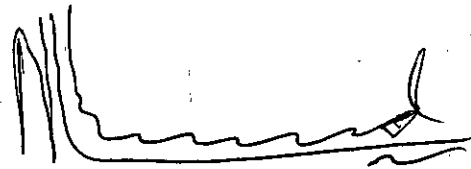
Chief Minister, KPK Peshawar and
others.....Respondents.

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	Appeal with affidavit		1-4
2.	Notification dt.25.01.10	A	5-7
3.	Notification dt. <u>30.5.11</u>	B	8-9
4.	Departmental Appeal	C	<u>10-11</u>
5.	Order in W.P	D	<u>12-15</u>
6.	Rejection Order	E	<u>16</u>
7.	Wakalat Nama		

Appellant

Through



Nasir Mahmood Advocate
13-D Haroon Mension
Peshawar.
Mob.0333-9176275

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

492
25/2/13

IN RE; Service Appeal NO.....474.....\2013

Sher Akbar Section Officer, H&TAs Dept. Civil Secretariat
Peshawar.....Appellant

Versus

- ①. The Chief Minister KPK Peshawar.
2. Govt. of KPK through Chief Secretary KPK Peshawar.
3. Secretary to Govt. of KPK Finance Dept. Govt. of KPK Civil Secretariat Peshawar.
4. Secretary Establishment\Regulation Govt. of KPK Civil Secretariat Peshawar.....Respondents

Service Appeal U\Section 4 of the KPK Service Tribunal Act, 1974 against the office order dated 29.01.2013 passed by Respondent No.4 whereby the Departmental appeal of the appellant against the Notification dated 30-05-2011 issued by respondent no.1 whereby appellant services were regularized with immediate effect instead of giving ante-date promotion to appellant from 25.01.2010 was regretted hence the instant appeal.

Prayer in Appeal; To set-aside the Notification dated 21-12-2011 passed by respondent no.1 whereby appellant services were regularized with immediate effect instead of giving ante-date promotion to appellant from 25.01.2010.

Grounds

- A. That vested right have been accrued in favor of appellant for ante-date promotion when the authority has later on through order dated 30.05.2011 regularized the services of the appellant with immediate effect instead of giving promotion to the appellant from 25.01.2010 although posts were available that's why the appellant was promoted on 25.01.2010.
- B. That it is an established principle of law that ante-date promotion is given to civil servants aspiring for promotion after he is found fit for promotion and is promoted against vacant post on acting charge basis and after some time his services are regularized with immediate effect and by not regularizing the services of the appellant from the date when he has taken charge on acting charge basis therefore, the impugned notification is illegal and against the principal of nature justice.
- C. That the respondents have not treated the Appellant in accordance with law and rules on the subject and acted in violation of article-4 and 25 of the constitution of Islamic republic of Pakistan, 1973 and unlawfully not given ante-date promotion to appellant which is unjust, unfair hence not sustainable in the eye of law.
- D. That the fundamental rights of the appellant has been violated and by not extending the said benefit to the appellant is an illegal and without of lawful authority order passed by Respondent No.1 which is liable to be set aside.
- E. That the Honourable apex court has already granted the above mentioned benefit to the other colleagues of the appellant on the same footing and the notification in this regard has already been issued however the appellant has been discriminated thus the impugned notification is liable to be set aside on this court alone.

F. That there cannot be two different scales for treating the some of the civil servants in one way and by extending to them the benefit of their regularization from the date of holding the charge on acting charge basis and leaving aside the other civil servants of the same category and being on the same footing by refusing them antedate promotion without any reasonable/plausible grounds.

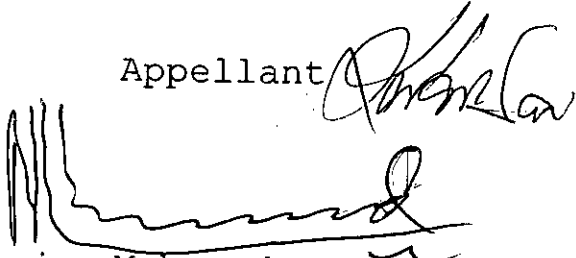
G. That in similar facts and circumstances this honorable Tribunal was pleased to accept appeal of Muhammad Iqbal Khattak and the case of the appellant is at par with that case so the impugned order is illegal on this ground also.

For the aforesaid reasons it is, therefore, respectfully prayed that on acceptance this appeal, this honorable tribunal may be pleased to declare office orders dated 30.05.2011 passed by respondent no.1 to be null and void and thus cancelled and ante-date promotion be given to appellant from 25-01-2010.

Any other remedy not specifically asked for but appropriate in the circumstances of the case may also be awarded to the appellant.

Appellant

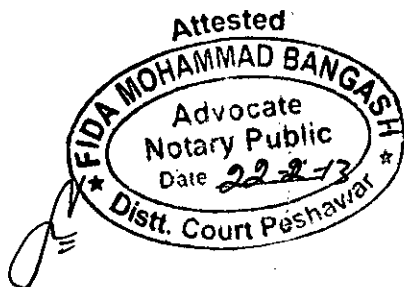
Through

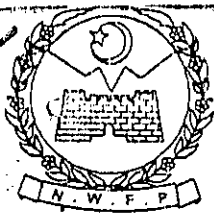

Nasir Mahmood Advocate,
13-D Haroon Mansion
Peshawar.

Affidavit

I, do hereby declare, and affirm on oath that the contents of accompanying writ petition are true and correct to the best my knowledge and belief and nothing has been concealed from this hon'ble court.

Deponent





GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT

Amal-A

Dated Peshawar the 25th January, 2010

NOTIFICATION:

No: SOE-II(ED)3(45)2010: Consequent upon the recommendations of the Provincial Selection Board, the competent authority is pleased to appoint the following Section Officers (Section Officer (Current Charge) / Superintendents / Private Secretaries as PMS Officers (BS-17) on acting charge basis with immediate effect:-

Sr. #	Name of officer
1.	Mr. Diwalar Shah
2.	Mr. Rahim Badshah
3.	Mr. Jamroz Khan
4.	Mr. Muhammad Jehan
5.	Mr. Sher Akbar
6.	Mr. Wamiq
7.	Mr. Said Wali Khan
8.	Mr. Munir Jan
9.	Mr. Bashir Khan
10.	Mr. Zar Gul Khan
11.	Mr. Syed Rasool
12.	Mr. Muhammad Afzal
13.	Mr. Aurangzeb Awan
14.	Mr. Noor Muhammad
15.	Mr. Amir Muhammad
16.	Mr. Ghulam Hussain
17.	Mr. Wazir Muhammad
18.	Mr. Muhammad Ishaq
19.	Mr. Shabbir Ahmad
20.	Mr. Wazir Gul
21.	Mr. Farooq Ahmad
22.	Mr. Khurshid Ali Khan
23.	Mr. Ghulam Muhammad
24.	Mr. Fazal Nabi
25.	Mr. Abdul Qadcer
26.	Mr. Muhammad Saced
27.	Mr. Muhammad Ayaz
28.	Mr. Zarimullah

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2. ⁶ On their promotion the above officers will be on probation for a period of one year in terms of section-6(2) of NWFP Civil Servants Act 1973 read with Rule-15(1) of NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

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

Sr. #	Name of officer	From	To
1.	Mr. Diwalar Shah	Section Officer, CM's Secretariat.	Retained on the same post.
2.	Mr. Rahim Badshah	Section Officer, C & W Deptt:	Retained on the same post.
3.	Mr. Jamroz Khan	Section Officer, Finance Deptt:	Retained on the same post.
4.	Mr. Muhammad Jehan	Section Officer, Governor's Sectt:	Retained on the same post.
5.	Mr. Sher Akbar	Section Officer, Higher Education	Retained on the same post.
6.	Mr. Wamiq	Section Officer, ST&IT Deptt:	Retained on the same post.
7.	Mr. Said Wali Khan	Section Officer, Mineral Dev. Deptt:	Retained on the same post.
8.	Mr. Munir Jan	PS, FATA Dev. Authority	Section Officer(R-I), Establishment Deptt: as substitute of Mr. Tehsinullah
9.	Mr. Bashir Khan	Section Officer, P&D Deptt:	Retained on the same post.
10.	Mr. Zar Gul Khan	Section Officer, Finance Deptt:	Retained on the same post.
11.	Mr. Syed Rasool	Section Officer, Home & TAs Deptt:	Retained on the same post.
12.	Mr. Muhammad Afzal	Section Officer, Establishment Deptt:	Retained on the same post.
13.	Mr. Aurangzeb Awan	Section Officer, Health Deptt:	Retained on the same post.
14.	Mr. Noor Muhammad	Section Officer, Housing Deptt:	Retained on the same post.
15.	Mr. Amir Muhammad	Section Officer, CM's Secretariat	Retained on the same post.
16.	Mr. Ghulam Hussain	PS to Minister for Agriculture	Retained on the same post.
17.	Mr. Wazir Muhammad	Section Officer, Finance Deptt:	Retained on the same post.
18.	Mr. Muhammad Ishaq	Section Officer, ST&IT Deptt:	Retained on the same post.
19.	Mr. Shabbir Ahmad	Supdt: STI, E&AD	Home & TAs Deptt: against the vacant

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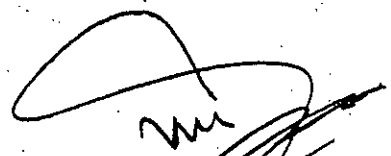
20	Mr. Wazir Gul	Section Officer, Industries Deptt:	post Retained on the same post
21	Mr. Farooq Ahmad	PS, ST&IT Deptt:	Higher Education Deptt: against the vacant post.
22	Mr. Khurshid Ali Khan	Section Officer, Elementary & Secondary Education Deptt:	Retained on the same post
23	Mr. Ghulam Muhammad	PS Food Deptt:	Finance Deptt: against the vacant post.
24	Mr. Fazal Nabi	Section Officer, STI, E&AD	Retained on the same post
25	Mr. Abdul Qadeer	Section Officer, Agricult Deptt:	Retained on the same post
26	Mr. Muhammad Saeed	Section Officer, Social Welfare Deptt:	Retained on the same post
27	Mr. Muhammad Ayaz	PS CM Secretariat	Finance Deptt: against the vacant post.
28	Mr. Zarimullah	Section Officer, IPC Deptt:	Retained on the same post

CHIEF SECRETARY, N.W.F.P.

ENDST:NO: SOE-II(ED)3(45)2010 Dated Pesh the 25 January, 2010

A copy is forwarded to :-

1. All Administrative Secretaries to Govt of NWFP.
2. Secretary to Governor, NWFP.
3. Principal Secretary to Chief Minister, NWFP.
4. Accountant General, NWFP, Peshawar.
5. Accountant General(PR), NWFP, Peshawar.
6. Secretary, FATA Dev. Authority, Peshawar.
7. Director, STI, E&A Department.
8. S.O.(Secret)/(Admn)/E-IV/E.O/Programmer/Librarian, E&A Dept.
9. Officers concerned.
10. P.S. to Chief Secretary NWFP.
11. P.S. to Secretary Establishment NWFP.
12. PS to Special Secretary (Regulations) Establishment Dept.
13. PS to Minister Agriculture, NWFP.
14. PA to AS (E)/ DS (E) Establishment Department.
15. Personal files of the officers concerned.
16. Office Order file.
17. Manager, Govt Printing Press, Peshawar.


(KALIMULLAH)
SECTION OFFICER (E-II)

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Annex-B



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the May, 30.2011

NOTIFICATION

NO.SOE.II(ED)3(45)2011- Consequent upon the recommendations of the Provincial Selection Board, the competent authority is pleased to order the promotion of the following Private Secretary/Section Officer(OPS)/PMS BS-17(acting charge), to Provincial Management Service (BS-17), on regular basis with immediate effect:-

S.#	Name of Officer
1	Mr. Muhammad Iqbal Awan
2	Mr. Dilawar Shah
3	Mr. Rahim Badshah
4	Mr. Jamroz Khan
5	Mr. Muhammad Jehan
6	Mr. Sher Akbar
7	Mr. Wamiq
8	Mr. Syed Wali Khan
9	Mr. Munir Jan
10	Mr. M. Bashir Khan
11	Mr. Zar Gul Khan

S.S/F
AF/STAT
SO(Admin)
2/6

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(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

S.A

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

S.#	Name of Officer	From	To
1	Mr. Muhammad Iqbal Awan	Section Officer (OPS), PHE Deptt:	Retained on the same post
2	Mr. Dilawar Shah	Section Officer, CM Sectt:	Retained on the same post
3	Mr. Rahim Badshah	Section Officer, C&W Deptt:	Retained on the same post
4	Mr. Jamroz Khan	Section Officer, Finance Deptt:	Retained on the same post
5	Mr. Muhammad Jehan	Section Officer, Governor's Sectt:	Retained on the same post
6	Mr. Sher Akbar	Section Officer, Higher Education Deptt:	Retained on the same post

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7	Mr. Wamiq	Section Deptt:	Retained on the same post
8	Mr. Syed Wali Khan	Section Officer, Mineral Dev. Deptt:	Retained on the same post
9	Mr. Munir Jan	FATA Dev. Authority	Section Officer(HR),E&AD (for actualization of promtoion).
10	Mr. M.Bashir Khan	Section Officer, P&D Deptt:	Retained on the same post
11	Mr. Zar Gul Khan	Section Officer, Finance Deptt:	Retained on the same post

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN

A copy is forwarded to:-

1. Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. Secretary (Admn. & Coord), FATA Secretariat.
5. Secretary, FATA Development Authority, Peshawar.
6. Accountant General, Khyber Pakhtunkhwa.
7. Accountant General (PR), Sub- Officer, Peshawar.
8. SO(Secret)/SO(E-IV)/SO(Admn)/ EO/Librarian, E&A Department.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment.
11. PAs to AS(E)/DS(E) Estab: Deptt:
12. Officers concerned.
13. Office order file.
14. Personal file of the officers concerned.

(FARYAL KAZIM)
SECTION OFFICER(E-II)

IHSAN AFRIDI

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To

The Hon'ble Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Subject:

APPOINTMENT ON ACTING CHARGE BASIS / ANTEDATION OF PROMOTION.

Dear Sir,

With due regard, it is brought to your kind notice that we the 28 Nos. Section Officers were promoted as PMS (BPS-17) Officers and posted as Section Officers on Acting Charge basis vide Notification No. SOE-II(ED)3(45)2010 dated January 25, 2010 (**Annexure-I**). The Provincial Selection Board in its meeting held on May 20, 2011 consider Ten (10) Nos. Section Officer on regular basis out of 28 against the available vacancies vide Notification No. SOE.II(ED)3(45)2011 dated May 30, 2011. (**Annexure-II**).

Sir, it is stated that 174 PMS Officers BS-17 have been appointed through Public Service Commission against the quota of initial recruitment vide Notification No. SOE-II(ED)3(81)/2010 dated May 05, 2010 (**Annexure-III**) and posted in the province against the vacant posts. The Officers so appointed through Public Service Commission will be ranked/senior to those promoted on regular basis vide Notification No. SOE.II(ED)3(45)2011 dated May 30, 2011, despite the fact that they were appointed in BS-17 earlier to them on acting charge basis vide Notification No. SOE-II(ED)3(45)2010 dated January 25, 2010

It may further be submitted that the Supreme Court of Pakistan in a Civil petition No. 820-P of 2004 dated March 10, 2011 (**Annexure-IV**) while accepting the view points of the Petitioner has ordered this restoring his seniority over those who were appointed against the initial recruitment quota. Mr. Abdul Wahab Petitioner V/S Government of Khyber Pakhtunkhwa through Chief Secretary for antedation of his promotion from August 09, 1993 the date from which he was promoted as Section Officer on stop-gap arrangement instead of the date in which he has promoted on regular basis.



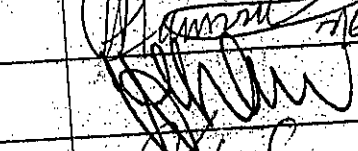
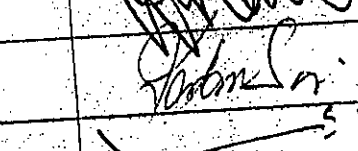


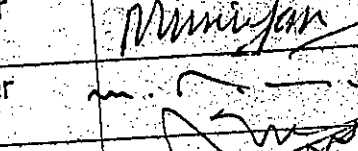
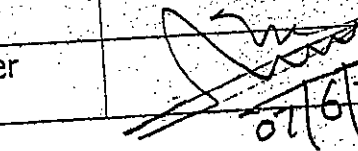
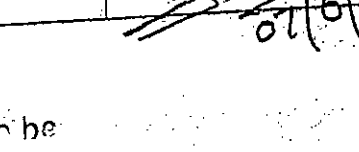

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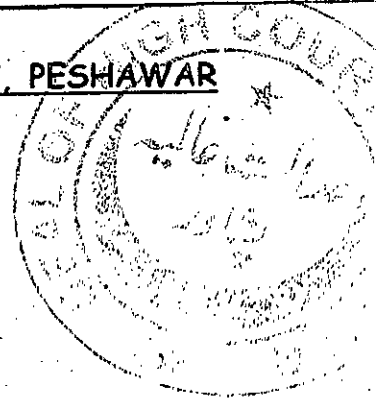
In light of the Judgment referred to above, it is requested that our case may kindly be considered sympathetically and consider our promotion from the date we were appointed on acting charge basis vide Notification No. SOE-II(ED)3(45)2010 dated January 25, 2010

With profound regard.

Yours faithfully.

S/No.	Name	Designation	Signature
1.	Mr. Dilawar Shah	Section Officer	
2.	Mr. Rahim Badshah	Section Officer	
3.	Mr. Jamroz Khan	Section Officer	
4.	Muhammad Jehan	Section Officer	
5.	Mr. Sher Akbar	Section Officer	
6.	Mr. wamiq	Section Officer	
7.	Mr. Said Wali Khan	Section Officer	
8.	Mr. Munir Jan	Section Officer	
9.	Mr. Bashir Khan	Section Officer	
10.	Mr. Zar Gul Khan	Section Officer	

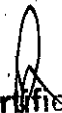
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BEFORE THE PESHAWAR HIGH COURT, PESHAWARW.P.No. 2707/2012

1. Muhammad Ayaz Toru Section Officer,
Finance Department, Govt. of K.P.K.,
Civil Secretariat, Peshawar.
2. Jamroz Khan Section Officer,
Finance Department, Govt. of K.P.K.,
Civil Secretariat, Peshawar.
3. Muhammad Jehan Section Officer,
Governor Secretariat, Govt. of K.P.K.,
Governor Secretariat, Peshawar.
4. Sher Akbar Section Officer,
Home & Tribal Affairs Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
5. Wamig Section Officer,
Science & Technology & Information Technology
Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
6. Munir Jan Section Officer,
E&AD Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
7. Bashir Khan Section Officer,
P&D Department, Govt. of K.P.K.,
Civil Secretariat, Peshawar.
8. Zar Gul Khan Section Officer,
Finance Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.

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ESTABLISHED
Peshawar High Court

- 9. Syed Rasool Section Officer,
Home & Tribal Affairs Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
- 10. Aurangzeb Awan Section Officer,
Health Department Gov. of K.P.K.,
Civil Secretariat, Peshawar.
- 11. Wazir Muhammad Afghar
Section Officer,
Finance Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
- 12. Shabir Ahmad
Section Officer Higher Education Department,
Govt. of K.P.K.,
Civil Secretariat, Peshawar.
- 13. Khurshid Ali Khan Section Officer,
Elementary & Secondary Education Department, Govt.
of K.P.K., Civil Secretariat, Peshawar.
- 14. Fazal Nabi Section Officer,
Inter Provincial Coordination Department,
Govt. of K.P.K.,
Civil Secretariat, Peshawar.
- 15. Muhammad Saeed Section Officer,
Social Welfare Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
- 16. Rahim Badshah Section Officer,
C& W Department Govt. of K.P.K.,
Civil Secretariat, Peshawar.
- 17. Zarimullah Section Officer,
Inter Provincial Coordination Department,
Govt. of K.P.K.,
Civil Secretariat, Peshawar.


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 CIVIL SECRETARIAT
 PESHAWAR
 15 SEP 2004

18. Akbar Khan Section Officer, Information & Public Relations Department, Govt. of K.P.K., Civil Secretariat, Peshawar

.....Petitioners

Versus

- 1. Govt. of K.P.K., through Chief Secretary, Civil Secretariat, Peshawar
- 2. Secretary to Govt. of K.P.K., Finance Department, Civil Secretariat, Peshawar.
- 3. Secretary Establishment/Regulation Govt. of K.P.K., Civil Secretariat, Peshawar

.....Respondents

W.P. under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973

Respectfully Sheweth:

- 1. That the petitioners are serving as Section Officer (BPS-17) Govt. of K.P.K., in Civil Secretariat, Peshawar whom are serving at the posts as mentioned against their names in the heading of the petition.
- 2. That all the above said petitioners have got at their credit a long tenure of service extending more than 25/30 years.
- 3. That the petitioners were previously serving as Superintendent/Private Secretaries (BPS-16) in the various departments, whereby through a notification

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Peshawar

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of Judge
22.11.2012.	<p><u>W.P. 2707-P of 2012.</u></p> <p>Present: Ghulam Nabi, advocate for petitioners.</p> <p><u>DOST MUHAMMAD KHAN, C.J.</u>- Contends that similarly placed persons were granted relief by the Services Tribunal and the decision of the same was upheld by the apex court granting certain benefits to those employees placed similar to the petitioners, therefore, on the strength of dicta laid down by the apex court in the case of <u>Hameed Akhtar Niazi Vs. The Government (1996 SCMR 1185)</u> where it was held that once the Supreme Court or the High Court enunciated a principle of law, then benefit of the same must be extended to all those similarly placed albeit they had not come to the court for seeking such relief.</p> <p>2. Accordingly, this petition is sent to the Departmental Appellate Authority to be treated as Departmental Appeal and decision be made keeping in view the dicta laid down by the apex court. The needful be done within two months.</p> <p>... Petition disposed of.</p> <p>sd/ Dost Muls sd/ Waqar Ahmad</p> <p>29-11-12</p>

Handwritten notes: 23/11

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SR

The University of Peshawar, Peshawar

Annex E

16

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT



NO.SOE-II(ED) 3(855)/2008
Dated Peshawar the January, 29, 2013

To

1. Mr. Muhammad Ayaz Toru, Section Officer, Finance Deptt.
2. Mr. Jamroz Khan, Section Officer, Finance Deptt.
3. Mr. Muhammad Jehan, Section Officer, H&TAs Deptt
4. Mr. Sher Akbar, Section officer, H&TAs Deptt
5. Mr. Wamiq, Section Officer, ST&IT Deptt.
6. Mr. Munir Jan, Assistant Manager (Procurement & Inventory) FATA Dev. Authority,
7. Mr. Muhammad Bashir Khan, Section Officer, P&D Deptt.
8. Mr. Zar Gul Khan, Section Officer, Finance Deptt.
9. Syed Rasool, Section officer, H&TAs Deptt
10. Mr. Aurangzeb Awan, Section Officer, Local Govt. Deptt
11. Mr. Wazir Muhammad, Section Officer, Finance Department
12. Mr. Shabir Ahmad, Section Officer, Health Deptt.
13. Mr. Khurshid Ali Khan, Section Officer, E&S Edu Deptt.
14. Mr. Fazal Nabi, Section Officer, IPC, Deptt.
15. Mr. Muhammad Saeed, Section Officer, Social Welfare, Deptt.
16. Mr. Rahim Badshah, Section Officer, C&W Deptt.
17. Mr. Zarimullah, Section Officer, IPC, Deptt.
18. Mr. Akbar Khan, Section Officer, Information Deptt.

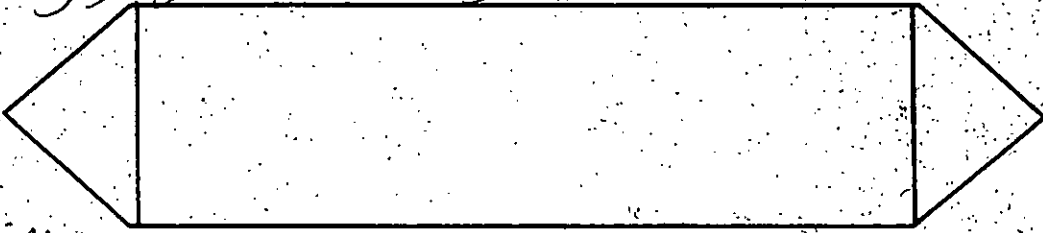
Subject:- WRIT PETITION NO. 2707-P/2012 - MUHAMMAD AYAZ AND OTHERS VS GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS

I am directed to refer to Additional Registrar (J), Peshawar, High Court, letter No. 18892/Judl: dated 09.11.2012 on the subject noted above and to inform that after thorough examination of your appeal/representation in this Department, the competent authority has regretted the same being not covered under the rules.

(TABASSUM)
SECTION OFFICER (E-II)

Certified
True Copy

بعدالت حساب سروس ٹریبونل خیر مخدوم (ایس اے)



2013ء منجانب ایبیلانٹ

شیر کبیر بنام چیف منسٹر وغیرہ

مورخہ
مقدمہ
دعوی
جرم
سروس ریپل

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام لیتھوگور کیلئے ناٹھلر محمود رائیڈ سید عبدالحمید ظار بڈو کس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقریر حالت فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا ایپل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرداخت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائہ التوا سے مقدمہ کے سبب سے وہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

شیر کبیر

20
واہ الع
کے لئے منظور ہے۔
بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 474/2013

Sher Akbar, PMS BS-17, Section Officer, Home Department, Civil Secretariat, Peshawar
..... (Appellant)

Versus

1. The Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa Finance Department, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Establishment / Regulation Govt. of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
..... (Respondents)

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

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the instant appeal against he respondents.
2. That the appeal is not maintainable.
3. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
4. That the appeal is barred by law/time.
5. That this Honourable Tribunal lacks jurisdiction in the matter.
6. That the appellant has concealed material facts from the Tribunal.
7. That the appellant has not come to the Tribunal with clean hands.
8. That the appellant is estopped to file the instant appeal due to his own conduct.
9. That the appeal is bad for non-joinder of necessary party.
10. That the instant appeal is hit by Section 4(1) (b) of the Khyber Pakhtunkhwa, Services Tribunal Act, 1974.

ON FACTS:

1. Pertains to record, hence no comments.
2. Subject to proof.
3. Incorrect. The appellant was not promoted as Section Officer (BS-17) on acting charge basis rather he was appointed alongwith others as PMS BS-17 on acting charge basis vide Notification dated 25.01.2010.

4. Correct.
5. The departmental appeal of the appellant was processed and filed being not covered under the rules. Moreover, the writ petition No. 2707-P of 2012 which was treated as departmental appeal was also processed and was regretted by the competent authority being not covered under the rules. The appellants were informed accordingly.

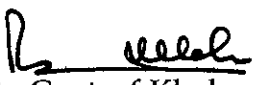
ON GROUNDS

- A. Incorrect. The appellant has got no vested right for his ante-dated promotion w.e.f. 25.01.2010 as under the rules promotion is always with immediate effect and there were no posts of PMS BS-17 falling in the promotion share quota of Supdt: / PS.
- B. Incorrect. In December 2009, 18 posts of PMS BS-17 were available in the promotion share quota of appellant. However, appellant was at S.No. 29 of the panel and he was appointed as PMS BS-17 on acting charge basis against vacant posts of PMS BS-17 meant for initial recruitment under Section 9 (3) of Khyber Pakhtunkhwa Civil Servants (APT) Rules 1989 (working paper, minutes of the meeting held on 15.12.2009 are at **Annex-I & II**). Similarly in May 2011, 11 posts were available in the promotion share quota of appellant and the appellant was at S. No. 08 and was considered for regular promotion to the post of PMS BS-17 and Notification was issued on 30.05.2011 (working paper, minutes of the meeting held on 27.05.2011 and Notification dated 30.05.2011 are at **Annex-III, IV & V**).
- C. Incorrect. The respondents acted according to law/rules.
- D. Incorrect. No fundamental right of the appellant has been violated. Moreover, the position has been explained in Para-B above.
- E. Incorrect. Each and every case has its own merits. Moreover, no discrimination has been made with the appellant and the impugned Notification is according to rules/law.
- F. Incorrect. As explained in the preceding Paras.
- G. Incorrect. The case of the appellant is not identical to the cases of those PMS BS-17 officers i.e. Muhammad Iqbal Khattak and others whose promotion was ante-dated from the date of occurrence of vacancies or the date of acting charge appointment whichever was later as there were vacancies available in the promotion share quota of PCS(EG) BS-17. While in December 2009, 18 posts of PMS BS-17 were available in the promotion share quota of appellant. However, appellant was at S.No. 29 of the panel and he was appointed as PMS BS-17 on acting charge basis against vacant posts of PMS BS-17 meant for initial recruitment under Section 9 (3) of Khyber Pakhtunkhwa Civil Servants (APT) Rules 1989. Similarly in May 2011, 11 posts were available in the promotion share quota of appellant and the appellant being at S.No.08 was considered for regular promotion to the post of PMS BS-17 and Notification was issued on 30.05.2011

It is, therefore, most humbly prayed that on acceptance of these parawise comments, the instant Appeal may very graciously be dismissed with costs.

Principal Secretary to
Chief Minister, Khyber Pakhtunkhwa
(Respondent No.1)


(RESPONDENTS NO. 2 & 4)


Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department
(Respondent No.3)

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO.474/2013

Sher Akbar.....Appellant

Versus

The Chief Minister KPK and others.....Respondents

Rejoinder on behalf of appellant

Preliminary objections:

1. All other preliminary objections have been taken in routine. The appellant is having a cause of action. The appeal is maintainable and true facts have been presented before the tribunal. The appeal is not time barred. This honorable tribunal is having jurisdiction in the matter and no facts have been concealed. The appellant has come to this honorable tribunal with clean hands. All the necessary parties have been arrayed as respondents and it has not been shown how the appellant is estopped by his conduct. The appeal is not hit by section 4(1) (b) of KPK Services Tribunal Act, 1974.

On Facts;

1. Para-1 of the reply needs no rejoinder.
2. In reply to para-2 it is stated that first appointment of the appellant is attached for ready reference.
3. Para-3 of the reply is refuted with all the forces at the command of the appellant. The appellant was promoted alongwith others to PMS BPS-17 on acting charge basis because clearly vacancies were available to the promotion quota of the appellant otherwise the Provincial Selection Board would not have promoted the appellant, because according to Rule-9 of APT Rules civil servant can be promoted to a higher post only if promotion quota post is available otherwise the initial post according to 14 of APT Rules 1989 can only be filled on adhoc basis (copy attached as Annexure-A).
4. Para-4&5 of the reply needs no rejoinder.

GROUND

A. Ground-A&B of the reply is incorrect and that of the appeal is correct. Vested rights have been accrued in favor of appellant. 434 vacancies in BPS-17 were available in 2001 and the share\quota allocated to each cadre as mentioned in the working paper placed before the Provincial Selection Board for consideration in its meeting held on 09.01.2008 was as under:

S.NO.	QUOTA	SHARE	REMARKS
1.	Promotion of Superintendents/ Private Secretaries	87	63 Superintendents/Private Secretaries were appointed as Section Officers (BPS-17) on current charge basis with effect from 23-1-2001. 22-8-2001, 11-3-2003 and 26-6-2003. 93 Supdts: /P.Ss were appointed as Section Officers(BPS-17) on acting charge basis w.e.f. 2-12-2003, 10-7-2004 and 25-1-2010. 155 Superintendents/Private Secretaries were promoted as Section Officers(BPS-17) on regular basis in 2005,2006,2007,19-2-2008,7-11-2008,3-3-2009, 25-1-2010, 30-5-2011 and 21-12-2011.
2.	Promotion of Tehsildars	87	62 Tehsildars appointed on acting charge and on officiating basis in their own pay scales during 2000 to 2004 and then promoted on regular basis w.e.from 19-2-2008. They have been allowed anti date promotion from 2000 and 2001 etc instead of 19-2-2008 in light of Supreme Court of Pakistan judgment dated 24-5-2012 vide Notification No.SOE-II(ED)2(423)/ 2010/Vol-II dated 25-7-2012.
3.	Direct recruitment	217	230 PMS (BPS-17) officers have been appointed through Public Service Commission during the period from 2002 to 2010.
4.	Selection from Ministerial staff (i.e. below BPS-16) through Public Service Commission.	43	No one has been appointed so far.

87 posts in BPS-17 were vacant in 2001 while about 64 posts of S.Os BPS-17 caused vacant before 25.01.2010 on account of retirement and promotion of SOs (BPS-17) to the post of Deputy Secretaries BPS-18. Copy attached as Annexure-B.

Keeping in view the aforesaid explanation, 64 further posts in BPS-17 were made available in promotion quota while the appellant was shown at S.No. _____ of the panel and it is pertinent to mention here that as per circular letter No. SORI(S&GAD)1-29/75 (a), dated 13-2-1993 appeared at Page-79 of Esta Code, no appointment to higher post on acting charge basis can be made. However, against the posts meant for initial quota, adhoc appointment can be made for a period not exceeding one year under Rule-14 of Civil Servants (APT) Rules, 1989. Hence, appointment on acting charge basis instead of regular basis is illegal and based on malafide intention.

The respondent department has filled in the vacancies meant for initial quota on regular basis through Public Service Commission, filled the vacancies meant for promotion of Tehsildars on regular basis through PSB as well as through judgment of Supreme Court of Pakistan but unfortunately filled the vacancies meant for promotion of Superintendents/Private Secretaries on acting charges basis instead of regular basis in violation of rules and judgment of Supreme Court of Pakistan as mentioned above.

- B. Ground-C of the reply is incorrect and that of the appeal is correct.
- C. Ground -D of the reply is incorrect and that of the appeal is correct.
- D. Ground-E of the reply is incorrect and that of the appeal is correct. The appellant has been discriminated.
- E. Ground-F of the reply is incorrect and that of the petition is correct.

F. Ground-G of the reply is incorrect and that of the appeal is correct. Further the position has been explained in reply to ground-A&B.

The Provincial Government has promoted many officers to next higher grades with retrospective effect. The following few cases are quoted as examples :-


1. Mr.Khalid Khan Umerzai has been promoted to BPS-20 post with retrospective effect vide Notification No.SO(E-I)S&GAD/4-2/2007 dated 3-11-2007.
2. Mr.Umer Hayat, Director Fisheries has been promoted to BPS-19 with retrospective effect vide Notification No.SO(E-I)/S&GAD/9-112/2010 dated 10-05-2010.
3. 19 Superintendents/Private Secretaries have been promoted to B-17 vide Notification No.SOS-II(S&GAD)3(122)/92 dated 10-7-1995.
4. 62 Tehsildars have been promoted to BPS-17 with retrospective effect vide Notification No.SOE-II(ED)2(423)/2010 dated 25-7-2012.

Copies of the notifications attached as Annexure-C,D,E & F.

The post was available in promotion quota of the appellant against which he had been appointed on acting charge basis instead of regular basis. The Supreme Court of Pakistan has already decided a similar law point in an identical case in C.As. Nos.860 and 861 of 2010 that "there is also no dispute with the proposition that if the respondents were to hold a post on acting charge basis, they could also hold the same on regular basis".

It is therefore respectfully prayed that while considering the above rejoinder the appeal may kindly be accepted.

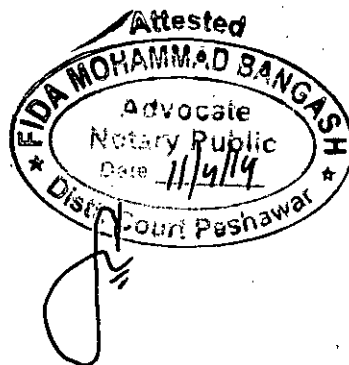
Through

Appellant

Nasir Mehmood Advocate 11/4/14
Supreme Court of Pakistan
13-D Haroon Mansion Peshawar.

Affidavit

I do hereby declare and affirm on oath that the contents of above rejoinder are true and correct to the best of my knowledge and belief and noting has been concealed from this honorable court.


Deponent



Statutory provision regarding Appointment.

Section 5 of Civil Servants Act, 1973 - Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorised by the Governor in that behalf.

**THE NORTH-WEST FRONTIER PROVINCE
CIVIL SERVANTS (APPOINTMENT, PROMOTION &
TRANSFER) RULES, 1989.**

PART-I

GENERAL

1. **Short title and commencement:** - (1) These rules may be called the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
(2) They shall come into force at once.
2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-
 - (a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;
 - (b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;
 - (c) "Commission" means the North West Frontier Province Public Service Commission;
 - ²⁹ (d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;
 - ³⁰ (dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:
Provided that more than one such committees may be constituted for civil servants holding different scales of pay".
 - (e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];
 - (f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and
 - ³¹ (g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect

²⁹ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

³⁰ Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

³¹ Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment:-** (1) Appointment to posts shall be made by any of the following methods, namely:-

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and
- (b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department.

4. **Appointing Authority:-** The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No.!	Posts	Appointing Authority
1.	(a) Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; <ul style="list-style-type: none"> (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service. 	Chief Minister
	(b) Posts in Basic Pay Scale 17 other than those covered by (a) above.	Chief Secretary
2.	Posts in Basic Pay Scale 16.	<ul style="list-style-type: none"> (a) In the case of Secretariat of the Government of NWFP, the Chief Secretary. (b) In case of High Court, the Chief Justice; and (c) In the case of Attached Department:

- (i) the Head of Attached Department concerned; and
- (ii) In any other case the Secretary of the Department concerned.

3. Posts in Basic Pay Scales 3 to 15.

- (a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and
- (b) In other cases
 - (i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or
 - (ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.

4. Posts in Basic Pay Scale 1 and 2. Deputy Secretary incharge of Administration or office, as the case may be.

5. ³³**Departmental Promotion & Selection Committee/Board** - (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ³⁴(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

³⁵6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

³³ The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994.

³⁴ The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

³⁵ Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** ³⁶(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

8. **Inter-Provincial Transfer:-**(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bona fide resident of the North-West Frontier Province.
- (v) a vacancy exists to accommodate the request for such a transfer; and:
- (vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. **Appointment on Acting Charge or current Charge Basis.** (1) 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 authority may appoint him to that post on acting charge basis;

³⁷Provided that no such appointment shall be made, if the prescribed length of service is short by more than ³⁸[three years].

(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III

INITIAL APPOINTMENT

10. **Appointment by Initial Recruitment :-** (1) Initial appointment to posts ³⁹[in various basic pay scales] shall be made-9

(a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or

³⁷ Full stop at the end of Rule 9 (1) replaced with colon and proviso added by Notification No. SOR-I (S&GAD)4-1/80/Vol-II, dated 20-10-1993.

³⁸ The words one year substituted by Notification No. SOR-I(S&GAD)4-1/80/III, dated 14.3.96.

³⁹ The words in basic pay scale-16 to 21 substituted by Notification No. SOR-I(S&GAD)1-117/91 (C), dated 12-10-1993.

- (b) if the post does not fall within the purview of the Commission, in the manner as may be determined by Government.

⁴⁰(2) Initial recruitment to posts which do not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers.

⁴¹Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister House Peshawar, Frontier House Islamabad, Frontier Rest Houses Bannu, Swat and Abbottabad, Frontier House Nathia Galli and Shahi Mehman Khana, Peshawar and any other House to be established by the Government:

⁴²Provided further that the appointment in Basic Pay Scale-1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, ⁴³[or, where in a District, the office of the Employment Exchange does not exist, after advertising the posts in the leading newspapers] ⁴⁴[]

(3) A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that-

- (i) ⁴⁵where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the time being in force, age shall be reckoned on 1st January of the year in which the examination is proposed to be held;
- (ii) in other cases as on the last date fixed for submission of applications for appointment.

⁴⁶(4) Where a civil servant dies during service, then notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government service, the widow of such civil servant, to a post in any of the Basic Pay Scales 1 to 15:

Provided that the child or the widow, as the case may be, possesses the minimum qualification prescribed for appointment to the post:

Provided further that if there are two widows of the deceased civil servant, preference shall be given to the elder widow:

Provided also that the appointment under this sub-rule is subject to availability of a vacancy and if more than one vacancies in different pay scales is available at a time, and the child or the widow, as the case may be, possesses the qualifications making him or her

⁴⁰ Sub rule (2) of Rule-10 substituted by Notification No. SOR-I(S&GAD) 1-117/91 (C), dated 12-10-1993.

⁴¹ Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 03-07-2003.

⁴² Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 16-03-2004

⁴³ Sentence added in the Proviso vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 23-01-2006.

⁴⁴ 2nd Proviso in sub-rule (2) of Rule 10 was deleted vide Notification No. SOR-VI(E&AD)1-3/2008 dated 09-05-2008 and added again vide Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008.

⁴⁵ Clause (i) substituted vide Notification No. SOR-I(S&GAD)4-1/80, dated 17-5-1989.

⁴⁶ Sub rule (4) substituted vide Notification No. SOR-VI (E&AD)1-3/03/II, dated 05-09-2006.

eligible for appointment in more than one post, he/she shall ordinarily be appointed to the post carrying higher pay scale.

⁴⁷(5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I---For the purpose of reservation under this sub-rule "disability" does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate.

Explanation-II---Ten per cent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

⁴⁸(6) Notwithstanding anything contained in any rule for the time being in force, five per cent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Battagram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from 1st February, 2006.

⁴⁹(7) Notwithstanding anything contained in any rule for the time being in force, 0.5 percent of all the posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to—

- (i) the percentage of vacancies reserved for recruitment on merit;
- (ii) short term vacancies likely to last for less than one year; and
- (iii) isolated posts in which vacancies occur only occasionally.

11. **Eligibility.** (1) A candidate for appointment shall be a citizen of Pakistan and bona fide resident of the North-West Frontier Province.

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

⁵⁰[(2)]

(3) No person, not already in Government service, shall be appointed to a post unless he produces a certificate of character from the principal, academic officer of the academic institution last attended and also certificates of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

(4) Notwithstanding anything contained in sub-rule (3), an appointment by initial recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

⁴⁷ Sub rule (5) substituted vide Notification No. SOR-VI (E&AD)1-10/03 (VI), dated 04-12-2007.

⁴⁸ Sub rule (6) inserted vide Notification No. SOR-VI(E&AD)1-3/03 (VI), dated 01-02-2006

⁴⁹ Sub rule (7) added vide Notification No. SOR-VI(E&AD)1-3/08, dated 06-01-2009

⁵⁰ Sub rule (2) of rule-11 deleted vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-06-2008

(5) No candidate shall be appointed to a post unless he is found, after such medical examination as Government may prescribe, to be in good mental and bodily health and free from physical defect likely to interfere in the efficient discharge of his duties.

12. **Zonal and Divisional representation:** - (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time:

⁵¹ Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bona fide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

AD HOC APPOINTMENT

13. **Requisition to Commission:**-When under any rule for the time being in force, a post is required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on ad hoc basis as provided in rule 14, within two months of the filling of the post.

14. **Ad hoc Appointment:**-(1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on ad hoc basis for a period not exceeding ⁵²[one year] by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding ⁵³[one year], may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

⁵¹ Proviso to rule-12 added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

⁵² The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

⁵³ The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

PART-V

PROBATION AND CONFIRMATION

⁵⁴15. **Probation.** ----- (1) Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.

16. **Confirmation:-**After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the North West Frontier Province Civil Servants Act, 1973.

PART-VI

SENIORITY

17. **Seniority :-**(1) the seniority inter se of civil servants ⁵⁵(appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁵⁶[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher

⁵⁴ Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

⁵⁵ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.

⁵⁶ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

⁵⁷(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁸(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.

18. General Rules: - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. Repeal:- The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

⁵⁷ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

⁵⁸ Sub-rule (4) of Rule 17 added vide Notification No.SOR-VI (E&AD) 1-3/2008 dated 19th November, 2009.

Appointment by transfer.

I am directed to say that rule 7 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, provides that appointment by transfer to posts should be made:-

- (1) to posts in BPS-2 to 16 on the recommendations of the appropriate Departmental Promotion Committee;
- (2) to posts in BPS-17 and above on the recommendations of the Provincial Selection Board; and
- (3) from amongst the persons possessing qualifications and other conditions prescribed for the posts and holding appointment on regular basis in the same basic pay scale in which the posts to be filled exist.

It has been brought to notice that in some of the departments, appointment by transfer is also made in cases where no provision for appointment by transfer exists in the relevant service/recruitment rules.

I am accordingly directed to clarify that the above provisions regarding appointment by transfer are applicable in only those cases where the appointment by transfer is specifically provided for in the relevant service/recruitment rules or in the method of appointment, qualification etc laid down for each post under sub-rule (2) of rule 3 of the aforesaid rules.

(Authority: No.SORI(S&GAD)4-1/80, dated 13th May, 1989)

Dist - I

Annexure "B"

Before 25-01-2010, the following 32 Section Officers have been retired from service.

S.NO.	NAME	PERIOD
1.	Mr.Majeedul Hassan	25-10-2008
2.	Mr.Rustam Ali	01-06-2009
3.	Mr.Muhammad Alam	15-04-2009
4.	Mr.Amir Jan	12-02-2007
5.	Mr.Hafeez Ahmad	15-04-2006
6.	Syed Alam	01-05-2009
7.	Mr.Fazal Hussain Amjad	11-08-2006
8.	Mr.Noorul Haq	01-07-2008
9.	Syed Baqir Shah	01-01-2010
10.	Mr.Misal Khan	08-04-2006
11.	Mr.Sahib Shah	02-09-2009
12.	Mr.Abdul Jabbar-II	01-01-2010
13.	Mr.Shaheeruddin	11-04-2009
14.	Arbab Musharaf Khan	03-02-2008
15.	Mr.Shah Sawar	07-12-2009
16.	Mr.Abdul Raziq	05-02-2007
17.	Mr.Sardar Ali	01-07-2007
18.	Mr.Fida Muhammad	12-10-2009
19.	Mr.Said Usman	05-05-2005
20.	Mr.Sher Wali	05-03-2004
21.	Mr.Kalimullah	15-12-2008
22.	Mr.Salahuddin	05-12-2009
23.	Mr.Aneesur Rehman	01-04-2007
24.	Mr.Saeed Khan	15-12-2008
25.	Mr.Ghafoor Shah	13-05-2006
26.	Mr.Ali Nabi	20-01-2006
27.	Mr.Fazal Qadir	10-06-2002
28.	Mr.Muhammad Saeed	01-12-2008
29.	Mr.Arifullah-II	13-09-2004
30.	Mr.Bughdad Shah	27-12-2008
31.	Mr.Farmanullah	01-03-2009
32.	Mr.Sibtul Hassan	29-09-2005

list-13

Before 25-01-2010, the following Section Officers (BPS-17) have been promoted to the posts of Deputy Secretaries (BPS-18):-

S.NO.	NAME OF OFFICERS	REMARKS
1.	Syed Akhtar Hussain Shah	Promoted from BPS-17 to BPS-18 on the recommendation of Provincial Selection Board in its meeting held on 30-10-2007 and 22-11-2007.
2.	Mr.Ghulam Ali	-do-
3.	Mr.Muhammad Zaman	-do-
4.	Mr.Muhammad Khan	-do-
5.	Mr.Masal Khan	-do-
6.	Mr.Muhammad Iqbal	-do-
7.	Mr.Dur Muhammad	-do-
8.	Mr.Muhammad Saeed	-do-
9.	Mr.Abdul Khitab	-do-
10.	Mr.Shakirullah	-do-
11.	Mr.Muhammad Rafiq Akbar	-do-
12.	Mr.Said Rasool Shah	-do-
13.	Mr.Mushtaq Ahmad	-do-
14.	Mr.Nazir Ahmad Awan	-do-
15.	Mr.Attaur Rehman	-do-
16.	Mr.Amir Afaq	-do-
17.	Mr.Muhammad Sohail	-do-
18.	Mr.Azanfar Ali	-do-
19.	Mr.Muhammad Anwar Khan	-do-
20.	Ms.Nosheen Azam	-do-
21.	Mr.Barkatullah	-do-
22.	Mr.Muhammad Saqlain	-do-
23.	Mr.M.Nadar Khan Rana	-do-
24.	Mr.Amad Ali	-do-
25.	Mr.Shahid Sohail Khan	-do-
26.	Mr.Masood Younas	-do-
27.	Mr.Akhtar Saeed Turk	-do-
28.	Mr.Adeel Shah	-do-
29.	Mr.Motasim Billah Shah	-do-
30.	Mr.Arshad Khan Afridi	-do-
31.	Mr.Saqib Raza Aslam	-do-
32.	Mr.Muhammad Asif	-do-



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GOVERNMENT OF N.-W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar, the 3rd November, 2007

Annexure "C"

NOTIFICATION

NO.SO(E-I)E&AD/4-2/2007 The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote Mr. Muhammad Khalid Khan Umarzai, PCS (Executive Group) from BS-19 to BS-20 on regular basis with effect from 4th June, 2007.

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


3. The posting/transfer orders of Mr. Muhammad Khalid Khan Umarzai (PCS EG BS-20) will be issued later on.

**CHIEF SECRETARY,
GOVERNMENT OF N.W.F.P.**


Endst. No. & date even

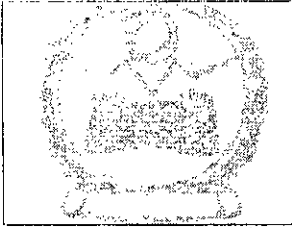
Copy forwarded to the:-

1. Secretary to Governor, NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. Accountant General, NWFP.
4. PS to Chief Secretary, NWFP.
5. PS to Secretary Establishment, E&A Department.
6. S.O (Admn) E&AD.
7. Officer concerned.
8. Manager, Govt Printing Press, Peshawar.


3.11.2007

(ABDUL JALIL)
SECTION OFFICER(E-I)
PHONE & FAX # 091-9210529


M. Yousof Jatoi



**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT**

Amesure D

Dated Peshawar the 10th May 2010

NOTIFICATION

NO. SO(E-I)/E&AD/9-112/2010. In pursuance of decision of the Peshawar High Court Peshawar and Supreme Court of Pakistan, the Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote Mr. Umer Hayat, Ex-Director Fisheries, from (BS-18) to (BS-19) on regular basis, with effect from 13.08.2004 with all consequential benefits.

2. His promotion as well as assumption of charge in BPS-19 shall be on notional basis, against the vacant post of Director Fisheries, Peshawar.

**CHIEF SECRETARY
GOVERNMENT OF
KHYBER PAKHTUNKHWA**

Endst. No. & date even

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. Secretary to Government of Khyber Pakhtunkhwa, Environment Department.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Director Fisheries, Peshawar.
6. PS to Chief Secretary, Khyber Pakhtunkhwa
7. PS to Secretary Establishment/S.O.(Secret)/S.O. (PSB) E&AD.
8. Officer concerned.
9. Manager, Govt Printing Press, Peshawar.

(ZUBAIR AHMAD)
SECTION OFFICER (ESTT.I)
PHONE & FAX # 091-9210529

GOVERNMENT OF N.W.F.P.
SERVICES & GENERAL ADMIN: DEPARTMENT
(SERVICES WING)

Annexure "E"

Dated Peshawar, the 10th July, 1995

NOTIFICATION

No.SOS-II(S&GAD)3(122)/92 :- The Governor NWFP in consultation with the Provincial Selection Board, is pleased to order the promotion of the following Superintendents/Private Secretaries of the NWFP Secretariat as Section Officers (BPS-17) with effect from 31-5-1995, on purely temporary basis and as a stop gap arrangements until further orders :-

- (1) Mr Yousaf Ali.
- (2) Mr Ghulam Rabbani.
- (3) Mr Ihsanullah.
- (4) Syed Afzal Shah.
- (5) Mr Khaista Khan.
- (6) Ghazi Gohar Baig.
- (7) Mr Abdul Jalil.
- (8) Mr Mohammad Iqbal.
- (9) Mr Mohammad Ajmal.
- (10) Mr Aziz-ur-Rehman.
- (11) Mr Abdul Dayan.
- (12) Mr Mohammad Hassan.
- (13) Mr Mohammad Anwar.
- (14) Mr Mohammad Jamil.
- (15) Mr Sher Mohammad.
- (16) Mr Wazir Ahmad.
- (17) Mr Abdul Jabbar.
- (18) Mr Malik Aman.
- (19) Mr Faqir Hussain.

2- The above promotion will not confer on them any right of regular appointment or seniority as Section Officers.

3- On their promotion as Section Officers, the following postings/transfers are hereby ordered :-

Sl No	Name of officer with present posting	From	To
1.	Mr Yousaf Ali, Supdt: Finance Deptt:	On promotion	Section Officer Finance Department.
2.	Mr Ghulam Rabbani, PS to Secretary PHE Deptt.	-do-	Section Officer, Home & T.As Deptt:
3.	Mr Ihsanullah, PS to Minister Education	-do-	Section Officer (L.R) S&GAD.
4.	Syed Afzal Shah, Supdt: Finance Deptt:	-do-	Section Officer, Finance Department.
5.	Mr Khaista Khan, Supdt: S&GAD.	-do-	Section Officer, Health Department.

- | | | |
|---|--------------------------------------|--|
| 6. Ghazi Gohar Baig
Supdt: Home Deptt: | On promotion | Section Officer,
Home & T.As Deptt: |
| 7. Mr Abdul Jalil,
PS to Minister Health | -do- | Section Officer
(L.R) S&GAD. |
| 8. Mr Muhammad Iqbal,
PA to Governor NWFP | -do- | Section Officer,
Governor's Sectt: |
| 9. Mr Muhammad Ajmal,
PS to Minister Youth
Affairs. | -do- | Section Officer
(L.R) S&GAD. |
| 10. Mr Aziz-ur-Rehman,
PA to Minister
Co-operation. | -do- | Section Officer
S&GAD. |
| 11. Mr Abdul Dayan,
PS S&GAD | -do- | Section Officer
Social Welfare
Department. |
| 12. Mr Muhammad Hassan,
PS to Secretary LG&RD | -do- | Section Officer
S&GAD. |
| 13. Mr Muhammad Anwar,
PS to Minister Industries | -do- | Section Officer
(L.R) S&GAD. |
| 14. Mr Muhammad Jamil,
PS to Minister Finance | -do- | Section Officer
(L.R) S&GAD. |
| 15. Mr Sher Muhammad,
PA to Governor NWFP. | -do- | Section Officer
(L.R) S&GAD. |
| 16. Mr Wazir Ahmad,
PA to Minister Tourism. | -do- | Section Officer,
Finance Deptt: |
| 17. Mr Abdul Jabbar,
PS to Special Assistant
to Chief Minister. | -do- | Section Officer
(L.R) S&GAD. |
| 18. Mr Malik Aman,
PS to Addl:Chief Secretary. | -do- | Section Officer,
(L.R) S&GAD. |
| 19. Mr Faqir Hussain,
PS to Secretary to
Chief Minister. | -do- | Section Officer
S&GAD. |
| 20. Mr Mushtaq Ahmad | Section Officer
Health Deptt: | Section Officer
(Budget) S&GAD. |
| 21. Mr Dildar Khan Khattak | Section Officer
Governor's Sectt: | Section Officer
(Complaint) S&GAD. |
| 22. Mr Asif Shahab | On return from
leave. | Section Officer
(S-IV) S&GAD. |

- | | | |
|-----------------------|---------------------------------------|--|
| 23. Mr Muhammad Saeed | Section Officer
(Complaint) S&GAD | Section Officer
(L.R) S&GAD. |
| 24. Mr Naeem Anjum | Estate Officer,
S&GAD. | Section Officer,
Public Health Engg:
Department. |
| 25. Mr Awal Khan | On appointment as
Section Officer. | Section Officer(L.R)
S&GAD. He will work
as SO(U/T) in the
Regulation Wing S&GAD. |

4- The order in respect of officers at S.No.20 to 25 shall take immediate effect.

5- The posting orders of M/S Sajjad Ahmad S.O. Information Deptt: as Section Officer(S-IV) S&GAD, Abdul Dayan PS S&GAD as Section Officer Information Deptt: Khaista Khan S.O.(Budget) S&GAD as S.O. Education Deptt: and Mohammad Wali S.O. Education Department as S.O.(Budget) S&GAD issued vide this Department notification No.SOS-II(S&GAD)3(162)/73 dated 22.6.1995 and No. SOS-II(S&GAD)3(241)/85 dated 27.6.1995, is hereby cancelled.

SECRETARY S&GAD.

Endst:No.SOS-II(S&GAD)3(122)/92 Dated Peshawar, the 10-7-1995

A copy is forwarded to :-

1. All Administrative Secretaries to Govt. of NWFP.
2. Secretary to Governor NWFP.
3. Secretary to Chief Minister NWFP.
4. All Deputy Secretaries/Section Officers in S&GAD.
5. Accountant General NWFP., Peshawar.
6. All PS to Provincial Ministers.
7. PS to Minister S&GAD.
8. PS to Chief Secretary NWFP.
9. PS to Secretary S&GAD.
10. All the officers concerned.
11. Estate Officer/Programmer/Librarian S&GAD.
12. Manager Govt. Printing Press Peshawar.
13. Supdt: E&A S&GAD.
14. PA to AS(S)/AS(Regu:) S&GAD.
15. Pay Bill Clerk S&GAD.
16. Office order file.
17. PF of the officers concerned.

Bismillah Shah
(BISMILLAH SHAH) 10/7/95
SECTION OFFICER(SERVICES.II)

Ammeed "F"



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the July, 25. 2012



30941

NOTIFICATION

NO.SOE-II(ED)2(423)/2010/Vol-II:-

In pursuance of Judgment of Supreme Court of Pakistan dated 24.05.2012 in CPLAs No. 860/2010 and 861/2010 titled Govt. of Khyber Pakhtunkhwa through Secretary Establishment and others versus Muhammad Iqbal Khattak and Ahmad Khan and Judgments of Khyber Pakhtunkhwa Services Tribunal dated 13.03.2009 & 09.04.2009 in service appeals No. 612/2008, 613/2008 & 575/2009 titled Muhammad Iqbal Khattak, Ahmad Khan & Latif-ur-Rehman versus Govt. of Khyber Pakhtunkhwa through Secretary Establishment and others, the competent authority is pleased to ante-date the promotion of following PMS BS-17 officers w.e.f the dates as mentioned against each with all back benefits/consequential benefits and re-designate them as PCS(EG) BS-17:-

S.No.	Name of PMS BS-17 officer for ante-dated promotion as PCS (EG) BS-17	Date of ante-dated promotion as PCS (EG)
1.	Mr. Muhammad Iqbal Marwat (Retired on 31.07.2009	27.12.2005
2.	Mr. Riaz Muhammad Baloch (Retired on 28.02.2011)	26.01.2000
3.	Mr. Muhammad Farooq	27.12.2005
4.	Mr. Zaarmat Ali (Retired on 05.03.2010)	15.05.2000
5.	Mr. Muhammad Zaheer-ud-Din (Retired on 13.08.2011)	29.05.2000
6.	Mr. Ahmad Khan Orakzai	01.06.2000
7.	Mr. Muhammad Iqbal Khattak	07.06.2000
8.	Mr. Muhammad Javed	10.01.2001
9.	Mr. Azam Jan Khalil	10.02.2001
10.	Mr. Ahmad Jan Afridi	08.04.2001
11.	Mr. Nazar Gul Mohmand	09.04.2001
12.	Mr. Muhammad Hanif (died on 31.03.2010)	14.04.2001
13.	Mr. Tahir Muhammad	27.12.2005
14.	Mr. Muhammad Rafiq (Retired on 01.03.2012)	27.12.2005
15.	Mr. Muhammad Fakhruddin	13.11.2001
16.	Mr. Farzand Ali	03.03.2005
17.	Mr. Rehmatullah Khan Wazir	13.11.2001
18.	Mr. Qaiser Khan	13.11.2001
19.	Mr. Abdul Shakoor Dawar	26.12.2001
20.	Mr. Azizullah Khan Mehsud	13.01.2002

10-7/2010

1-12/1/2012

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22.	Mr. Loi Khan (Retired on 02.11.2010)	14.04.2002
23.	Mr. Damsaz Khan	29.05.2004
24.	Mr. Habibullah Wazir	23.05.2002
25.	Mr. Zafar Ali Khan	29.05.2004
26.	Mr. Gul Wahid (Retired on 13.03.2011)	31.08.2002
27.	Mr. Abdul Mateen	13.11.2002
28.	Mr. Akbar Jalal	04.03.2003
29.	Mr. Khalsta Rehman	24.03.2003
30.	Mr. Shams ul Alam	27.12.2005
31.	Mr. Fazal Rehman	29.05.2004
32.	Mr. Latif ur Rehman (died on 25.10.2010)	27.12.2005
33.	Mr. Rashid Mehood	29.05.2004
34.	Mr. Muhammad Jamil	29.05.2004
35.	Mr. Khurshid Anwar	29.05.2004
36.	Mr. Perhezgar Khan	29.05.2004
37.	Mr. Mushtaq Ahmad	29.05.2004
38.	Mr. Naimatullah (Retired on 24.09.2010)	26.05.2007
39.	Mr. Momin Khan (Retired on 14.06.2010)	27.12.2005
40.	Syed Ismail Ali Shah Gillani	26.05.2007
41.	Mr. Ahmad Khan	09.01.2006
42.	Mr Jan Muhammad	01.02.2005
43.	Mr. Saeed ur Rehman	09.01.2006
44.	Mr. Muhammad Israr (Retired on 02.01.2012)	27.12.2005
45.	Mr. Arshad Naveed	26.03.2005
46.	Mr. Hidayatullah	09.01.2006
47.	Mr. Said Ahmad Jan	17.05.2005
48.	Mr. Abdul Hamid Jan	13.01.2006
49.	Mr. Muhammad Tuhab (Retired on 12.06.2012)	27.04.2006
50.	Mr. Sultanat Khan (Retired on 14.08.2010)	13.04.2006
51.	Mr. Subhanullah (Retired on 12.05.2012)	13.04.2006
52.	Mr. Muhammad Siddique	25.05.2006
53.	Mr Fakhru Zaman	11.09.2006
54.	Mr. Ibadat Khan	11.09.2006
55.	Mian Asfandyar	26.05.2007
56.	Mr. Rasool Khan	26.05.2007
57.	Mr Fida Muhammad (Retired on 30.10.2010)	23.12.2006
58.	Mr. Muntazir Khan	23.12.2006
59.	Mr. Atta-ur-Rehman	31.12.2006
60.	Mr. Shahab Hamid Yousafzai	16.02.2007
61.	Mr. Ihsanullah	16.02.2007
62.	Mr. Ghulam Habib	16.02.2007

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Posting of Junior Officers on Posts in Higher Scale

This Department's Circular letter No.SORI(S&GAD)1-29/75(A), dated 13.2.1993, on the subject noted above and to state that it has been noticed that certain Provincial Government Departments are resorting to the practice of posting officers in a lower scale on posts in higher scales. This practice is against the provisions of NWFP Civil Servants Act, 1973 and rules made thereunder as well as the instructions of the Establishment Division reproduced below:-

"The grant of higher appointments to junior officers against senior posts amounts to accelerated promotion in view of the decision given by the Supreme Court of Pakistan in the case of Government of Pakistan Versus Qazi Abdul Karim. The Ministries/Divisions or Provincial Governments can only fill vacancies in a particular grade by officers of the same grade, and officers in a junior grade will not be appointed against a vacancy in a higher grade".

2. It may be pointed out that in the light of rule 9 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the methods prescribed for posting a junior officer to a higher post are restricted to the following only:-

i) ACTING CHARGE APPOINTMENT AGAINST A HIGHER POST

Where the senior most officer in a cadre is otherwise fully eligible for promotion but does not possess the specified length of service, the competent authority may appoint him to the higher post on acting charge basis, but only on the recommendation of Departmental Promotion Committee/Selection Board and subject to the condition that such officer lacks the prescribed length of service not more than (one year).

ii) CURRENT CHARGE APPOINTMENT OF A HIGHER POST

Only the senior-most officer of a cadre can be given current charge appointment of a higher post with the approval of the competent authority. However, this can only be an arrangement upto a maximum of six months.

iii) ADDITIONAL CHARGE APPOINTMENT OF AN EQUIVALENT POST

An officer can be given the additional charge of a second post but only of a post in an equivalent grade, upto a period of six months by the competent authority.

3. Adherence to the above rules is a legal requirement so that the actions taken by officers are not held at any stage to be irregular. Also, appointments in violation of the rules constitute administrative indiscipline.

4. I am, therefore, directed to request that all such cases of irregular appointments be reviewed and ensure not to resort to such appointments that violate the provisions of the Civil Servants Act and the statutory rules framed thereunder.

5. I am further directed to request that these instructions may be brought to the notice of all concerned for strict compliance.

(Authority: Circular letter No.SORI(S&GAD)1-29/75(A), dated 5.7.1994).

Annex - III

g the names of those who appointed against 50% initial recruitment quota through
Service Commission

1. Mr. Amir Afaq	67. Mr. Noor Alam Khan	133. Muhammad Zahid	199. Mr. Asif Ali
2. Mr. Amir Afaq	68. Mr. Minhas Uddin	134. Mr. Hamid Ali	200. Mr. Tanwir Khan
3. Mr. M Sohail	69. Mr. Noor Ul Amin	135. Mr. Javed Iqbal	201. Mr. M Yousaf Khan
4. Mr. Ghazanfar Ali	70. Mr. Shah Saood	136. Rizwan Ullah Khan	202. Mr. Habib Khan
5. Mr. M. Anwar Khan	71. Mr. Muhammad Sher	137. M Abdullah Shah	203. Miss Tabassum
6. Ms. Noushin Azam	72. Mr. Irfan Ullah	138. Muhammad Tufail	204. Mr. Ikhtlaq Ahmed
7. Barkat Ullah Marwat	73. Mr. M Riaz Khan	139. Malik Manzoor	205. Mr. Asad Sarwar
8. S.M Farul Saqalain	74. Miss. Naghmana	140. Mr. Shahid Khan	206. Mr. Imran Zia
9. M Nadir Khan Rana	75. Mr. Arshad Ali	141. Mr. Ahmad Kamal	207. Mr. Tariq Mehmood
10. Mr. Imdad Ali	76. Mr. Abdul Nasir	142. Mr. Muhammad Saleh	208. Ms Faryal Kazim
11. Mr. Shahid Sohail	77. Muhammad Shakeel	143. M Ayaz Khan	209. Mr. Anwarzeb
12. Mr. Masood Younas	78. Mr. Abdullah	144. Mr. Hakmat Ullah	210. Mr. Izaz Ullah
13. Mr. Akhtar Saeed	79. Mr. Muhammad Ilyas	145. Mr. Shahid Ali	211. Mr. Zia Ur Rehman
14. Mr. Adeel Shah	80. Mr. Muhammad Nawaz	146. Miss. Amna Ameen	212. Mr. Naimatullah
15. Motasim Bilah shah	81. Hafiz Attaul Munim	147. Mr. Sadaqat Ullah	213. Muhammad Arif
16. Mr. Arshad Khan	82. Mr. Javed Ali	148. Mr. Mahmood Ahmad	214. Mr. Tanveer Ahmad
17. Saqib Raza Aslam	83. Mr. Asif Ali	149. Mr. Kamran Khan	215. Abbas Ali Bukhari
18. Mr. Muhammad Asif	84. Mr. Abdul Haseeb	150. Mr. Noor Wali Khan	216. M Sohail Aziz
19. Inayat Ullah Wasim	85. Mr. Yasir Ali	151. Mr. M Abbas Khan	217. Mr. Jamshid Khan
20. Mr. M Fakhr e Alam	86. Mr. Muhammad Asif	152. Mr. Ashfaq Ahmad	218. Miss Zuhra Nigar
21. Muhammad Khalid	87. Mr. Basharat Ahmad	153. Mr. Khurshid Alam	219. Mr. Zakir Hussain
22. Mr. Abdul Basit	88. Mr. Gul Akbar Khan	154. Mr. M Yasir Hassan	220. Mr. Jan Muhammad
23. Mr. Zariful Maani	89. Mr. Wajid Ali Khan	155. Syed Habibul Hassan	221. Muhammad Ayaz
24. Ms Tanzeela Sabahat	90. Miss. Naj-mus-Sahar	156. Mr. Abdul Kabeer	222. Mohib-ur-Rehman
25. Mr. Pervaiz	91. Mr. Altaf Hussain	157. Mr. Noor Ul Amin	223. Zahoor Baber
26. Khalid Ilyas	92. Miss. Shama Niamat	158. M Hayat Shah	224. M Naveed Akbar
27. Muhammad Bakhtiar	93. Mr. Faiz Alam	159. Mr. Qasim Ali Khan	225. Imran Khan
28. Abid Ullah	94. Mr. Wasil Khan	160. Mr. Musarrat Zaman	226. S. Roman Ali Shah
29. Hameed Ullah Shah	95. Mr. Hazrat Ali	161. Mr. Nawab Khan	227. Hazrat Ali
30. Mr. Fayaz Ali Shah	96. Mr. Naik Muhammad	162. Mr. Mushtaq Hussain	228. Baidullah Shah
31. Mr. Musharraf Khan	97. Mr. Dil Nawaz Khan	163. Mr. Naeemullah Khan	229. Mansoor Alam
32. Mr. Ali Qadar Safi	98. Habib Ullah Khan	164. Manzoor Ahmad	230. Rashid Khan
33. Muhammad Masood	99. Abdul Haleem Khan	165. Mr. Qaiser Khan	
34. Mr. Sharif Hussain	100. Mr. Tariq Mehmood	166. Mr. Ansar Mehmood	
35. Mr. Khuda Bakhsh	101. Mr. Khalid Iqbal	167. Mr. Sami Ur Rehman	
36. Mr. Robin Haider	102. Mr. Rasheed Khan	168. Amir Hassan Khan	
37. Mr. M Kabir Afridi	103. Syed Saif Ul Islam	169. Muhammad Saleem	
38. Mr. Kaleem Ullah	104. Mr. Baidullah Shah	170. Mr. Jamal U Din	
39. Mr. Zubair Ahmad	105. Jehangir Azam Wzir	171. M Taufique	
40. Mr. Zia ur Rehman	106. Mr. M Naeem Khan	172. Shahnawaz Naveed	
41. Syed Zafar Ali Shah	107. Muhammad Tayyab	173. Mr. Kashif Iqbal Jilani	
42. Mr. Junaid Khan	108. Mr. Nasar Ali	174. Mr. Touseef Khalid	
43. Mr. Iftikhar Ahmad	109. Mr. Irfan Ullah	175. Mr. Maqbool Hussain	
44. Shams ur Rehman	110. Mr. Hameed Ullah	176. Syed Mazhar Ali	
45. Mr. Tashfeen Haider	111. Baseer Ali Rehman	177. Mr. Jamshed Khan	
46. Mr. Arif Shahbaz	112. Khaliq Dad Khan	178. Mujeeb-Ur-Rehman	
47. Mr. Iqbal Hussain	113. Miss. Iram Naz	179. Mr. Anjad Mairaj	
48. Mr. Asma Rauf	114. Mr. Khan Muhammad	180. Mr. Tariq Jamal	
49. Mr. Ain Ullah	115. Muhammad Tariq	181. Mr. Ashfaq Khan	
50. Mr. Ahmad Zeb	116. Mr. M Iqbal Khan	182. Pir Muhammad Khan	
51. Mr. Farhat Ullah Khan	117. Muhammad Iqbal	183. Mr. Bashir Ahmad	
52. Sardar Asad Haroon	118. M Zaheer Uddin	184. Mr. Riaz Muhammad	
53. Mr. Asfandyar Khattak	119. Mr. Mir Khawas	185. Mr. Kamran Khattak	
54. Ghulam Saeed Khan	120. Mr. M Anwar Khan	186. Miss. Asma Anif	
55. Khwaja Faheem Sajid	121. Muhammad Farooq	187. Muhammad Arshad	
56. Ms. Iram Nosheen	122. Muhammad Shoaib	188. Mr. Muhammad Abid	
57. Mr. M Irfanullah	123. Muhammad Fawad	189. Mr. Sher Alam Khan	
58. Mr. M Fayaz Khan	124. Mr. Zia-ur-Rehman	190. Fayaz Muhammad	
59. Mr. M Khalid Zaman	125. Mr. Abdul Hadi	191. M Nadeem Akhtar	
60. Mr. M Rafiq Khan	126. Mr. Sami Ullah Khan	192. Mr. Abdul Akram	
61. Mr. Khalid Khan	127. Muhammad Sheraz	193. Bibi Fatima	
62. Mr. M Naeem Khan	128. M Ali Khan	194. Mr. Pir Muhammad	
63. Mr. M Tahir Khan	129. Muhammad Ishaq	195. M Ani Khan	
64. Mr. Fahad Wazir	130. Shahnawaz Naveed	196. Mr. Sardar Bahadar	
65. Mr. Muhammad Hayat	131. Mr. Syed Nawab	197. Muhammad Irshad	
66. Mr. Zeeshan Abdullah	132. Mr. Javed Iqbal	198. Mr. Yasir Imran	

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9/5/2010 = 15

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO.474\2013

Sher Akbar.....Appellant

Versus

The Chief Minister KPK and others.....Respondents

Rejoinder on behalf of appellant

Preliminary objections;

1. All other preliminary objections have been taken in routine. The appellant is having a cause of action. The appeal is maintainable and true facts have been presented before the tribunal. The appeal is not time barred. This honorable tribunal is having jurisdiction in the matter and no facts have been concealed. The appellant has come to this honorable tribunal with clean hands. All the necessary parties have been arrayed as respondents and it has not been shown how the appellant is estopped by his conduct. The appeal is not hit by section 4(1) (b) of KPK Services Tribunal Act, 1974.

On Facts;

1. Para-1 of the reply needs no rejoinder.
2. In reply to para-2 it is stated that first appointment of the appellant is attached for ready reference.
3. Para-3 of the reply is refuted with all the forces at the command of the appellant. The appellant was promoted alongwith others to PMS BPS-17 on acting charge basis because clearly vacancies were available to the promotion quota of the appellant otherwise the Provincial Selection Board would not have promoted the appellant, because according to Rule-9 of APT Rules civil servant can be promoted to a higher post only if promotion quota post is available otherwise the initial post according to 14 of APT Rules 1989 can only be filled on adhoc basis (copy attached as Annexure-A).
4. Para-4&5 of the reply needs no rejoinder.

55 GROUND

A. Ground-A&B of the reply is incorrect and that of the appeal is correct. Vested rights have been accrued in favor of appellant. 434 vacancies in BPS-17 were available in 2001 and the share\quota allocated to each cadre as mentioned in the working paper placed before the Provincial Selection Board for consideration in its meeting held on 09.01.2008 was as under:

S.NO.	QUOTA	SHARE	REMARKS
1.	Promotion of Superintendents/ Private Secretaries	87	63 Superintendents/Private Secretaries were appointed as Section Officers (BPS-17) on current charge basis with effect from 23-1-2001, 22-8-2001, 11-3-2003 and 26-6-2003. 93 Supdts: /P.Ss were appointed as Section Officers(BPS-17) on acting charge basis w.e.f. 2-12-2003, 10-7-2004 and 25-1-2010. 155 Superintendents/Private Secretaries were promoted as Section Officers(BPS-17) on regular basis in 2005,2006,2007,19-2-2008,7-11-2008,3-3-2009, 25-1-2010, 30-5-2011 and 21-12-2011.
2.	Promotion of Tehsildars	87	62 Tehsildars appointed on acting charge and on officiating basis in their own pay scales during 2000 to 2004 and then promoted on regular basis w.e.from 19-2-2008. They have been allowed anti date promotion from 2000 and 2001 etc instead of 19-2-2008 in light of Supreme Court of Pakistan judgment dated 24-5-2012 vide Notification No.SOE-II(ED)2(423)/ 2010/Vol-II dated 25-7-2012.
3.	Direct recruitment	217	230 PMS (BPS-17) officers have been appointed through Public Service Commission during the period from 2002 to 2010.
4.	Selection from Ministerial staff (i.e. below BPS-16) through Public Service Commission.	43	No one has been appointed so far.

87 posts in BPS-17 were vacant in 2001 while about 64 posts of S.Os BPS-17 caused vacant before 25.01.2010 on account of retirement and promotion of SOs (BPS-17) to the post of Deputy Secretaries BPS-18. Copy attached as Annexure-B.

Keeping in view the aforesaid explanation, 64 further posts in BPS-17 were made available in promotion quota while the appellant was shown at S.No. _____ of the panel and it is pertinent to mention here that as per circular letter No. SORI(S&GAD)1-29/75 (a), dated 13-2-1993 appeared at Page-79 of Esta Code, no appointment to higher post on acting charge basis can be made. However, against the posts meant for initial quota, adhoc appointment can be made for a period not exceeding one year under Rule-14 of Civil Servants (APT) Rules, 1989. Hence, appointment on acting charge basis instead of regular basis is illegal and based on malafide intention.

The respondent department has filled in the vacancies meant for initial quota on regular basis through Public Service Commission, filled the vacancies meant for promotion of Tehsildars on regular basis through PSB as well as through judgment of Supreme Court of Pakistan but unfortunately filled the vacancies meant for promotion of Superintendents/Private Secretaries on acting charges basis instead of regular basis in violation of rules and judgment of Supreme Court of Pakistan as mentioned above.

- B. Ground-C of the reply is incorrect and that of the appeal is correct.
- C. Ground -D of the reply is incorrect and that of the appeal is correct.
- D. Ground-E of the reply is incorrect and that of the appeal is correct.
The appellant has been discriminated.
- E. Ground-F of the reply is incorrect and that of the petition is correct.

F. Ground-G of the reply is incorrect and that of the appeal is correct. Further the position has been explained in reply to ground-A&B.

The Provincial Government has promoted many officers to next higher grades with retrospective effect. The following few cases are quoted as examples :-

1. Mr.Khalid Khan Umerzai has been promoted to BPS-20 post with retrospective effect vide Notification No.SO(E-I)/S&GAD/4-2/2007 dated 3-11-2007.
2. Mr.Umer Hayat, Director Fisheries has been promoted to BPS-19 with retrospective effect vide Notification No.SO(E-I)/S&GAD/9-112/2010 dated 10-05-2010.
3. 19 Superintendents/Private Secretaries have been promoted to B-17 vide Notification No.SOS-II(S&GAD)3(122)/92 dated 10-7-1995.
4. 62 Tehsildars have been promoted to BPS-17 with retrospective effect vide Notification No.SOE-II(ED)2(423)/2010 dated 25-7-2012.

Copies of the notifications attached as Annexure-C,D,E & F.

The post was available in promotion quota of the appellant against which he had been appointed on acting charge basis instead of regular basis. The Supreme Court of Pakistan has already decided a similar law point in an identical case in C.As. Nos.860 and 861 of 2010 that "there is also no dispute with the proposition that if the respondents were to hold a post on acting charge basis, they could also hold the same on regular basis".

It is therefore respectfully prayed that while considering the above rejoinder the appeal may kindly be accepted.

Appellant

Through

Nasir Mehmood Advocate
Supreme Court of Pakistan
13-D Haroon Mansion Peshawar.

Affidavit

I do hereby declare and affirm on oath that the contents of above rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Deponent

Amr Rawe A

Statutory provision regarding Appointment.

Section 5 of Civil Servants Act, 1973 - Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorised by the Governor in that behalf.

**THE NORTH-WEST FRONTIER PROVINCE
CIVIL SERVANTS (APPOINTMENT, PROMOTION &
TRANSFER) RULES, 1989.**

PART-I

GENERAL

1. **Short title and commencement:** - (1) These rules may be called the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
(2) They shall come into force at once.
2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-
 - (a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;
 - (b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;
 - (c) "Commission" means the North West Frontier Province Public Service Commission;
 - ²⁹(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;
 - ³⁰(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:
Provided that more than one such committees may be constituted for civil servants holding different scales of pay".
 - (e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];
 - (f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and
 - ³¹(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect

²⁹ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

³⁰ Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

³¹ Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment:-** (1) Appointment to posts shall be made by any of the following methods, namely:-

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and
- (b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department.

4. **Appointing Authority:-** The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No. !	Posts !	Appointing Authority
321.	(a) Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; <ul style="list-style-type: none"> (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service. 	Chief Minister
	(b) Posts in Basic Pay Scale 17 other than those covered by (a) above.	Chief Secretary
2.	Posts in Basic Pay Scale 16.	(a) In the case of Secretariat of the Government of NWFP, the Chief Secretary. (b) In case of High Court, the Chief Justice; and (c) In the case of Attached Department:

³² Substituted by Notification No. SOR-1(S&GAD)4-1/75/Vol-1, dated 22-08-1991.

- (i) the Head of Attached Department concerned; and
 - (ii) In any other case the Secretary of the Department concerned.
3. Posts in Basic Pay Scales 3 to 15.
- (a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and
 - (b) In other cases
 - (i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or
 - (ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.
4. Posts in Basic Pay Scale 1 and 2. Deputy Secretary incharge of Administration or office, as the case may be.
5. ³³**Departmental Promotion & Selection Committee/Board** - (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ³⁴(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.
- (2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.
- ³⁵6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

³³ The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994.

³⁴ The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

³⁵ Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** ³⁶(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

8. **Inter-Provincial Transfer:-**(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bona fide resident of the North-West Frontier Province.
- (v) a vacancy exists to accommodate the request for such a transfer; and:
- (vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

³⁶

Sub rule (1) substituted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 14-01-1992.

(3) - It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. **Appointment on Acting Charge or current Charge Basis.** (1) 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 authority may appoint him to that post on acting charge basis;

³⁷Provided that no such appointment shall be made, if the prescribed length of service is short by more than ³⁸[three years].

(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III

INITIAL APPOINTMENT

10. **Appointment by Initial Recruitment :-** (1) Initial appointment to posts ³⁹[in various basic pay scales] shall be made-9

(a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or

³⁷ Full stop at the end of Rule 9 (1) replaced with colon and proviso added by Notification No. SOR-I (S&GAD)4-1/80/Vol-II, dated 20-10-1993.

³⁸ The words one year substituted by Notification No. SOR-I(S&GAD)4-1/80/III, dated 14.3.96.

³⁹ The words in basic pay scale-16 to 21 substituted by Notification No. SOR-I(S&GAD)1-117/91 (C), dated 12-10-1993.

eligible for appointment in more than one post, he/she shall ordinarily be appointed to the post carrying higher pay scale.

⁴⁷(5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I---For the purpose of reservation under this sub-rule "disability" does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate.

Explanation-II---Ten per cent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

⁴⁸(6) Notwithstanding anything contained in any rule for the time being in force, five per cent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Battagram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from 1st February, 2006.

⁴⁹(7) Notwithstanding anything contained in any rule for the time being in force, 0.5 percent of all the posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to—

- (i) the percentage of vacancies reserved for recruitment on merit;
- (ii) short term vacancies likely to last for less than one year; and
- (iii) isolated posts in which vacancies occur only occasionally.

11. **Eligibility.** (1) A candidate for appointment shall be a citizen of Pakistan and bona fide resident of the North-West Frontier Province.

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

⁵⁰[(2)]

(3) No person, not already in Government service, shall be appointed to a post unless he produces a certificate of character from the principal, academic officer of the academic institution last attended and also certificates of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

(4) Notwithstanding anything contained in sub-rule (3), an appointment by initial recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

⁴⁷ Sub rule (5) substituted vide Notification No. SOR-VI (E&AD)1-10/03 (VI), dated 04-12-2007.

⁴⁸ Sub rule (6) inserted vide Notification No. SOR-VI(E&AD)1-3/03 (VI), dated 01-02-2006

⁴⁹ Sub rule (7) added vide Notification No. SOR-VI(E&AD)1-3/08, dated 06-01-2009

⁵⁰ Sub rule (2) of rule-11 deleted vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-06-2008

(5) No candidate shall be appointed to a post unless he is found, after such medical examination as Government may prescribe, to be in good mental and bodily health and free from physical defect likely to interfere in the efficient discharge of his duties.

12. **Zonal and Divisional representation:** - (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time:

⁵¹Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bona fide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

AD HOC APPOINTMENT

13. **Requisition to Commission:**-When under any rule for the time being in force, a post is required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on ad hoc basis as provided in rule 14, within two months of the filling of the post.

14. **Ad hoc Appointment:**-(1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on ad hoc basis for a period not exceeding ⁵²[one year] by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding ⁵³[one year], may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

⁵¹ Proviso to rule-12 added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

⁵² The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

⁵³ The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

PROBATION AND CONFIRMATION

⁵⁴15. **Probation.** ----- (1) Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.

16. **Confirmation:-** After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the North West Frontier Province Civil Servants Act, 1973.

PART-VI

SENIORITY

17. **Seniority :-** (1) the seniority inter se of civil servants ⁵⁵(appointed to a service, cadre or post) shall be determined:-

(a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁵⁶[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and

(b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher

⁵⁴ Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

⁵⁵ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.

⁵⁶ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/11, dated 04-02-1996.

post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

⁵⁷(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁸(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.

18. **General Rules:** - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. **Repeal:-** The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

⁵⁷ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

⁵⁸ Sub-rule (4) of Rule 17 added vide Notification No.SOR-VI (E&AD) I-3/2008 dated 19th November, 2009.

Appointment by transfer.

I am directed to say that rule 7 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, provides that appointment by transfer to posts should be made:-

- (1) to posts in BPS-2 to 16 on the recommendations of the appropriate Departmental Promotion Committee;
- (2) to posts in BPS-17 and above on the recommendations of the Provincial Selection Board; and
- (3) from amongst the persons possessing qualifications and other conditions prescribed for the posts and holding appointment on regular basis in the same basic pay scale in which the posts to be filled exist.

It has been brought to notice that in some of the departments, appointment by transfer is also made in cases where no provision for appointment by transfer exists in the relevant service/recruitment rules.

I am accordingly directed to clarify that the above provisions regarding appointment by transfer are applicable in only those cases where the appointment by transfer is specifically provided for in the relevant service/recruitment rules or in the method of appointment, qualification etc laid down for each post under sub-rule (2) of rule 3 of the aforesaid rules.

(Authority; No.SORI(S&GAD)4-1/80, dated 13th May, 1989)

Part - I

Annexure B

Before 25-01-2010, the following 32 Section Officers have been retired from service.

S.NO.	NAME	PERIOD
1.	Mr.Majeedul Hassan	25-10-2008
2.	Mr.Rustam Ali	01-06-2009
3.	Mr.Muhammad Alam	15-04-2009
4.	Mr.Amir Jan	12-02-2007
5.	Mr.Hafeez Ahmad	15-04-2006
6.	Syed Alam	01-05-2009
7.	Mr.Fazal Hussain Amjad	11-08-2006
8.	Mr.Noorul Haq	01-07-2008
9.	Syed Baqir Shah	01-01-2010
10.	Mr.Misal Khan	08-04-2006
11.	Mr.Sahib Shah	02-09-2009
12.	Mr.Abdul Jabbar-II	01-01-2010
13.	Mr.Shaheeruddin	11-04-2009
14.	Arbab Musharaf Khan	03-02-2008
15.	Mr.Shah Sawar	07-12-2009
16.	Mr.Abdul Raziq	05-02-2007
17.	Mr.Sardar Ali	01-07-2007
18.	Mr.Fida Muhammad	12-10-2009
19.	Mr.Said Usman	05-05-2005
20.	Mr.Sher Wali	05-03-2004
21.	Mr.Kalimullah	15-12-2008
22.	Mr.Salahuddin	05-12-2009
23.	Mr.Aneesur Rehman	01-04-2007
24.	Mr.Saeed Khan	15-12-2008
25.	Mr.Ghafoor Shah	13-05-2006
26.	Mr.Ali Nabi	20-01-2006
27.	Mr.Fazal Qadir	10-06-2002
28.	Mr.Muhammad Saeed	01-12-2008
29.	Mr.Arifullah-II	13-09-2004
30.	Mr.Bughdad Shah	27-12-2008
31.	Mr.Farmanullah	01-03-2009
32.	Mr.Sibtul Hassan	29-09-2005

list-II

Before 25-01-2010, the following Section Officers (BPS-17) have been promoted to the posts of Deputy Secretaries (BPS-18):-

S.NO.	NAME OF OFFICERS	REMARKS
1.	Syed Akhtar Hussain Shah	Promoted from BPS-17 to BPS-18 on the recommendation of Provincial Selection Board in its meeting held on 30-10-2007 and 22-11-2007.
2.	Mr.Ghulam Ali	-do-
3.	Mr.Muhammad Zaman	-do-
4.	Mr.Muhammad Khan	-do-
5.	Mr.Masal Khan	-do-
6.	Mr.Muhammad Iqbal	-do-
7.	Mr.Dur Muhammad	-do-
8.	Mr.Muhammad Saeed	-do-
9.	Mr.Abdul Khitab	-do-
10.	Mr.Shakirullah	-do-
11.	Mr.Muhammad Rafiq Akbar	-do-
12.	Mr.Said Rasool Shah	-do-
13.	Mr.Mushtaq Ahmad	-do-
14.	Mr.Nazir Ahmad Awan	-do-
15.	Mr.Attaur Rehman	-do-
16.	Mr.Amir Afaq	-do-
17.	Mr.Muhammad Sohail	-do-
18.	Mr.Azanfar Ali	-do-
19.	Mr.Muhammad Anwar Khan	-do-
20.	Ms.Nosheen Azam	-do-
21.	Mr.Barkatullah	-do-
22.	Mr.Muhammad Saqlain	-do-
23.	Mr.M.Nadar Khan Rana	-do-
24.	Mr.Amad Ali	-do-
25.	Mr.Shahid Sohail Khan	-do-
26.	Mr.Masood Younas	-do-
27.	Mr.Akhtar Saeed Turk	-do-
28.	Mr.Adeel Shah	-do-
29.	Mr.Motasim Billah Shah	-do-
30.	Mr.Arshad Khan Afridi	-do-
31.	Mr.Saqib Raza Aslam	-do-
32.	Mr.Muhammad Asif	-do-

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GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT



Dated Peshawar, the 3rd November, 2007

Ammeage C

NOTIFICATION

NO.SO(E-I)E&AD/4-2/2007

The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote Mr. Muhammad Khalid Khan Umarzai, PCS (Executive Group) from BS-19 to BS-20 on regular basis with effect from 4th June, 2007.

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

3. The posting/transfer orders of Mr. Muhammad Khalid Khan Umarzai (PCS EG BS-20) will be issued later on.

**CHIEF SECRETARY,
GOVERNMENT OF N.W.F.P.**

Endst. No. & date even

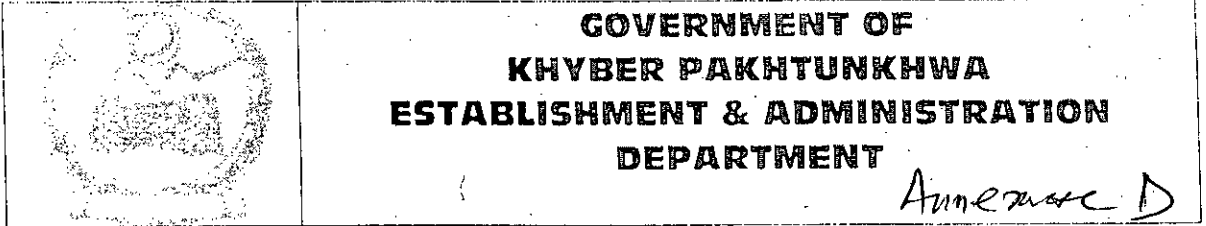
Copy forwarded to the:-

1. Secretary to Governor, NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. Accountant General, NWFP.
4. PS to Chief Secretary, NWFP.
5. PS to Secretary Establishment, E&A Department.
6. S.O (Admn) E&AD.
7. Officer concerned.
8. Manager, Govt Printing Press, Peshawar.

3.11.2007

(ABDUL JALIL)
SECTION OFFICER(E-I)
PHONE & FAX # 091-9210529

M. Yousaf Jalil
3.11.07



**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT**

Amir D

Dated Peshawar the 10th May 2010

NOTIFICATION

NO. SO(E-I)/E&AD/9-112/2010. In pursuance of decision of the Peshawar High Court Peshawar and Supreme Court of Pakistan, the Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote Mr. Umer Hayat, Ex-Director Fisheries, from (BS-18) to (BS-19) on regular basis, with effect from 13.08.2004 with all consequential benefits.

2. His promotion as well as assumption of charge in BPS-19 shall be on notional basis, against the vacant post of Director Fisheries, Peshawar.

**CHIEF SECRETARY
GOVERNMENT OF
KHYBER PAKHTUNKHWA**

Endst. No. & date even

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. Secretary to Government of Khyber Pakhtunkhwa, Environment Department.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Director Fisheries, Peshawar.
6. PS to Chief Secretary, Khyber Pakhtunkhwa
7. PS to Secretary Establishment/S.O.(Secret)/S.O. (PSB) E&AD.
8. Officer concerned.
9. Manager, Govt Printing Press, Peshawar.

Zubair Ahmad
(ZUBAIR AHMAD)

SECTION OFFICER (ESTT.I)
PHONE & FAX # 091-9210529

GOVERNMENT OF N.W.F.P.
SERVICES & GENERAL ADMIN: DEPARTMENT
(SERVICES WING)

Annex E

Dated Peshawar, the 10th July, 1995

NOTIFICATION

No.SOS-II(S&GAD)3(122)/92 :- The Governor NWFP in consultation with the Provincial Selection Board, is pleased to order the promotion of the following Superintendents/Private Secretaries of the NWFP Secretariat as Section Officers (BPS-17) with effect from 31-5-1995, on purely temporary basis and as a stop gap arrangements until further orders :-

- (1) Mr Yousaf Ali.
- (2) Mr Ghulam Rabbani.
- (3) Mr Ihsanullah.
- (4) Syed Afzal Shah.
- (5) Mr Khaista Khan.
- (6) Ghazi Gohar Baig.
- (7) Mr Abdul Jalil.
- (8) Mr Mohammad Iqbal.
- (9) Mr Mohammad Ajmal.
- (10) Mr Aziz-ur-Rehman.
- (11) Mr Abdul Dayan.
- (12) Mr Mohammad Hassan.
- (13) Mr Mohammad Anwar.
- (14) Mr Mohammad Jamil.
- (15) Mr Sher Mohammad.
- (16) Mr Wazir Ahmad.
- (17) Mr Abdul Jabbar.
- (18) Mr Malik Aman.
- (19) Mr Faqir Hussain.

2- The above promotion will not confer on them any right of regular appointment or seniority as Section Officers.

3- On their promotion as Section Officers, the following postings/transfers are hereby ordered :-

Sl. No.	Name of officer with present posting	From	To
1.	Mr Yousaf Ali, Supdt: Finance Deptt:	On promotion	Section Officer Finance Department.
2.	Mr Ghulam Rabbani, PS to Secretary PHE Deptt.	-do-	Section Officer, Home & T.As Deptt:
3.	Mr Ihsanullah, PS to Minister Education	-do-	Section Officer (L.R) S&GAD.
4.	Syed Afzal Shah, Supdt: Finance Deptt:	-do-	Section Officer, Finance Department.
5.	Mr Khaista Khan, Supdt: S&GAD	-do-	Section Officer, Health Department.

- | | | |
|-----------------------|---------------------------------------|--|
| 23. Mr Muhammad Saeed | Section Officer
(Complaint) S&GAD | Section Officer
(L.R) S&GAD. |
| 24. Mr Naeem Anjum | Estate Officer,
S&GAD. | Section Officer,
Public Health Engg:
Department. |
| 25. Mr Awal Khan | On appointment as
Section Officer. | Section Officer(L.R)
S&GAD. He will work
as SO(U/T) in the
Regulation Wing S&GAD. |

4- The order in respect of officers at S.No.20 to 25 shall take immediate effect.

5- The posting orders of M/S Sajjad Ahmad S.O. Information Deptt: as Section Officer(S-IV) S&GAD, Abdul Dayan PS S&GAD as Section Officer Information Deptt: Khaista Khan S.O.(Budget) S&GAD as S.O. Education Deptt: and Mohammad Wali S.O. Education Department as S.O.(Budget) S&GAD issued vide this Department notification No.SOS-II(S&GAD)3(162)/73 dated 22.6.1995 and No. SOS-II(S&GAD)3(241)/85 dated 27.6.1995, is hereby cancelled.

SECRETARY S&GAD.

Endst:No.SOS-II(S&GAD)3(122)/92 Dated Peshawar, the 10-7-1995

A copy is forwarded to :-

1. All Administrative Secretaries to Govt. of NWFP.
2. Secretary to Governor NWFP.
3. Secretary to Chief Minister NWFP.
4. All Deputy Secretaries/Section Officers in S&GAD.
5. Accountant General NWFP., Peshawar.
6. All PS to Provincial Ministers.
7. PS to Minister S&GAD.
8. PS to Chief Secretary NWFP.
9. PS to Secretary S&GAD.
10. All the officers concerned.
11. Estate Officer/Programmer/Librarian S&GAD.
12. Manager Govt. Printing Press Peshawar.
13. Supdt: E&A S&GAD.
14. PA to AS(S)/AS(Regu:) S&GAD.
15. Pay Bill Clerk S&GAD.
16. Office order file.
17. PF of the officers concerned.

Bismillah Shah
(BISMILLAH SHAH) 10/7/95
SECTION OFFICER(SERVICES.II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the July, 25, 2012



30941

NOTIFICATION

NO.SOE-II(ED)2(423)/2010/Vol-II:- In pursuance of Judgment of Supreme Court of Pakistan dated 24.05.2012 in CPLAs No. 860/2010 and 861/2010 titled Govt. of Khyber Pakhtunkhwa through Secretary Establishment and others versus Muhammad Iqbal Khattak and Ahmad Khan and Judgments of Khyber Pakhtunkhwa Services Tribunal dated 13.03.2009 & 09.04.2009 in service appeals-No. 612/2008, 613/2008 & 575/2009 titled Muhammad Iqbal Khattak, Ahmad Khan & Latif-ur-Rehman versus Govt. of Khyber Pakhtunkhwa through Secretary Establishment and others, the competent authority is pleased to ante-date the promotion of following PMS BS-17 officers w.e.f the dates as mentioned against each with all back benefits/consequential benefits and re-designate them as PCS(EG) BS-17:-

S.No.	Name of PMS BS-17 officer for ante-dated promotion as PCS (EG) BS-17	Date of ante-dated promotion as PCS (EG) BS-17
1.	Mr. Muhammad Iqbal Marwat (Retired on 31.07.2009	27.12.2005
2.	Mr. Riaz Muhammad Baloch (Retired on 28.02.2011)	26.01.2000
3.	Mr. Muhammad Farooq	27.12.2005
4.	Mr. Zaarmat Ali (Retired on 05.03.2010)	15.05.2000
5.	Mr. Muhammad Zaheer-ud-Din (Retired on 13.08.2011)	29.05.2000
6.	Mr. Ahmad Khan Orakzai	01.06.2000
7.	Mr. Muhammad Iqbal Khattak	07.06.2000
8.	Mr. Muhammad Javed	10.01.2001
9.	Mr. Azam Jan Khalil	10.02.2001
10.	Mr. Ahmad Jan Afridi	08.04.2001
11.	Mr. Nazar Gul Mohmand	09.04.2001
12.	Mr. Muhammad Hanif (died on 31.03.2010)	14.04.2001
13.	Mr. Tahir Muhammad	27.12.2005
14.	Mr. Muhammad Rafiq (Retired on 01.03.2012)	27.12.2005
15.	Mr. Muhammad Fakhruddin	13.11.2001
16.	Mr. Farzand Ali	03.03.2005
17.	Mr. Rehmatullah Khan Wazir	13.11.2001
18.	Mr. Qaiser Khan	13.11.2001
19.	Mr. Abdul Shakoor Dawar	26.12.2001
20.	Mr. Azizullah Khan Mehsud	13.01.2002

10-7/2010

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22.	Mr. Loi Khan (Retired on 02.11.2010)	14.04.2002
23.	Mr. Damsaz Khan	29.05.2004
24.	Mr. Habibullah Wazir	23.05.2002
25.	Mr. Zafar Ali Khan	29.05.2004
26.	Mr. Gul Wahid (Retired on 13.03.2011)	31.08.2002
27.	Mr. Abdul Mateen	13.11.2002
28.	Mr. Akbar Jafar	04.03.2003
29.	Mr. Khalsta Rehman	24.03.2003
30.	Mr. Shams ul Alam	27.12.2005
31.	Mr. Fazal Rehman	29.05.2004
32.	Mr. Latif ur Rehman (died on 25.10.2010)	27.12.2005
33.	Mr. Rashid Mehood	29.05.2004
34.	Mr. Muhammad Jamil	29.05.2004
35.	Mr. Khurshid Anwar	29.05.2004
36.	Mr. Perhezgar Khan	29.05.2004
37.	Mr. Mushtaq Ahmad	26.05.2007
38.	Mr. Naimatullah (Retired on 24.09.2010)	27.12.2005
39.	Mr. Momin Khan (Retired on 14.06.2010)	26.05.2007
40.	Syed Ismail Ali Shah Gillani	09.01.2006
41.	Mr. Ahmad Khan	01.02.2005
42.	Mr Jan Muhammad	09.01.2006
43.	Mr. Saeed ur Rehman	27.12.2005
44.	Mr. Muhammad Israr (Retired on 02.01.2012)	26.03.2005
45.	Mr. Arshad Naveed	09.01.2006
46.	Mr. Hidayatullah	17.05.2005
47.	Mr. Said Ahmad Jan	13.01.2006
48.	Mr. Abdul Hamid Jan	27.04.2006
49.	Mr. Muhammad Tuhab (Retired on 12.06.2012)	13.04.2006
50.	Mr. Sultanat Khan (Retired on 14.08.2010)	13.04.2006
51.	Mr. Subhanullah (Retired on 12.05.2012)	25.05.2006
52.	Mr. Muhammad Siddique	11.09.2006
53.	Mr Fakhru Zaman	11.09.2006
54.	Mr. Ibadat Khan	26.05.2007
55.	Mian Asfandyar	26.05.2007
56.	Mr. Rasool Khan	23.12.2006
57.	Mr Fida Muhammad (Retired on 30.10.2010)	23.12.2006
58.	Mr. Muntazir Khan	31.12.2006
59.	Mr. Atta-ur-Rehman	16.02.2007
60.	Mr. Shahab Hamid Yousafzal	16.02.2007
61.	Mr. Ihsanullah	16.02.2007
62.	Mr. Ghulam Habib	16.02.2007

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

g the names of those who appointed against 50% initial recruitment quota through
Service Commission

11/10/10 - VIII

1. Mr. Nur Rahman	67. Mr. Noor Alam Khan	133. Muhammad Zahid	199. Mr. Asif Ali
2. Mr. Amir Afaq	68. Mr. Minhas Uddin	134. Mr. Hamid Ali	200. Mr. Tanwir Khan
3. Mr. M Sohail	69. Mr. Noor Ul Amin	135. Mr. Javed Iqbal	201. Mr. M Yousaf Khan
4. Mr. Ghazanfar Ali	70. Mr. Shah Saood	136. Rizwan Ullah Khan	202. Mr. Habib Khan
5. Mr. M. Anwar Khan	71. Mr. Muhammad Sher	137. M Abdullah Shah	203. Miss Tabassum
6. Ms. Noushin Azam	72. Mr. Irfan Ullah	138. Muhammad Tufail	204. Mr. Ikhlaq Ahmed
7. Barkat Ullah Marwat	73. Mr. M Riaz Khan	139. Malik Manzoor	205. Mr. Asad Sarwar
8. S.M Farul Saqalain	74. Miss. Naghmana	140. Mr. Shahid Khan	206. Mr. Imran Zia
9. M Nadir Khan Rana	75. Mr. Arshad Ali	141. Mr. Ahmad Kamal	207. Mr. Tariq Mehmood
10. Mr. Imdad Ali	76. Mr. Abdul Nasir	142. Mr. Muhammad Saleh	208. Ms Faryal Kazim
11. Mr. Shahid Sohail	77. Muhammad Shakeel	143. M Ayaz Khan	209. Mr. Anwarzeb
12. Mr. Masood Younas	78. Mr. Abdullah	144. Mr. Hakmat Ullah	210. Mr. Izaz Ullah
13. Mr. Akhtar Saeed	79. Mr. Muhammad Ilyas	145. Mr. Shahid Ali	211. Mr. Zia Ur Rehman
14. Mr. Adeel Shah	80. Mr. Muhammad Nawaz	146. Miss. Amna Ameen	212. Mr. Naimatullah
15. Motasim Bilah shah	81. Hafiz Attaul Munim	147. Mr. Sadaqat Ullah	213. Muhammad Arif
16. Mr. Arshad Khan	82. Mr. Javed Ali	148. Mr. Mahmood Ahmad	214. Mr. Tanveer Ahmad
17. Saqib Raza Aslam	83. Mr. Asif Ali	149. Mr. Kamran Khan	215. Abbas Ali Bukhari
18. Mr. Muhammad Asif	84. Mr. Abdul Haseeb	150. Mr. Noor Wali Khan	216. M Sohail Aziz
19. Inayat Ullah Wasim	85. Mr. Yasir Ali	151. Mr. M Abbas Khan	217. Mr. Jamshid Khan
20. Mr. M Fakhr e Alam	86. Mr. Muhammad Asif	152. Mr. Ashfaq Ahmad	218. Miss Zuhra Nigar
21. Muhammad Khalid	87. Mr. Basharat Ahmad	153. Mr. Khurshid Alam	219. Mr. Zakir Hussain
22. Mr. Abdul Basit	88. Mr. Gul Akbar Khan	154. Mr. M Yasir Hassan	220. Mr. Jan Muhammad
23. Mr. Zariful Maani	89. Mr. Wajid Ali Khan	155. Syed Habibul Hassan	221. Muhammad Ayaz
24. Ms Tanzeela Sabahat	90. Miss. Naj-mus-Sahar	156. Mr. Abdul Kabeer	222. Mohib-ur-Rehman
25. Mr. Pervaiz	91. Mr. Altaf Hussain	157. Mr. Noor Ul Amin	223. Zahoor Baber
26. Khalid Ilyas	92. Miss. Shama Niamat	158. M Hayat Shah	224. M. Naveed Akbar
27. Muhammad Bakhtiar	93. Mr. Faiz Alam	159. Mr. Qasim Ali Khan	225. Imran Khan
28. Abid Ullah	94. Mr. Wasil Khan	160. Mr. Musarrat Zaman	226. S. Roman Ali Shah
29. Hameed Ullah Shah	95. Mr. Hazrat Ali	161. Mr. Nawab Khan	227. Hazrat Ali
30. Mr. Fayaz Ali Shah	96. Mr. Naik Muhammad	162. Mr. Mushtaq Hussain	228. Baidullah Shah
31. Mr. Musharraf Khan	97. Mr. Dil Nawaz Khan	163. Mr. Naeemullah Khan	229. Mansoor Alam
32. Mr. Ali Qadar Safi	98. Habib Ullah Khan	164. Manzoor Ahmad	230. Rashid Khan
33. Muhammad Masood	99. Abdul Haleem Khan	165. Mr. Qaiser Khan	
34. Mr. Sharif Hussain	100. Mr. Tariq Mehmood	166. Mr. Ansar Mehmood	
35. Mr. Khuda Bakhsh	101. Mr. Khalid Iqbal	167. Mr. Sami Ur Rehman	
36. Mr. Robin Haider	102. Mr. Rasheed Khan	168. Amir Hassan Khan	
37. Mr. M Kabir Afridi	103. Syed Saif Ul Islam	169. Muhammad Saleem	
38. Mr. Kaleem Ullah	104. Mr. Baidullah Shah	170. Mr. Jamal U Din	
39. Mr. Zubair Ahmad	105. Jehangir Azam Wzir	171. M Taufique	
40. Mr. Zia ur Rehman	106. Mr. M Naeem Khan	172. Shahnawaz Naveed	
41. Syed Zafar Ali Shah	107. Muhammad Tayyab	173. Mr. Kashif Iqbal Jilani	
42. Mr. Junaid Khan	108. Mr. Nasar Ali	174. Mr. Touseef Khalid	
43. Mr. Iftikhar Ahmad	109. Mr. Irfan Ullah	175. Mr. Maqbool Hussain	
44. Shams ur Rehman	110. Mr. Hameed Ullah	176. Syed Mazhar Ali	
45. Mr. Tashfeen Haider	111. Baseer Ali Rehman	177. Mr. Jamshed Khan	
46. Mr. Arif Shahbaz	112. Khaliq Dad Khan	178. Mujeeb-Ur-Rehman	
47. Mr. Iqbal Hussain	113. Miss. Iram Naz	179. Mr. Amjad Mairaj	
48. Mr. Asma Rauf	114. Mr. Khan Muhammad	180. Mr. Tariq Janal	
49. Mr. Ain Ullah	115. Muhammad Tariq	181. Mr. Ashfaq Khan	
50. Mr. Ahmad Zeb	116. Mr. M Iqbal Khan	182. Pir Muhammad Khan	
51. Mr. Farhat Ullah Khan	117. Muhammad Iqbal	183. Mr. Bashir Ahmad	
52. Sardar Asad Haroon	118. M Zaheer Uddin	184. Mr. Riaz Muhammad	
53. Mr. Asfandyar Khattak	119. Mr. Mir Khawas	185. Mr. Kamran Khattak	
54. Ghulam Saeed Khan	120. Mr. M Anwar Khan	186. Miss. Asma Arif	
55. Khwaja Faheem Sajid	121. Muhammad Farooq	187. Muhammad Arshad	
56. Ms. Iram Nosheen	122. Muhammad Shoab	188. Mr. Muhammad Abid	
57. Mr. M Irfanullah	123. Muhammad Fawad	189. Mr. Sher Alam Khan	
58. Mr. M Fayaz Khan	124. Mr. Zia-ur-Rehman	190. Fayaz Muhammad	
59. Mr. M Khalid Zaman	125. Mr. Abdul Hadi	191. M Nadeem Akhtar	
60. Mr. M Rafiq Khan	126. Mr. Sami Ullah Khan	192. Mr. Abdul Akram	
61. Mr. Khalid Khan	127. Muhammad Sheraz	193. Bibi Fatima	
62. Mr. M Naeem Khan	128. M Ali Khan	194. Mr. Pir Muhammad	
63. Mr. M Tahir Khan	129. Muhammad Ishaq	195. M Arif Khan	
64. Mr. Fahad Wazir	130. Shahnawaz Naveed	196. Mr. Sardar Bahadar	
65. Mr. Muhammad Hayat	131. Mr. Syed Nawab	197. Muhammad Irshad	
66. Mr. Zeeshan Abdullah	132. Mr. Javed Iqbal	198. Mr. Yasir Imran	

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Posting of Junior Officers on Posts in Higher Scale

This Department's Circular letter No.SORI(S&GAD)1-29/75(A), dated 13.2.1993, on the subject noted above and to state that it has been noticed that certain Provincial Government Departments are resorting to the practice of posting officers in a lower scale on posts in higher scales. This practice is against the provisions of NWFP Civil Servants Act, 1973 and rules made thereunder as well as the instructions of the Establishment Division reproduced below:-

"The grant of higher appointments to junior officers against senior posts amounts to accelerated promotion in view of the decision given by the Supreme Court of Pakistan in the case of Government of Pakistan Versus Qazi Abdul Karim. The Ministries/Divisions or Provincial Governments can only fill vacancies in a particular grade by officers of the same grade, and officers in a junior grade will not be appointed against a vacancy in a higher grade".

2. It may be pointed out that in the light of rule 9 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the methods prescribed for posting a junior officer to a higher post are restricted to the following only:-

i) ACTING CHARGE APPOINTMENT AGAINST A HIGHER POST

Where the senior most officer in a cadre is otherwise fully eligible for promotion but does not possess the specified length of service, the competent authority may appoint him to the higher post on acting charge basis, but only on the recommendation of Departmental Promotion Committee/Selection Board and subject to the condition that such officer lacks the prescribed length of service not more than (one year).

ii) CURRENT CHARGE APPOINTMENT OF A HIGHER POST

Only the senior-most officer of a cadre can be given current charge appointment of a higher post with the approval of the competent authority. However, this can only be an arrangement upto a maximum of six months.

iii) ADDITIONAL CHARGE APPOINTMENT OF AN EQUIVALENT POST

An officer can be given the additional charge of a second post but only of a post in an equivalent grade, upto a period of six months by the competent authority.

3. Adherence to the above rules is a legal requirement so that the actions taken by officers are not held at any stage to be irregular. Also, appointments in violation of the rules constitute administrative indiscipline.

4. I am, therefore, directed to request that all such cases of irregular appointments be reviewed and ensure not to resort to such appointments that violate the provisions of the Civil Servants Act and the statutory rules framed thereunder.

5. I am further directed to request that these instructions may be brought to the notice of all concerned for strict compliance.

(Authority: Circular letter No.SORI(S&GAD)1-29/75(A), dated 5.7.1994).