

SCANNED  
K...  
P...

4.2.2015

Appellant with counsel, and Mr. Muhammad Jan, GP with Saleem Shah, Superintendent for the respondents present. Arguments already heard. Record perused. Vide our detailed order of to-day in connected Service Appeal No. 03/2011 this appeal is also disposed of as per detailed order. Parties are left to bear their own costs. File be consigned to the record.

~~ANNOUNCED  
04.2.2015.~~

  
MEMBER

  
MEMBER

506/13

9.12.2014

Counsel for the appellant and Muhammad Adeel Butt, AAG with Saleem Shah, Suptdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 09.1.2015.



READER

09.1.2015

Appellant in person and Mr. Muhammad Adeel Butt, AAG with Saleem Shah, Assistant for the respondents present. The Tribunal is incomplete. To come up for the same on 29.1.2015.



READER

29.1.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Saleem Shah, Assistant for the respondents present. Arguments heard. To come up for order on 03.2.2015.

MEMBER



MEMBER

3.2.2015

Appellant in person and Mr. Saleem Shah, Assistant for the respondents present. Due to incomplete Bench, case is adjourned to 04.2.2015. for order.



MEMBER

25.6.2014.

Appellant with counsel and AAG with Saleem Shah; Assistant for the respondents present. Learned executive Member is on official tour to D.I.Khan, therefore, arguments could not be heard. To come up for arguments on 02.09.2014.

  
MEMBER

02.09.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Saleem Shah, Supdt. for the respondents present. Due to incomplete bench, case is adjourned to 14.10.2014 for arguments.

  
MEMBER

14.10.2014

Appellant with counsel and Mr. Kabeerullah Khattak, Asstt. AG with Saleem Shah, Supdt. for the official respondents present. . Due to incomplete bench, case is adjourned to 11.11.2014 for arguments.

  
MEMBER

11.11.2014

Counsel for the appellant, and Muhammad Adeel Butt, AAG with Saleem Shah, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 09.12.2014.

  
MEMBER

506/13

3.3.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Saleem Shah, Assistant for the official respondents present. Due to general strike of the lawyers, arguments could not be heard. To come up for arguments on 3.4.2014.

MEMBER

MEMBER

3.4.2014.

Appellant with counsel and Mr. Muhammad Jan, GP with Saleem Shah, Supdt. for the respondents present. Since counsel for the private respondents were not available and case adjourned to 19.5.2014, therefore, the appeal in hand is also adjourned to 19.5.2014 for arguments.

MEMBER

MEMBER

19.5.2014

Appellant in person and Mr. Muhammad Jan, GP with Saleem Shah, Assistant for the official respondents present. Counsel for the appellant is not available. To come up for arguments on 25.6.2014.

MEMBER

MEMBER

23.7.2013

Counsel for the appellant and Mr. Muhammad Jan, GP. with Saleem Shah, Assistant and Muhammad Irshad, SO for the respondents present and requested for adjournment. To come up for written reply on 16.9.2013.

  
MEMBER

  
MEMBER

16.9.2013

Counsel for the appellant and Mr. Muhammad Jan, GP with Saleem Shah, Assistant for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for rejoinder on 18.12.2013.

  
MEMBER

18.12.2013.

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Saleem Shah, Assistant for the respondents present. Rejoinder received. Copy handed over to the learned AAG. To come up for arguments on 29.1.2014.

  
MEMBER

  
MEMBER

29.1.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Saleem Shah, Assistant for the respondents present. Mr. Sultan Mahmood Khattak, learned Member of the Bench is on official tour to D.I.Khan, therefore, case is adjourned to 3.3.2014 for arguments.

  
MEMBER

Appeal No. 506/2013,  
Mr. Muhammad Waqar

24.4.2013

Counsel for the appellant present and heard. He contended that the appellant joined the W&S Deptt: in the year 1985 as Sub Engineer and also passed B grade departmental exam in the year 1996. He has more than 27 years service at his credit with good record throughout. According to the rules 20% of the posts of senior scale sub engineers are to be filled on the basis of Seniority come-fitness from amongst persons who have ten years service and also passed B Grade exam. The appellant has not been granted B-16. The appellant filed departmental appeal for grant of B-16 and proper fixation of seniority on 2.11.2012 but no reply has been received to him so far, hence the present appeal.. Points raised need consideration; therefore, the case is admitted for regular hearing. Subject to all legal objection. Security and process fee be deposited within 10 days. Thereafter, notices be issued to the respondents for written reply/comments on 28.6.2013.

Member

24.4.2013

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

Chairman

28.6.2013

Appellant in person and Mr. Muhammad Jan, GP for the respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 23.7.2013.

READER


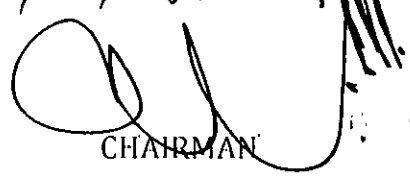
Note the appellant deposited  
5- Process & security fee Rs 200/-  
Bank receipt attached on file

5

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 506/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/02/2013	<p>The appeal of Mr. Mohammad Wazir presented today by Muhammad Asif Yousafzai 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	20-3-2013	<p>This case is entrusted to primary Bench for preliminary hearing to be put up there on <u>24-4-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

Appeal no. 506 /2013.

Mohammad Wazir.

VS

C&W Deptt:

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5-	Order. 4.9.03	D	13
6-	Order 5.12.09.	E	14
7-	Judgment of ST	F	15 - 17
8-	Judgment of ST	G	18 - 19
9-	Judgment of ST	H	20 - 22
10-	Vakalat nama	---	23

APPELLANT

THROUGH;

  
M.ASIF YOUSAFZAI

ADVOCATE.



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 506/2013

**AWP Peshawar**  
**505**  
**9/8/2/13**

Mr. Mohammad Wazir, Sub Engineer,  
C&W Division,  
Dir Lower.....Appellant.

**VERSUS**

- 1- The Secretary W&S Deptt:(now C&W) NWFP Peshawar.
- 2- The Chief Engineer W&S Deptt: (now C&W) Peshawar.
- 3- The Secretary Finance NWFP Peshawar.

.....Respondents.

**APPEAL UNDER SECTION 4 OF THE NWFP  
SERVICE TRIBUNALS ACT FOR GRANTING B-16  
FOR HAVING 10 YEARS SERVICE AND ALSO  
PASSED B GRADE EXAM.**

**PRAYER:**

*That on acceptance of this appeal the respondent Deptt: may be directed to grant B-16 senior scale according to the rules for having 10 years service + passed B grade Exam with all consequential benefits. Any other remedy which this august Tribunal deems fit that may also be granted in favour of appellant.*

**R.SHEWETH.**

- 1- That the appellant joined the W & S Deptt: in the year 1985 as Sub Engineer and also passed B grade departmental exam in the year 1996. Thus the appellant has more than 27 years service at his credit with good record throughout. All the dates

are mentioned the departmental appeal of the appellant the copy of which is already attached as Annexure – C

- 2- That according to the rules 20 % of the post of senior scale sub engineers are to filled in on the basis of promotion from amongst persons who have ten years service and also passed B Grade exam. The appellant possesses the said requirement but despite of that the appellant has not be granted B-16. Copy of the rules is attached as Annexure –A.
- 3- That the august Tribunal has also decided such similar 15 appeals on 11.12.2012. As the appellant is the similarly placed person, therefore the appellant is also entitled to the relief under the principles of consistency and Supreme Court's judgment reported as 1996 SCMR-1185, 2009 SCMR-01. Copy of judgment is attached as Annexure - B
- 4- That the appellant also filed departmental appeal for grant of B-16 and proper fixation of seniority on 2.11.2012 and waited for 90 days but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the appeal is attached as Annexure – C.

**GROUND:**

- A- That not granting B-16 as per rules and not fixing the seniority at proper place is against the law, rules and norms of justice.
- B- That the appellant has attained eligibility for B-16 much earlier than those who are enjoying the benefits of B-16, therefore the appellant has been discriminated and deprived from his rights in an arbitrary manner.
- C- That the appellant has not been dealt according to law and rules and has been discriminated by not extending the benefits of B-16 and seniority while the same has been given to the junior officials.
- D- That even the respondent Deptt; has granted B-16 to many officials vide order dated. 4.09.2003 & 5.12.2009. Thus the appellant is also entitled to the same relief. Copies of the orders are attached as Annexure- D & E.
- E- That the treatment of the respondent Deptt: is against the spirit of Article 4 and 25 of the constitution.

- F- That the rules regarding B-16 are still in field and this august Tribunal has also granted the same relief in appeals NO.1685/08, 791/08 decided on 7.5.09, Appeals NO.531/2001,533/2001, 534/2001, 535/2001, 537/2001 and 538/2001 decided on 6.6.07, Appeal No.194/93 decided on 7.9.94. and Appeal NO. 27/09. Copies of some judgments are attached as Annexure – F,G,H.
- G- That the appellant is also entitled to the same relief according to the principles of consistency and equality.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT  
Mohammad Wazir.

THROUGH:

M.ASIF YOUSAFZAI

ADVOCATES

A  
④

**BETTER COPY**  
**GOVERNMENT OF NWFP**  
**SERVICES, GENERAL, ADMN TOURISM AND SPORTS DEPARTMENT**

**NOTIFICATION**

Dated Peshawar, the 13<sup>th</sup> January, 00

Nostril(S&GAD)1-12/74- In exercise of the powers conferred by Section 26 of the North West Frontier Province Civil Servant Act, 1973, (NWFP Act XVIII of 1973), and in supersession of all previous rules on the subject in this behalf, the Government of the North West Frontier Province I pleased to make the following rules, namely:

**THE COMMUNICATOIN AND WORKS DEPARTMENT**  
**(RECRUITMENT AND APPOINTMENT) RULES 1979**

1. (1) These rules may be called the Communication and Works Department (Recruitment and Appointment Rules 1979.  
(2) They shall come into force at once.
2. The method of recruitment, minimum qualifications, age limit and other matters related thereto for the posts specified in column 2 of the Schedules annexed shall be such as given column-3 to 7 of the said Schedules.

Sd/--

SECRETARY TO GOVERNMENT OF NWFP  
SERVICES AND GENERAL ADMN; DEPARTMENT

ENDST.NO.SORI(S&GAD)1-12/74      Dated Peshawar, the 13<sup>th</sup> Jan, 1990.  
Copy forwarded to :

1. All Administrative Secretaries to Government of NWFP.
2. All Divisional Commissioners in NWFP.
3. Secretary to Governor, NWFP.
4. Secretary to Governor, NWFP.
5. All Heads of Attached Departments in NWFP.
6. All District and Sessions Judge in NWFP.
7. All Deputy Commissioners/Political Agent in NWFP.
8. Registrar, High court, Peshawar.
9. All Section Officers in the S&GAD.
10. Manager, Government Printing Press Peshawar for publication in the Government Gazette. He is requested to supply 60 copies of the printed.

Sd/-

Syed Noor Badshah  
Secretary C&W Department

**ATTESTED**  


**COMMUNICATION & WORKS DEPARTMENT  
SCHEDULE-I**

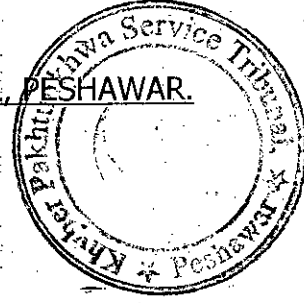
S.No.	Nomenclature of Post	Minimum Qualifications for Appointments		Age for Initial Recruitment.		Method of Recruitment.
		Initial Recruitment by Transfer	Promotion	Minimum	Maximum	
1	2	3	4	5	6	7
1.	Chief Engineer					By Selection on merit from amongst four senior most officers of the Department, with at least seventeen years experience as Government Servant, seniority being considered only in the case of officers of practically the same standard of merit.
2.	Superintending Engineer		Degree in Engineering from a recognized University			By Selection on merit from amongst the Executive Engineers or holders of equivalent posts in the Communication and Work Department, with at least twelve years service in Cgrades-17 and 18, seniority being considered only in the case of officers of practically the same standard of merit.
3.	Executive Engineer	Degree in Civil Electrical or Mechanical Engineering from a recognized University; as may be specified by Government for the respective posts.	Degree or Diploma in the Engineering from a recognized University or Institution, as specified in column.			By Selection on merit with due record to seniority from amongst Assistant Engineers of the Communication and Works Department with at least six years service as such.

**ATTESTED**

5

4.	Assistant Engineer				(a) Seventy percent by initial recruitment. (b) Ten percent by selection on merit with due regard to seniority from amongst sub engineers of the Department who hold a degree; and (c) Twenty percent by selection on merit with due regard to seniority from amongst senior scale sub engineers of the department, who hold a diploma and have passed departmental professional examination.
5.	Senior Scale Sub Engineer		Diploma in Engineering from a recognized institute.		Twenty five percent of the total number of posts of the diploma holders, Sub-Engineers shall from the cadre of Senior Scale Sub Engineers and shall be filled by selection on merit with due regard to seniority from amongst Sub Engineers of the Department, who have passed the Departmental Examination and have at least ten years service as such.
6.	Administrative Officer, Budget and Accounts Officers.				By selection on merit with due regard to seniority from amongst holders of the posts of Senior Superintendents/Superintendents, in the Department.

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 994/NEEM/2004

Date of Institution. ... 03.12.2004.

Date of Decision ... 11.12.2012.

Naushad Khan, Sub Engineer O/O Deputy Director-I,  
Works & Services Department Peshawar.

(Appellant)

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Works & Services Department, Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariate, Peshawar.
3. The Departmental Promotion Committee through its Chairman (Respondent No.1).
4. Mr. Zafrullah Khan, Sub Engineer, Works & Services Department, Nowshera.
5. Mr. Tariq Usman, Sub Engineer, W&S Department, Khyber Agency, Jamrud.
6. Mr. Muhammad Javed Rahim, Sub-Engineer, W&S Deptt. D.I.Khan.
7. Mr. Jamshed Khan Sub Engineer, W&S Department, Buner.
8. Mr. Misal Khan, Sub Engineer, presently Assistant Director Works & Services Department Tank (S.W Agency). (Respondents).

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDERS DATED 4.9.2003 AND 19.4.2004 PASSED BY RESPONDENT NO. 1 ON THE RECOMMENDATION OF RESPONDENT NO. 3 THEREBY GRANTED SENIOR SCALE (BPS-16) TO RESPONDENTS NO. 4 TO 8 IRRESPECTIVE OF THEIR INELIGIBILITY AGAINST WHICH HE FILED DEPARTMENTAL APPEAL DATED 13.8.2004 BUT THE SAME WAS NOT DISPOSED OF WITHIN STATUTORY PERIOD OF NINETY DAYS.

MR. MUHAMMAD ASIF YOUSAFZAI,  
Advocate

... For appellant.

MR. SHERAFGAN KHATTAK,  
Addl. Advocate General

... For official respondents

MR. IJAZ ANWAR,  
Advocate... For private respondents No.  
4,6, 7 & 8.SYED MANZOOR ALI SHAH,  
MR. NOOR ALI KHAN,... MEMBER  
... MEMBERJUDGMENT

SYED MANZOOR ALI SHAH, MEMBER. This appeal has been filed by Naushad Khan, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 4.9.2003 and order dated 19.4.2004,

passed by respondent No. 1, whereby on the recommendation of Departmental Promotion Committee, private respondents No. 4 to 8 had been granted Senior Scale (BPS-16). It has been prayed that on acceptance of the appeal, the impugned orders may be set aside respondent No. 1 may be directed to consider name of the appellant for Senior Scale (BPS-16).

2. Brief facts of the case are that the appellant joined the respondent department as Sub Engineer on 28.5.1980 and in the year 1991 qualified Grade-B and A examination in the years 1996 and 1997 respectively. Final seniority list of Sub Engineers as it stood on 31.12.1998 issued wherein name of the appellant appeared at S.No. 50 while the names of private respondents No. 4 to 8 were placed at S.No. 52, 61, 63, 72 and 236. It shows that the appellant was senior to private respondents No. 4 to 8 who were allowed Senior Scale BPS-16 by respondent No. 1 through orders dated 4.9.2003 and 19.4.2004 while the appellant has been discriminated. When the appellant came to know about the impugned orders, so he immediately filed departmental appeal on 13.8.2004 which elicited no response within the statutory period of ninety days, hence he filed service appeal No. 994/2004 before this Tribunal.

3. The appeal was admitted to regular hearing on 6.1.2005 and notices have been issued to the respondents. The respondents have filed their written replies and contested the appeal. The appellant also filed rejoinder in rebuttal. Vide order dated 27.3.2007, the case was dismissed by this Tribunal. Feeling aggrieved, the appellant filed Civil Petition No. 312-P of 2007 before the august Supreme Court of Pakistan. Vide order dated 4.3.2010, the case has been remanded in the following terms:-

"Learned counsel appearing for the parties, after having argued the case at length contended that as the points involved in this case have not been elaborately discussed by the Service Tribunal including th one whether the Tribunal can dismiss the appeal on the question of misjoinder of causes of action and whether without making calculation in respect of period of filing and disposal of departmental appeal, the Tribunal can come to the conclusion that the departmental appeal is barred by time, therefore, on setting aside the impugned judgment, case be remanded to the Service Tribunal for decision afresh after hearing to all concerned.

Petition is converted into appeal and allowed as a result whereof that case is remanded to the NWFP Service Tribunal for decision afresh, after providing equal opportunity of hearing to both the sides, expeditiously, as far as possible within a period of three months, after receipt whereof."

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



4. After receipt of the appeal from the august Supreme Court of Pakistan and parties and their counsel were summoned for arguments. Arguments heard at length. Record perused.

5. The learned counsel for the appellant argued that the appellant was appointed by the respondent department as Sub-Engineer on 28.5.1980 and passed Grade A & B examination. Seniority list of Sub Engineers as it stood on 31.12.1998 issued wherein name of the appellant appeared at S.No. 50 while the names of private respondents were at S.No. 52, 61, 63, 72 and 236 respectively. The private respondents were considered for Senior Scale BPS-16 while the appellant has not been considered and ignored. The appellant was not considered by the DPC due to his incomplete record. It was the responsibility of the respondent department to provide official record of the appellant and sent his case to the Departmental Promotion Committee for consideration of his name against Senior Scale BPS-16. If the record was not available, the appellant could not be suffered for the lapses and fault of the respondent department. Junior to the appellant had been promoted while he has been deprived of his legal right for no fault on his behalf. The learned counsel for the appellant further argued that the benefits of Senior Scale BPS-16 have been granted to similarly placed person and the appellant is also entitled to the same treatment under the principles of consistency. The learned counsel for the appellant relied on 2006-SCMR-1082, 2007-PLC(C.S) 683, 1996-SCMR-1185 and 2007 PLC(C.S) 152 and judgment dated 7.5.2009 of this Tribunal in similar appeal No. 791/2008 decided in favour of appellant. The learned counsel for the appellant further argued that in the matter of promotion and pay, question of limitation does not arise. He relied on 2007-PLC(C.S) 1267, 2002-PLC (CS) 1388 and 2003-PLC (CS) 178. In a reported judgment of the august Supreme Court of Pakistan as reported in PLD 2003-Supreme Court 724, decision of the cases on merits always to be encouraged instead of non-suiting the litigants for technical reasons including limitation. He requested that the appeal may be accepted as prayed for.

The learned counsel for private respondents on the other hand argued that the private respondents No. 4 to 8 have been granted Senior Scale BPS-16 on the recommendations of the Departmental Promotion Committee vide orders dated 4.9.2003 and 19.4.2004. The appellant was not considered by the DPC due to his incomplete service record. The appellant did not challenge the seniority earlier seniority lists nor selection grade/Senior Scale at the relevant time and the present appeal is hopelessly time barred. Now the facility of Selection Grade/Move-over has already been withdrawn by the Provincial Government w.e.f. 1.12.2011, vide Finance Department letters dated 15.11.2001 and 6.4.2003 and in the prevalent circumstances, the present appeal has become infructuous. He requested that the

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,

appeal may be dismissed. The learned AAG also supported arguments of the learned counsel for the private respondents.

7. The Tribunal observes being term and condition of service, this Tribunal has ample jurisdiction to entertain the present appeal. In the matter of promotion and pay, question of limitation does not arise. The august Supreme Court of Pakistan in a judgment as reported in PLD 2003-Supreme Court 724, decision of the cases on merits always to be encouraged instead of non-suiting the litigants for technical reasons including limitation. Private respondents have been granted Senior Scale BPS-16, the appellant being similarly placed person also entitled for the same benefit as per judgment of the august Supreme Court as reported in 1996-SCMR-1185.

8. In view of the above, the appeal is accepted and the respondents are directed to allow the appellant Senior Scale BPS-16 from due date. Parties are left to bear their own costs. File be consigned to the record.

9. It is to be noted that there are other connected appeals filed in the years 2010 and 2011 fixed for arguments to-day, vide Service Appeals (1) No. 106/2010, Karimullah Khan, (2) No. 107/2010, Gul Malook, (3) No. 510/2010, Sanaullah, (4) No. 511/2010, Syed Muhammad Tariq, (5) No. 512/2010, Malik Shakir Pervez, (6) -No. 579/2010, Muhammad Zahir Shah-III, (7) No. 1014/2010, Muhammad Zahir Shah, (8) No. 1230/2010, Muhammad Atique Farooq, (9) No. 1817/2010, Tariq Yousaf, (10) No. 1818/2010, Muhammad Najeeb, (11) No. 1908/2010, Ajmal Anwar, (12) No. 3121/2010, Jamal Khan, (13) No. 1254/2011, Mashal Khan, and (14) No. 1675/2011, Naushad Khan-II. Our this judgment will also dispose of the aforementioned service appeals in the same manner.

ANNOUNCED  
11.12.2012.

Sd/-

(NOOR ALI KHAN)  
MEMBER

Sd/-

(SYED MANZOOR ALI SHAH)  
MEMBER

Date of Presentation of Application 23-1-2013  
 Number of Pages 1600  
 Copy Fee 10-00  
 Value 25-00  
 Total 12-00  
 Number of Copies 12  
 Date of Copy Fee 23-1-2013  
 Date of Receipt of Copy 23-1-2013

Certified to be true copy

MEMBER  
Khananawa  
Service Tribunal,  
Peshawar

(To)

The Secretary to Govt. of  
Khyber Pakhtunkhwa  
C&W Department Peshawar.

Through: Proper Channel.

Subject: GRANT OF BPS-16 (SENIOR SCALE) ON PASSING B-GRADE EXAM AND 10-YEARS SERVICE/FIXATION OF SENIORITY ON THE BASIS OF 1<sup>ST</sup> ENTRY INTO THE GOVT. SERVICE.

Sir,

I have the honour to submit that after going to know about the seniorities as notified by the Chief Engineer (Centre) C&W Department it transpire that Mr. Misal Khan & Sayed Sardar Shah Sub Engineers who by way of 1<sup>st</sup> entry into the Govt. service are junior to me, have been elevated in BPS-16 in pursuance to the Appointment/Recruitment Rules, 1979 of the C&W Department promulgated on the advise of Finance Department circular letter of the year 12/1975, which states that:-

"25% of the total numbers of posts of diploma holders sub engineers shall form the cadre of senior scale and shall be filled by way of selection of merits with due regard to seniority from amongst the sub engineers of the Department, who have passed the departmental examination and have at least 10-years service as such".

I hold senior position than the above stated officials as per entry into service on 05/09/1985 and fulfill the prescribed criteria of the rules which is evident from the seniorities list since notified in 1997, 1998, 1999 and even of the subsequent years, and acquired eligibility on 04/09/1995 when the case of Mr. Misal Khan was processed by the Department held on 12/08/2003 (refer your orders dated 04/09/2003), I was coming and cover the condition/criteria to be granted BPS-16, but to say with great sorrow that the departmental hands kept the fact secret from the members of D.P.C at all the times (during working papers), which further is conform from the memo of Establishment Department (Regulation Wing) No. SOR-V(E&AD)1-323/2005/Vol-II dated 19/08/2005. Even the apex Court Judgment produced in the SC MR (P-1185-1193)C.

Appeal to Service Tribunal or Supreme Court—Effect.....

If the Service Tribunal or Supreme Court decides the point of Law relating to the terms of service of a civil servants which covers not only the case of civil servants who litigated but also of other civil servants, who may have not taken any legal proceedings in such case, the dictates and the good governance demand that the benefit of such judgment by Service Tribunal/ Supreme Court be extended to other Civil Servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum.(P.1193)C:

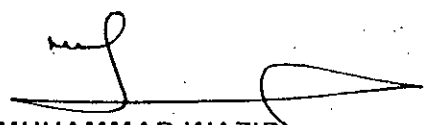
**ATTESTED**

It may further be noted that recently some other counterparts have been granted the declaratory judgment by the Khyber Pakhtunkhwa Service Tribunal on this account allowing BPS-16.

It is therefore, requested that my case being of similar & common in nature, may kindly be decided on the dictum of Apex Court as referred to above and grant me BPS-16 w.e.f 04/09/2003, the dates my junior (M/S Misal Khan & Syed Sardar Shah) have been granted for which I shall be thankful to you.

Sincerely Yours

Diary No: 5668/25  
Date: 2-11-2014  
O/O Executive Engineer,  
C&W Division Timergara  
Dir Lower



(MUHAMMAD WAZIR)  
Sub Engineer  
C&W Division Dir Lower.

ATTESTED



D

(13)

GOVERNMENT OF N.W.F.P.  
WORKS & SERVICES DEPARTMENT

Dated Peshawar the 04 / 09 / 2003

ORDER

No: SOE-I/W&S/4-2/2003/S.S. Consequent upon recommendations of the Departmental Promotion Committee of the Works & Services Department during its meeting held on 12.08.2003, the competent authority has been pleased to the grant of Senior Scale (BS-16) in respect of the following Sub Engineers (BS-11) of the Works & Services Department, with immediate effect:-

1. Mr. Muhammad Arif,  
Sub Engineer O/o the XEN Dev:  
C&W Division Mattani at Kohat.
2. Mr. Missal Khan,  
Sub Engineer O/o the XEN Dev:  
C&W Division SWA at Tank.

SECRETARY TO GOVT OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst. No. SOE-I/W&S/4-2/2003/S.S

Dated Peshawar. the 04.09.2003

Copy forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer Works & Services Peshawar,
3. Chief Engineer Works & Services (FATA) Peshawar.
4. Managing Director Frontier Highways Authority Peshawar.
5. Deputy Secretary (Reg-III) Establishment Department Peshawar.
6. Deputy Secretary (Reg) Finance Department, Peshawar.
7. All Superintending Engineer W&S Department.
8. District/Agency Accounts Officers concerned.
9. Officials concerned.
10. PS to Secretary Works & Services Department.
11. PA to Additional Secretary Works & Services Department.
12. Section Officer (Estt-II) Works & Services Department.
13. Office Order/Personal files.

  
(MUHAMMAD AKBAR KHAN)  
SECTION OFFICER (ESTT-I)

OTC

08-9-03

**ATTESTED**



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14

GOVERNMENT OF NWFP  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the Dec 05, 2009

**ORDER:**

No. SOE-I/C&W/4-2/91: Consequent upon the recommendations of the Departmental Promotion Committee during its meeting held on 16.11.2009, the competent authority has been pleased to grant Senior Scale BPS-16 in respect of the Syed Sardar Shah Sub Engineer of the C&W Department from the date from which his juniors were awarded BS-16, in order to implement the decision of NWFP Services Tribunal in Service Appeal No. 27/2009.

Secretary to Govt of NWFP  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer, C&W Peshawar.
3. Executive District Officer, W&S Kohat
4. Deputy Director Works & Services, Kohat
5. Registrar NWFP Services Tribunal Peshawar
6. District Accounts Officer Kohat
7. PS to Secretary C&W Peshawar
8. Official concerned.
9. Office order File/Personal File

  
(RAHIM BADSHAH)  
SECTION OFFICER (ESTT)

**ATTESTED**  


F (15)

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

▫ Appeal No. 791 of 2008

Date of Institution. . . . . 22.05.2008  
Date of Decision. . . . . 07.05.2009

Ikramullah-II, Sub Engineer, office of the Deputy Director-III  
Works & Services Department, City District Government, Peshawar. (Appellant)

VERSUS

1. Secretary to Government of NWFP, Works & Services Department, Peshawar.
2. Chief Engineer, Works & Services Department, Peshawar.
3. Misal Khan-II son of Yousaf Khan, Sub Engineer, Assistant Director  
(Buildings) Works & Services Department Tank and 4 others. (Respondents)

Service Appeal under Section 4 of the N.W.F.P Service Tribunals Act, 1974 against the seniority list of Sub Engineers in BPS-16 and BPS-11 of the B and R Wing in Works and Services Department as it stood on 30.11.2007, issued by respondent No.2 on 08.1.2008 whereby respondents No. 3 to 7 have been shown at S.Nos. 82, 85, 88, 89 and 90 respectively while the appellant has been shown at S.No.122 despite the fact that in the Seniority list issued in the year, 1999, the appellant was at S.No.54 while the respondents No. 3 to 7 were at S.No. 236, 237, 61, 63, and 72 against which the appellant's departmental appeal dated 22.1.2008 communicated to respondent NO.1 through proper channel vide Dy. Director-III memo No. 59/3-E, dated 25.1.2008, has not been disposed of within statutory period of ninety days.

MUHAMMAD ASIF YOUSAFZAI,  
Advocate.

For appellant

MR. ZAHID KARIM,  
Addl. Government Pleader.

For official respondents.

MR. WAQAR AHMAD SETH,  
Advocate.

For respondents.No.3, 5 to 7.

MR. JUSTICE (R) SALIM KHAN,  
MR. ABDUL JALIL KHAN,

CHAIRMAN.  
MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.- The appellant was appointed as Sub Engineer in C&W Department on 14.7.1980. In the recent seniority list, respondents No. 3 to 7 have been shown at S.No. 82, 85, 88, 89 and 90

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respectively while the appellant has been shown at S.No. 122. According to the seniority list of 1999, the appellant was at S.No. 54 while respondents No. 3 to 7 were at S.Nos. 236, 237, 61, 63 and 72 respectively. The departmental appeal of the appellant was not disposed of. The present appeal No. 791 of 2008 was filed by Ikramullah, appellant on 22.5.2008.

2. Sher Wali Jang, appellant was appointed as Sub Engineer on 14.2.1981, while respondent No.4 was so appointed on 16.2.1981, respondent No. 5 on 01.1.1981, respondent No.6 on 22.11.1981 and respondent No.7 on 22.3.1988. The seniority list of January, 2008 shows that BPS-16 Selection Grade was granted to the private respondents. The application of the appellant dated 27.2.2008 was refused on 08.4.2008. The departmental appeal dated 21.5.2008 of the appellant was not decided.

3. The respondents contested the appeals. In the case of Ikramullah, they contended that the Works & Services Department had created a separate tier (tier) of Senior Scale Sub Engineers and framed Service Rules. Some of the Sub Engineers of Works and Services Department agitated the matter, and a committee was constituted to investigate the matter, which decided that both the tiers would be merged but Senior Scale Sub Engineers (BPS-16) would be declared senior to Sub Engineers in BPS-11. They further contended that the case of Ikramullah was not considered by the Departmental Promotion Committee due to his incomplete record, and the facility of selection grade has already been discontinued/freezeed by the Provincial Government w.c.f. 1.12.2001 vide Finance Department Notification dated 15.11.2001 and 06.4.2003. In the case of Sher Wali Jang, they took up the same issues and the same objections. They contended that the basic condition for grant of selection grade to 25% of Sub Engineers (BPS-11) was 10 years service and passing "B" Grade examination, and the case of Sher Wali Jang was not considered by the Departmental Promotion Committee due to his incomplete record.

We heard the arguments and perused the record.

5. The question of seniority is related to the question of grant of selection grade which has provided gains to the private respondents and continuous loss to the appellants. The case of the appellants had to be considered at the time when their respective immediate junior was granted selection grade. The cases of both the

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appellants were merely deferred due to incomplete record. It was the responsibility of the official respondents to complete the record of the appellants as early as was practicable, to consider their cases for grant of selection grade, in preference to their juniors, at the relevant time, to re-fix their seniority, after antedating the date of selection grade to them, and to decide their dispute accordingly.

6. The cases of both the appellants have to be considered in the light of the rules/policy in vogue at the time of grant of selection grade to their juniors, after completion of their record. Each of the appellants, if found senior to any of the private respondents, shall have to be granted selection grade w.e.f. the date on which the same was granted to his next junior, by issuing an order, with ante-dated effect. The merger of the two sets of Sub Engineerz and the discontinuance/freezing of the grant of selection grade shall not, at this stage, prejudice the rights of the appellants to the grant of selection grade and to their seniority in accordance with the original dates of regular appointment. The selection grade, for the purposes of pay and pension as well as other financial benefits of the appellants, shall be counted from the time when the same were to be given to them in preference of their juniors, in accordance with the date of decision of first D.P.C meeting, which had recommended selection grade for their next juniors, and from the dates on which selection grade was granted to their next juniors. The dis-continuance of the selection grade, after such grant, shall be effective in the same manner as it is effective for all other civil servants. The selection grade so granted to the appellants shall merge in their salary for all future purposes in accordance with the dis-continuance orders, and policy, of the Government. The appellants shall, thus, regain their original seniority, and the seniority lists shall be corrected/modified accordingly.

7. In view of the above, we accept both the appeals in the above terms, with the directions to the official respondents to act as per observations as mentioned above. The appellants are also entitled to the costs of their litigation in their present cases from the official respondents.

*Justice (S) Salem Behar*  
*Member*  
*Justice (S) Abdul Jaleel Behar*  
*Member*

ANNOUNCED  
07.5.2009

25/11/2009 to 27/11/2009  
*[Signature]*  
Chief Clerk  
Court

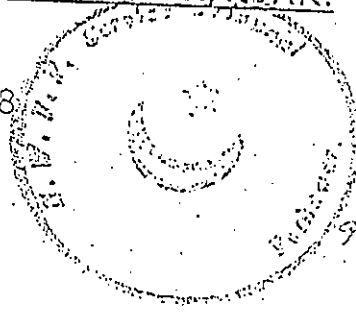
Date of presentation of application LS-5-09  
Number of wards 12  
Applicant [Signature]  
Agent [Signature]  
Date of copy [Signature]  
Date of completion of copy 11.6.2009  
Date of delivery of copy 11.6.2009

**ATTESTED**  
*[Signature]*

511 (18)

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1685 /08



1927  
9.9.08

Sher Wali Jang, Asstt: Technical Officer,  
Anti Corruption Establishment, Peshawar.....Appellant:

*VERSUS*

- 1- The Secretary Works & Services Deptt: NWFP Peshawar.
- 2- The Chief Engineer Works & Services Deptt: Peshawar.
- 3- The Secretary Finance Deptt: NWFP Peshawar.
- 4- Mr. Tariq Usman Sub Engineer,  
AD. FMK, Hayat Abad, Peshawar.
- 5- Mr. Mohammad Javed Rahim, Sub Engineer,  
AD. Building-I, W & S Deptt: D.I. Khan.
- 6- Mr. Jamshed Khan, Sub Engineer,  
AD. Building, W & S Deptt: Buner.
- 7- Mr. Misal Khan, Sub engineer,  
AD. Building-II, W & S Deptt: D.I. Khan.

.....Respondents.

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED.8.4.08 WHEREBY THE RESPONDENT NO.2 REFUSED TO GRANT B-16 AND DUE SENIORITY TO APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER: That on acceptance of this appeal the respondent Deptt: may please be directed to grant the appellant B-16 from his due date and to fix the seniority of appellant over and above the private respondents by setting aside the impugned order dated.8.4.08. Any

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*[Signature]*

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*[Signature]*

Date of Order or Proceedings

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary

07.5.2009

Counsel for the appellant and A.C.I (Abid Karim) alongwith Anwarul Haq, A.C for official respondents, and counsel for private respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 791 of 2008, titled "Ikramullah Versus Secretary to Government of NWFP, Works & Services Department Peshawar etc.", we ~~also~~ <sup>also</sup> accept the present appeal <sup>as per</sup> para-5 of the judgment, with costs.

ANNOUNCEMENT

07.5.2009.

*Sd/-*  
Member

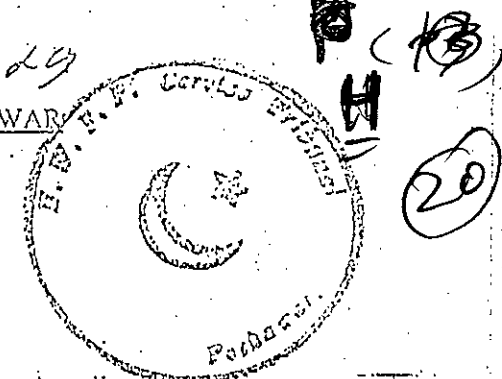
*Sd/-*  
Chairman

RECEIVED BY MR. ...  
 07.05.09  
 WORKS & SERVICES DEPARTMENT  
 PESHAWAR

Number of presentation of ... 870/15.5.09  
 Number of marks ... 6  
 Copying fee ... 2  
 Date of copy ... 11.6.09  
 Date of delivery of ... 11.6.09

**ATTESTED**  
*[Signature]*

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR



Appeal No. 27/09

Date of institution - 27.09.2008  
Date of decision - 23.04.2009

Syed Sardar Shah, Sub Engineer, Works and Services Kohat .....Appellant.

VERSUS

1. The Chief Secretary NWFP Peshawar.
2. The Secretary Works and Services Deptt: NWFP Peshawar.
3. The Chief Engineer Works and Services Deptt:
4. The Secretary Finance Deptt: NWFP Peshawar.....Respondents.

Appeal U/S 4 of the NWF Service Tribunals Act 1974 for granting B 16 as per rules and against not taking action on the Departmental appeal of the appellant.

Mr. M. Asif Yousaf Zai, Advocate.....For Appellant.  
Mr. Ghulam Mustafa, A.G.P.....For Respondents.

MR. ABDUL JALIL .....MEMBER.  
MR. SULTAN MEHMOOD KHATTAK.....MEMBER.

JUDGMENT

ABDUL JALIL, MEMBER: - This appeal has been filed by the appellant for grant of B- 16 as per rules and against not taking action on the departmental appeal of the appellant. He has prayed that the Respondents may be directed to grant BPS-16 to him on acquiring Diploma and B-grade examination as per Rules from his due date.

2. Brief facts of the case as narrated in the memo of appeal are that the appellant was appointed as Road Inspector in the Respondent Department vide order dated 17.4.1982. The appellant was promoted as Sub Engineer (B-11) vide order dated 28.3.1990. The appellant has also passed B-grade departmental examination on 17.11.1991 and has more than 10 years service at his credit. Some junior Sub Engineers were granted B-16 on 4.9.2003 and 19.4.2004. The appellant filed a departmental appeal against those order on 1.5.2004 which was not responded, therefore the appellant filed a service appeal bearing No. 607/2005 in this Tribunal. The said appeal was finally disposed of on 15.12.2006 in terms that the appellant be considered for BPS-16 if he otherwise eligible and qualified

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EXAMINER  
NWFP SERVICE TRIBUNAL

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under the rules. After the directions of the Tribunal the Respondents wanted to file CPLA in the Supreme Court but the same was declared unfit by the Law Department on 22.1.2007. Thereafter the appellant filed implementation petition in this Tribunal. The said implementation petition was filed on 28.4.2008 after receiving the decision of the Department in negative on 28.4.2008. Then the appellant filed a departmental appeal and waited for 90 days but no reply has been received by the appellant so far. Hence the present appeal.

3. The respondents were summoned. They appeared through their representatives, submitted written reply, contested the appeal and denied the claim of the appellant.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that not granting BPS-16 to appellant as per rules and not taking action on the departmental appeal of the appellant within 90 days is against law, facts, and norms of justice. The appellant is fully entitled to B-16 as per Rules of the department from his due date. The said rules are still in field and the juniors employees to appellant have been benefited by these rules. Similar appeal has already been accepted by this Tribunal and as such the appellant is also entitled to the said benefit under the principle of consistency. Decision of the department is not correct because the said rules are not being superseded so far. The appellant has been discriminated as the benefits of B-16 have been granted to the junior employee but denied to the appellant on flimsy grounds. He prayed that the appeal may be accepted as prayed for.

6. The learned AGP argued that in light of the recommendations of the standing Service Rules Committee, the W&S Department has been issued Notification on 19.4.2004, wherein all senior scale Sub Engineers (B-16) in the W&S Department, shall, with immediate effect, be re-designated as Sub Engineers in their existing pay and scale and shall be merged with the cadre of Sub Engineers in the Department, provided that for the purpose of maintaining their inter-se-seniority, they shall rank senior to the existing Sub Engineer. On the basis of above Notification, W&S Department amended the service rules of the Sub Engineers on 04.01.2005. Some senior Sub Inspectors junior to him have been granted senior scale (B-16) on the recommendation of Departmental Promotion

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Committee at that time. The Government allowed selection grade (B-16) to 25% of the Sub Engineer (B-11) and the basic condition for the grant of selection grade was 10 years service and passing of B. Grade examination. The appellant was not considered by the DPC due to his incomplete record. The facility of selection grade has already been discontinued by the Provincial Government w.e.f 01.12.2001 vide Finance Department's letter No.FD (PRC) 1-1/01 dated 15.11.2001 and dated 6.4.2001 and in the prevalent circumstances the plea taken by the appellant has been infructuous. The Services Tribunal NWFP has directed in his decision dated 5.12.2006 that the appeal is disposed of with the direction to Respondents No.1 to 3 that the appellant be consider for BPS-16 if he has otherwise qualified and entitled for same under the relevant rules which was examined in the department and the appellant was not entitled to the grant of selection grade BPS-16 on the ground that according to the seniority position at the time, the appellant was at serial No.244. As per service record to the Respondent Sub Engineers who have already granted selection grade are senior to him. Moreover, the Government has discontinued the grant of selection grade to all the Government servants' grade. He prayed that the appeal may be dismissed.

After hearing arguments of the learned counsel for the parties, the Tribunal is of the view that there is sufficient weight in the arguments put forth by the learned counsel for the appellant. It was the responsibility of the department as per instruction performance Evaluation report containing instruction 1.0 and 1.4. The appellant cannot be deprived from grant of BPS-16 due to incomplete record. It was the responsibility of the department to maintain his record.

In view of the above the appeal is accepted and his grant of BPS-16 may be antedated from the date it was due to him. The parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED  
23.04.2009.

*sd/- Ghulam Jilani*  
Member  
*sd/- Sultan Mahmood*  
Member

CHIEF JUSTICE  
SVP Services Tribunal  
Peshawar

**ATTESTED**  
*[Signature]*

23

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Mohammad Wazir (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

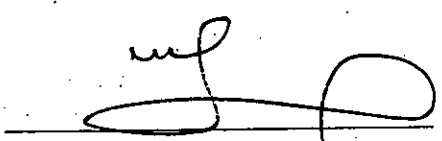
C & W Dept. (Respondent)  
(Defendant)

I/We Mohammad Wazir (Appellant)

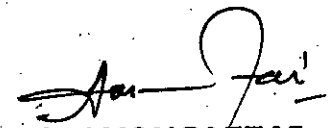
Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

  
( CLIENT )

ACCEPTED

  
**M. ASIF YOUSAFZAI**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**  
Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**  
**APPEAL NO. 506 OF 2013**

Muhammad Wazir, Sub Engineer, --- Appellant  
C&W Division Dir Lower

**Versus**

1. Secretary to Govt of Khyber Pakhtunkhwa --- Respondents  
C&W Department, Peshawar
2. Chief Engineer (Centre)  
C&W Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa  
Finance Department, Peshawar

Joint Parawise Comments on behalf of Respondents No. 1 to 3

Respectfully Sheweth

**Preliminary Objections**

1. That the appeal is not maintainable.
2. That the petitioner has never challenged in time any order in which his rights were ignored.
3. That the appeal is premature.
4. That the appellant has no cause of action and locus standi.
5. That the appeal is time barred.
6. Res. Judicata is applicable to the present appeal because the same nature appeal was decided by the tribunal between the same parties.

**Facts**

1. No comments
2. Incorrect. In fact the selection grade BS-16 @25% of the total posts of Sub Engineers (BS-11) was allowed by the Government with the condition that holder of the post shall have 10 years service and passed B-Grade Exam, the facility of selection grade BS-16 was allowed for Sub Engineer which has been discontinued/frozen by the Provincial Government w.e.f. 01.12.2001 vide Finance Deptt letter No.FD(PRC)1-1/2001 dated 06.04.2003 (**Annex-I**). The Establishment Deptt has issued a circular to all Administrative Secretaries and directed to clear all left over cases of Govt servants who were eligible for selection grade/move over on or before 01.12.2001 (**Annex-II**). Consequently the Respondent Department granted selection grade (BS-16) to 10 Nos Sub Engineers in the year 2003 and 2004 (**Annex-III**) who were eligible and posts were available/vacant before 01.12.2001. Although the name of appellant was at Sl.No. 113 of the seniority list of Sub Engineers dated 12.12.2000 (**Annex-IV**), the appellant was not considered by the Departmental Promotion Committee due to incomplete record, therefore, in the prevailing circumstances, the plea of the appellant had been in fructuous.
3. No comments.

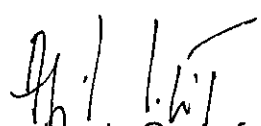


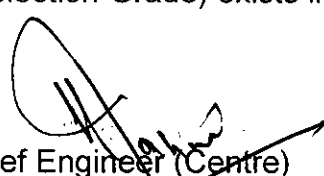
4. Departmental appeal was received, processed and was filed by Competent Authority on its merit.

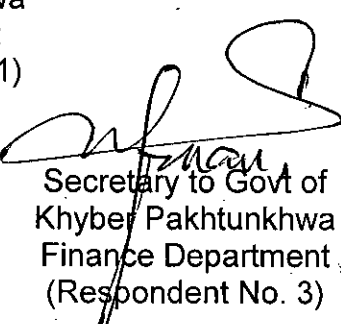
### Grounds

- A. Incorrect, as explained in para-2 of the facts. Moreover, the appellant was not entitled to the said scale as selection grade is not granted on the basis of seniority-cum-fitness rather on selection on merit.
- B. Incorrect. The selection grade cases are considered by the Departmental Promotion Committee as per Service Rules and on the completion of codal formalities. Furthermore, the orders of selection grade BS-16 in favour of the Sub Engineers mentioned in Para-D of the appeal were issued in 2003, 2004 but the appellant remained silent and filed no appeal against the orders in specific period.
- C. Incorrect, the orders for the grant of selection grade BS-16 in favour of the Sub Engineers mentioned in the instant para of the appeal was legal and according to law/rules.
- D. Incorrect, as explained in Para-B of the ground.
- E. Incorrect. The selection grade cases are considered by the Departmental Promotion Committee as per service rules and on the completion of codal formalities.
- F. No comments.
- G. No comments, as explained in para-2 of the facts.
- H. The Respondents would like to seek permission of this Hon'able Tribunal to advance more grounds during the time of arguments.

In view of the above, it is submitted that the Appeal may kindly be dismissed with cost, as this Appeal is time barred and the same facility has been discontinued by the Provincial Govt. Moreover, no post of BPS-16 (Selection Grade) exists in C&W Department.

  
Secretary to Govt of  
Khyber Pakhtunkhwa  
C&W Department  
(Respondents No. 1)

  
Chief Engineer (Centre)  
C&W Peshawar  
(Respondent No. 2)

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

Annex-7

(BETTER COPY)

GOVERNMENT OF NWFP  
FINANCE DEPARTMENT

No.FD(PRC)1-1/2003  
Dated Peshawar the April 6,2003

From Secretary to Govt. of NWFP  
Finance Department

To

1. All the Administrative Secretaries to Govt. of NWFP
2. Senior Member, Board of Revenue NWFP
3. The Secretary to Governor NWFP, Peshawar
4. The Secretary Provincial Assembly NWFP
5. All Heads of Attached Department, NWFP.
6. All District Coordination Officer/Political Agents/  
District and Session Judges NWFP
7. The Registrar Peshawar High Court Peshawar
8. The Chairman NWFP Public Service Commission.
9. The Chairman NWFP Service Tribunal Peshawar.
10. The Secretary Board of Revenue NWFP.Peshawar.

Subject:- REVISION OF BASIC PAY SCALE AND FRENCH BENEFITS OF CIVIL EMPLOYEES (BPS 1-22) OF THE NWFP GOVERNMENT (2001).

Dear Sir,

I am directed to refer to this Department's letter No.FD(PRC)1-1/2001 dated Nov: 15, 2001 on the subject noted above and to say that clarification given against Para-7 (i) and (ii) may be read as under:-

"The Selection and Moveover shall stand discontinued w.e.f. 1-12-2001 in stead of 27-10-2001. The clarification issued vide the above referred letter against Para 5(1) and Para 7 (i) & (ii) stand modified to this effect".

Yours faithfully,

-Sd/-  
(ABDUL LATIF)  
DEPUTY SECRETARY (REG.)

Dated Peshawar the, April 6, 2003

Endst: No.FD(PRC)1-1/2003

A copy is forwarded for information to:-

1. All Autonomous/Semi Autonomous Bodies/Corporation in NWFP

-Sd/-  
(ABDUL LATIF)  
DEPUTY SECRETARY (REG.)

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1667  
505

**IMMEDIATE**

**Annex-11**

**GOVERNMENT OF N.W.F.P.,  
ESTABLISHMENT DEPARTMENT**

NO.SO (PSB) ED/1-23/2002  
Dated Peshawar, the 3.7.2004

To

1. All the Administrative Secretaries in NWFP.
2. All the District Coordination Officers in NWFP.
3. All the Political Agents in the NWFP.
4. The Secretary Public Service Commission.
5. The Registrar, NWFP, Service Tribunal.

**SUBJECT: - CUT OFF DATE FOR DISPOSAL OF ALL LEFT OVER  
CASES OF MOVE-OVER/SELECTION GRADE**

Dear Sir,

1. I am directed to refer to this department letter of even number dated 9.6.2003, 30.1.2004 and 24.4.2004 on the subject noted above and to say that the competent authority has observed that a number of working papers regarding grant of move over and Selection Grade cases are still being received which indicates that decisions taken earlier have not been implemented with letter and spirit. In order to enable the Departments to process pending cases the competent authority has been pleased to extend the cut off date upto 31.8.2004. All left over cases of Government Servants who were eligible for Selection Grade/Moveover before 1.12.2001 may be placed before PSB/DPC for consideration as per instructions/policy on the subject at the latest otherwise strict disciplinary action would be taken against the defaulting official under the NWFP Removal from Service (Special Power) Ordinance 2000..The Administrative departments are also advised to furnish/weekly progress report about disposal of pending cases of Selection Grade/Move over through PSB/DPC on regular basis.

2. I am further directed to request that above instructions may kindly be followed by all concerned with letter and spirit.

Yours faithfully

(HAROON-UR-RASHID)  
SECTION OFFICER (PSB)


11/2/04  
3/7/04  
DSA  
HAROON-UR-RASHID  
SECTION OFFICER (PSB)  
667  
SOBI

Endst: No. NO.SO (PSB) ED/1-23/2002

Dated Peshawar, the 3.7.2004

A copy is forwarded to:-

1. The PS to Secretary Establishment Department Peshawar.
2. The PS to Secretary Administration Department Peshawar.
3. PAs to all Additional Secretaries/Deputy Secretaries in the Establishment and Administration Peshawar.
4. All Section Officer in the Establishment and Administration Department Peshawar.
5. The Section Officer (PR) Government of NWFP, Finance Department for information.

  
SECTION OFFICER (PSB)

N)  
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Annex-III

GOVERNMENT OF N.W.F.P.  
WORKS & SERVICES DEPARTMENT

105 39  
Annex III

Dated Peshawar the 04 / 09 / 2003

**ORDER**

No: SOE-I/W&S/4-2/2003/S.S Consequent upon recommendations of the Departmental Promotion Committee of the Works & Services Department during its meeting held on 12.08.2003, the competent authority has been pleased to the grant of Senior Scale (BS-16) in respect of the following Sub Engineers (BS-11) of the Works & Services Department, with immediate effect:-

1. Mr. Muhammad Arif,  
Sub Engineer O/o the XEN Dev:  
C&W Division Mattani at Kohat.
2. Mr. Missal Khan,  
Sub Engineer O/o the XEN Dev:  
C&W Division SWA at Tank.

SECRETARY TO GOVT OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst. No.SOE-I/W&S/4-2/2003/S.S

Dated Peshawar, the 04.09.2003

Copy forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer Works & Services Peshawar.
3. Chief Engineer Works & Services (FATA) Peshawar.
4. Managing Director Frontier Highways Authority Peshawar.
5. Deputy Secretary (Reg-III) Establishment Department Peshawar.
6. Deputy Secretary (Reg) Finance Department, Peshawar.
7. All Superintending Engineer W&S Department.
8. District/Agency Accounts Officers concerned.
9. Officials concerned.
10. PS to Secretary Works & Services Department.
11. PA to Additional Secretary Works & Services Department.
12. Section Officer (Estt-II) Works & Services Department.
13. Office Order/Personal files.

(MUHAMMAD AKBAR KHAN)  
SECTION OFFICER (ESTT-I)

GOVERNMENT OF N.W.F.P.  
WORKS & SERVICES DEPARTMENT

Dated Peshawar the 19/04/2004

**ORDER**

No: SOE-I/W&S/4-2/2004/S.S Consequent upon recommendations of the Departmental Promotion Committee of the Works & Services Department during its meeting held on 25/03/2004, the competent authority has been pleased to the grant of Senior Scale (BS-16) in respect of the following Sub Engineers (BS-11) of the Works & Services Department, with immediate effect:-

1.	Mr. Muhammad Shah, Sub Engineer O/o the Deputy Director- City Distt: Govt Peshawar.
2.	Mr. Buland Iqbal, Sub Engineer O/o the NEN Dev: C&W Division Khyber Agency at Jamrud.
3.	Mr. Hidayatullah, Sub Engineer O/o the Deputy Director-II, City Distt: Govt Peshawar.
4.	Mr. Sanaullah, Sub Engineer, O/o the Deputy Director W&S Lakki Marwat.
5.	Mr. Zafrullah, Sub Engineer O/o the Deputy Director W&S Nowshera
6.	Mr. Tariq Usman, Sub Engineer O/o the NEN Dev: C&W Division Khyber Agency at Jamrud.
7.	Mr. Muhammad Javed Rahim, Sub Engineer, O/o the Deputy Director W&S D.I. Khan.
8.	Mr. Jamshed Khan, Sub Engineer, O/o the Deputy Director W&S Bunair

SECRETARY TO GOVT OF NWFP  
WORKS & SERVICES DEPARTMENT

Encls. No. SOE-I/W&S/4-2/2004/S.S

Dated Peshawar, the 19/04/2004

Copy forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. AGPR, Sub Office, Peshawar.
3. Chief Engineer Works & Services Peshawar.
4. Chief Engineer (FATA) Works & Services Deptt Peshawar.
5. Managing Director Frontier Highways Authority Peshawar.
6. Deputy Director/XEN Works & Services concerned.
7. District/Agency Accounts Officers concerned.
8. Officials concerned.
9. PS to Secretary Works & Services Department.
10. Office Order/Personal files.

(NOORULLAH)  
SECTION OFFICER (ESTT-I)

Annex-IV

Annex-IV

SBE

2/27

1632  
3-12-2000

OFFICE OF THE CHIEF ENGINEER (NORTH)  
C&W DEPARTMENT N.W.F.P. PESHAWAR  
No. 75614 - E T 4574 JE-1(2)  
Dated Peshawar the 12/16/2000

FINAL SENIORITY LIST OF SUB ENGINEERS GRADE - II  
ON THE BASIS OF DATE OF APPOINTMENT IN THE  
DEPARTMENT AS IT STOOD ON 31-12-1999.

In pursuance of sub section (1) of section - (3) of NWFP Civil Servants Act 1973, Seniority list of Sub Engineers  
Grade - II of C&W Department NWFP, as it stood on 31-12-1999 is notified as under:-

Sl No	NAME	EDUL/TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING		REMARKS
							Grade-B Exam:	Proffi: Exam:	
1	Fazl Raziq - I S.C	B.A	Swat	5-4-43	7-61		11-91		
2	Gul Eaman S.C	Matric DAE (Civ)	Miranshah Agy	6-6-40	1-1-73				
3	Fazl Rehman S.C	Matric DAE (Civ)	Karak	9-8-42	1-1-74				
4	Fazl Rehman - II S.C	-do-	Peshawar	2-9-45	1-11-74				
5	Fazl Gul - I S.C	-do-	NW.A	20-6-51	12-12-74				

696

Section Officer  
Establishment  
W&S Department  
N.W.F.P.

Haji Shamsul Qamar, Advocate .....  
Mr. Tahir Iqbal A.G.P .....  
Mr. Waqar Ahmad Seth, Advocate .....  
For Respondents  
For Respondents  
No. 4,7,8,10 & 11

Sl No	NAME	EDUL/TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
6	Tariq Shah S/O	-do-	Kohat	5-2-54	13-10-75		8/94	
7A	Pir Shah Wali Shah S/O Mehmood Ayub Shah	-do-	SW.A	15-5-50	16-10-75		6/96	
8	M. Zahir Shah-II S/O Abdul Malik	-do-	Dir	3-11-50	27-11-76		6/96	
9	Israr Ahmad S/O M. Akbar Khan	-do-	Manshera	30-5-56	19-10-73			
10	Mian Islamud Din S/O Mian Hazrat Yousaf	-do-	Dir	5-4-55	25-10-78			
11	Mansoor Khan S/O Haji Mohib-ullah	-do-	Baran	8-4-52	9-11-78		6/96	
12	Hidayatullah Jan. S/O	Matric	Peshawar	21-6-45	2-12-78		1978	
13	Sahm Khan Afridi-II S/O	Matric	Jhelum	5-2-47	4-12-78		1978	
14	Muhammad Naseem S/O	Matric	Mardan	10-1-42	5-12-78		1978	Retired on 9-1-2002

*(Signature)*

Haji Shamsul Qamar, Advocate ..... For Appellant  
 Mr. Tahir Iqbal A.G.P ..... For Respondents  
 Mr. Waqar Ahmad Seth, Advocate ..... For Respondents



Sl. No.	NAME	EDUL TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
15	Nazir Ahmad S/O Riazullah	Matric/ DAE (Civ)	Malakand Agy:	10-12-54	17-12-78		6/96	
16	Taj Muhammad S/O Chamba Gul	do DAE (Civ)	Kohat	2-1-53	24-1-79		6/96	
	Muhammad Shah S/O Khawar Shah	do	Peshawar	2-5-57	7-2-79		6/96	
18	M Hayat Shah S/O S. Waheed Ali Shah	do	Kohat	14-4-57	8-2-79		11/91	
19	Muhammad Iqbal-I S/O Fazi Malik	do	Peshawar	8-2-58	8-2-79		6/96	
20	M. Jan S/O Mirhabibkhan	Matric S. Tech	Peshawar	13-5-56	22-2-79			
21	Sah. Nawaz Bafuch S/O	Matric DAE (Ee)	DIKhan	3-12-50	28-3-79			
	M. Habib ur Rehman S/O	Matric DAE (Civ)	Nowshera	1-11-59	20-6-79			

*M. Habib ur Rehman*

Haji Shamsul Qamar, Advocate ..... For Appellant  
 Mr. Tahir Iqbal A.G.P ..... For Respondents  
 Mr. Waqar ..... For Respondents  
 Seth ..... No. 4,7,8,10 & 11.

Sl. No.	NAME	EDUL TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
	Muhammad Sir III S/O Karim Bashir	DAE (Mech) <i>2</i>	Peshawar	12-9-56	17-3-79		8-94	
24	Muhammad Sayar S/O	<i>do</i> DAE (Civ)	Mardan	14-12-52	21-11-79			
25	Fazli Amin S/O M Ibrahim	<i>do</i>	Peshawar	6-2-56	26-11-79			
26	Daulat Khan S/O	<i>do</i>	N.W.A	9-3-58	5-11-79		11-91 4/93	
27	Zahir Gul S/O Sher Gul	<i>do</i>	Mardan	1-5-57	9-12-79		11-91 4/93	
	<i>Shamul Iqbal</i>	<i>do</i>	D.I.Khan	30-11-53	15-11-79		6-96	
29	Jamroz Khan S/O Chamar Khan	DAE (Mech)	Kohat	10-9-54	14-11-80		15-97 5/96	<i>hand</i>
30	Abdul Qayyum-I S/O Anwar Begh	DAE (Civ)	Khyber Agency	16-3-50	21-11-80		6-96	
31	Jehanzeb Khan-III S/O Rehmanullah	<i>do</i>	Swabi	1-10-56	23-11-80		11-91 4/93	

*Shamul Iqbal*

Haji Shamsul Qamar, Advocate  
Mr. Tahir Iqbal A.G.P.

For Appellant  
For Respondents

evaluating

SI No	NAME	EDUL TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
X-32	S. Muhammad Tariq S/O Amranimulk	Metric/DAE(C) -do-	Swat	4-4-58	30-1-30	-	1983 5/96	As Draftsman from 8-12-79 to 29
33	Mujtaba Kamal shah S/O Ghulam Mohd:shah.	-do-(E)	D.I.Khan	10-4-56	17-3-30	-	5/96 12/97	
34	Muhammad shafiq-II S/O Kala Khan	DAE (Civ)	Abbottabad	14-5-58	4-6-30	-	1-91 4/93	
4-35	<del>Shahid Hussain</del> S/O Ghulam Shah	DAE (Civ)	Peshawar	2-4-55	5-6-30	-	3/94 5/96	
36	Abdul Hamid-III S/O Abdul Qadus	-do-	Mkd. Agcy.	12-12-55	5-6-30	-		
37	Mutahir Khan S/O Muzaffar Khan	-do-	-do-	2-4-60	5-6-30	-		
38	Lal Badshah S/O Talab Din	-do-	-do-	14-5-57	7-6-80	-	8-91 5/96	
5-39	<del>Shahid Hussain</del> S/O Ghulam Shah	-do-	Bannu	2-2-58	7-6-80	-	11/91 5/96	
X-40	Shahid Pervaiz S/O Malik Dabwar Khan	-do-	Kohat	28-5-59	8-6-80	-	11/91 4/93	

5/52

... of the appellant was rejected. This order dated 27.2.2009

Haji Shamsul Qamar, Advocate  
Mr. Tabir Iqbal A.G.P.

For Appellant

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appellant

Sl. No.	NAME	EDUL/TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING.	REMARKS
X 41	Sanaullah-IV S/O Qadar Gul	Matric/D.A.E(C) -do-	Mirpur	31-5-54	10-6-80		11/91	
42	Fazilul Eisan S/O Fazal Karim	-do-	Peshawar	15-4-59	11-6-80		11/91 5/96	
X 43	Naushad Khan S/O Fair Mohd Khan	-do-	Peshawar	2-12-59	16-6-80		6/96 12/97	
44	Fazle Karim-III S/O Abdur Rahim	-do-	Kohat	6-3-52	17-6-80		11/91 4/93	
6-45	<del>Abdul Karim</del> <del>S/O Abdul Karim</del>	-do-	Peshawar	10-3-59	10-7-80		11/91	
46	Mohd. Saif Khan-II S/O Mohd. Safdar Khan	-do-	Nowshera	15-4-56	13-7-80		6/96	
47	Fazlullah-II S/O Nazirullah	-do-	Peshawar	24-9-60	14-7-80		11/91 5/96	
48	Fazle Mehmood S/O Mohammad Ismail	-do-	Banne	1-6-57	25-9-80		11/91	
X 49	Munir Khan S/O Munir Khan	-do-	Peshawar	1-10-52	1-10-80		6/96	

*[Handwritten signature]*

Haji Shamsul Qamar, Advocate  
Mr. Tahir Iqbal A.G.P.

For Appellant

For Respondents

... of the appellant was rejected.

Sl. No.	NAME	EDUL/TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
50	Usman Nabi S/O Ghulam Nabi	Matric (DAE(C)) -do-	Mardan	22-12-50	30-10-80	-	-	-
51	Muhammad Ikram-II S/O Muhammad Azam	-do-	-do-	30-9-52	4-11-80	-	8/94	5/96
52	Rahim Jan S/O H. Sher Zaman Nasa	-do-	Bannu	1-6-57	26-11-80	-	-	-
53	Sher Wali Shang S/O Amirzada Khan	-do-B. Tech.	Mardan	1-7-61	9-2-81	-	11/91	6/94
7	<del>Abdullah Khan</del> S/O <del>Abdullah Khan</del>	-do-	Karak	5-4-61	16-2-81	-	11/91	-
55	Noonul Basar S/O Inner Khitab	-do-B. Tech.	Peshawar	16-2-59	19-2-81	-	11/91	-
8	<del>Muhammad Rahim</del> S/O <del>Muhammad Rahim</del>	-do-	D.I. Khan	31-12-58	1-4-81	-	11/91	5/96
57	Nurul Amin S/O A. Rasid	-do-	Peshawar	23-4-60	4-4-81	-	8/94	-
58	Nisar Ahmad S/O H. Mir Sardar	-do-	NWA	15-6-50	8-6-81	-	6/96	-

*Reserve*

Haji Shamsul-Qamar, Advocate  
Mr. Tahir Iqbal A.G.P.  
Mr. Waqar Ahmad

For Appellant  
For Respondents

...grant was rejected.

7/52

Sl No	NAME	EDUL/TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
59	Malik Nawaz S/O Gul Daraz	Matric   B. Tech, -do-	Baru	3-4-58	9-6-81		1991	
60	Mr Sultan Sikandar S/O	Matric DAE (Mech.)	Peshawar	30-11-47	24-10-81		1987	
61	Inamul Haq S/O Shamsul Haq	Matric DAE (Civ.)		18-12-58	15-11-81		1991 4/93	
62	Zamul Abadin S/O Muhammad Adris	-do-	Mardan	6-4-61	15-11-81			
63	Irshad Ahmad Khan S/O Ial Muhammad Khan	-do-	Peshawar	23-9-61	18-11-81		1991	
64	Abdul Hakim S/O Fazal Ghafoor	-do-		9-6-54	22-11-81			
65	<del>Abdul Rahman</del> S/O Saifur Rehman	-do-	Mardan	21-3-56	22-11-81		1991	
66	M. Harid Zia S/O S. Muhammad Zia	-do-	Peshawar	1-7-61	22-11-81		1991 5/96	
67	Inamullah -I S/O Maizullah	DAE (Elec)	Dirkhan	24-2-57	5-12-81		1990 5/96	

Sl No	NAME	EDUC. TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
68	Inayat Zeb S/O Said Rehman	Metric DAE (Civ)	Swabi	16-1-62	8-12-81	-	11/91 5/96	-
69	Khalid Naseem S/O Muhammad Ajab	-do-	Abbottabad	1-10-61	9-12-81	-	11/91	-
70	Sarfraz Alam S/O Hakim Ali	-do-	Peshawar	30-12-56	16-12-81	-	11/91	-
X 71	Gul Malook X S/O Sher Jhang	-do-	Bannu	9-7-59	16-12-81	-	11/91 5/96	-
72	Sighbatulah S/O Hrvatullah	-do-	Peshawar	15-2-60	16-12-81	-	6/96 12/97	-
73	Muhammad Idris S/O Muhammad Ibrahim	-do-	D.I.Khan	1-6-62	16-12-81	-	8/91 5/96	-
74	Riaz Ahmad S/O Muhammad	-do-	Kohat	27-6-53	16-12-81	-	11/91	-
X 75	Karamullah X S/O Momullah	-do-	Bannu	29-3-61	16-12-81	-	11/91 5/96	-
76	Ghulam Qadir S/O Ghulam Haider	DAE (Civ)	D.I.Khan	3-3-58	14-1-82	-	11/91 5/96	-

Sl No.	NAME	EDUL/TECH. QUALIFICATION	HCME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
77	S. M. Ibrar Shah S/O H. Muhammad Shah	Matric	Kohat	15-3-56	16-1-82		1980	
78	Hassan Jan-I S/O Sarmad Jan	<del>do</del> DAE (Civ.)	D. Khan	14-11-60	16-1-82		11/91	
79	Niaz Muhammad S/O Muhammad Yousaf	<del>do</del>	Muzshera	27-6-61	17-1-82		11/91	
80	Mian Jehanzeb S/O Mian Yaqub Shah	<del>do</del>	Muzshera	15-3-61	31-1-82		11/91	
81	Yousaf Ali-III S/O Khaista Muhammad	<del>do</del>	Mardan	7-2-59	1-3-82		8/94 5/96	
82	Shah Dab Naseem S/O Mohd. Anwar Baig	<del>do</del>	Peshawar	1-3-59	1-2-82			
83	Wazira Khan	Matric	NWA	21-4-46	4-2-82		1980	
84	Abdul Rahim S/O Abdul Muqit	<del>do</del> DAE (Civ.)	Chitral	1.6.57	5.2.82		11/91	
85	S. Qasir Shah S/O Chiragh Shah	<del>do</del>	Kohat	29.4.60	6.2.82		11/91	

*Qasir*

1052



Sl No.	NAME	EDUC/TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
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	Munir Ahmad S/O Aftab Khan	M.Sc	SWAT	25.5.49	7.2.82		1990	
	Zahir Khan III S/O Zafar Shah	D.E (Civ)	Mardan	1.12.58	17.2.82		1996	
88	Manzoor Elahi S/O noor Elahi	D	Peshawar	20.9.62	19.2.82			
89	Roshid Amin S/O Fagnoor	D	Peshawar	16.2.58	1.3.82			
90	M. Shakil Akhtar S/O Muhammad Rousaf	D	D.I.Khan	1.11.60	18.3.82		11/91 4/93	
91	Ziaud Din S/O Muhammad Din	D.E (Civ)	D.I.Khan	26.6.60	18.5.82		11/91 5/96	
92	M. Khalil Noor S/O S.Noor Muhammad	D	D.I.Khan	15.7.61	18.5.82		11/91 5/96	
93	Abdul Khalil	D	D.I.Khan	1.4.57	22.8.82		11/91	
94	Ghulam Farid S/O Zardak Khan	D.E (Mech)	Abad	13.4.58	30.8.82		1987 8/93	
					11/52			

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Sl No	NAME	EDUL/TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
95	Arif Saeed Malik S/O Malik Ghulam Sadiq	M. Sc / DAE (M) Do	D. Khan	29.7.59	14.10.82		11/91 5/96	
96	Abdul Qayyum Awan S/O Malik M. Daud	Do	Wasehra	2.6.58	1.1.82		1982 4/93	
97	M. Nani S/O M. Yousaf	Do	D. Khan	15.4.62	25.1.83		8/94 5/96	
98	Farooq Rousaf S/O Muhammad Yousaf	Do	Wasehra	30.4.57	1.2.83		11/91	
99	Muhammad Zarif S/O H. Mohd. Roz Khan	Do	D. Khan	15.4.59	12.2.83			
100	Zulfikar Ahmad S/O Muhammad Iqbal	BSC / DAE Do	Wasehra	1.4.59	1.3.83		11/91 4/93	
101	M. Shan S/O	M. Sc Do	D. Khan	12.4.40	26.1.83		1980	
102	Bashir Ahmad III S/O Ghulam Abbas	Do	D. Khan	1.2.41	1.3.83		1981	

100

Sl No.	NAME	EDUL/TECH QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
103	S. Abdullah Shah S/O S. Hazrat Shah	Matric DAE (Civ)	Peshawar	25-7-59	12-83		11/91	196
104	Ghulam Mohammad S/O	Matric	D.I. Khan	21-9-41	11-83		1981	
105	Inayatullah S/O Nekam Khan	do	SWA	1-1-47	29-83		1980	
106	Zewar Din S/O Rehmanud Din	DAE (Elec)	Peshawar	19-8-58			1987	193
107	Zamir Jang S/O Sherzada	DAE (Civ)	Swabi	1-12-59	10-84			
108	M. Sadiq Salim S/O Gul Sher	do	Mansehra	1-1-55	10-84			
109	Ifkhar Babar S/O Fazal Elahi	do	Nowshera	22-2-62	10-85		11/91	
110	Ghulam Haider Baloch S/O	Matric	D.I. Khan	11-11-48	5-85		1979	
111	Shah Nawaz S/O	F.Sc	SWA	1-1-49	5-85		1981	

*Handwritten signature or mark*

Sl. No	NAME	EDUL/TECH. QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING	REMARKS
112	Naseem Ahmad Shah S/O Hazrat Shah	Matric DAE (Civ.)	Peshawar	10-12-63	19-5-85		86/96	
113	Muhammad Wazir S/O M. Rashid Khan	do	Dur	2-5-59	6-9-85		86/96	
114	Muhammad Arun S/O	Matric	D. I. Khan	12-2-48	18-10-85		1984	
115	Ghazni Ruffan S/O Shafiqullah	DAE (Civ.)	Bannu	4-5-64	21-10-85		86/96	
116	Ibadullah S/O Mubammad Naim	FSc. DAE (Civ.)	Charsadda	16-1-62	22-10-85		88/94 85/96	
117	Sarifullah S/O Wahzar Khan	Matric DAE (Civ.)	Kohat	5-1-60	23-10-85		11/91 14/95	
118	M. Shafiq III S/O Abdq. Khaliq	do	Nkd. Agcy	18-1-62	25-10-86			
119	Irshad Uynad S/O Sardar Kala Khan	do	Abbtabad	16-4-61	24-10-86		86/96	
120	Vudasar Saghir S/O Malik Ghulam Rasul	do	Kohat	3-5-56	4-11-86		11/91	

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

Service Appeal No. 506 /2013

Mr. Mohammad Wazir                      V/S              C&W Department  
.....

**REJOINDER ON BEHALF OF APPELLANT**

.....  
**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-6)              All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1              Admitted correct by the respondents, so no comments.
- 2              Incorrect and misconceived. The grant of BPS-16 was not selection grade rather the senior scale provided in the rule at that time. Moreover, the appellant can not be punished for fault of other because providing complete record was the duty of the concerned offices and not of the appellant. The appellant was and is legally entitled for his claim which can not be denied.
- 3              Admitted correct by the respondents, so no comments.
- 4              Admitted correct by the respondents, so no comments.

**GROUND:**

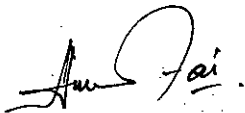
- A)              Incorrect, while Para-A of appeal is correct. Moreover, as explained in Para-3 of this rejoinder.

- B) Incorrect, while Para-B of appeal is correct. Moreover, being a recurring cause of action the limitation factor would not attract in the matter.
- C) Incorrect, while Para-C of appeal is correct. The appellant has been discriminated through-out.
- D) Incorrect, while Para-D of appeal is correct. Moreover, as explained in Para-2 and B of this rejoinder.
- E) Incorrect, while Para-E of appeal is correct.
- F) No comments endorsed by the respondents, which means that they have admitted correct Para-F of the Ground of Appeal.
- G) No comments endorsed by the respondents, which means that they have admitted correct Para-G of the Ground of Appeal.
- H) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT  
Mohammad Wazir

Through:

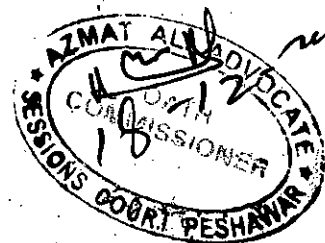
  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

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

  
DEPONENT

**ATTESTED**



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

Service Appeal No. \_\_506\_/2013

Mr. Mohammad Wazir                      V/S                      C&W Department  
.....

**REJOINDER ON BEHALF OF APPELLANT**

.....  
**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-6) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct by the respondents, so no comments.
- 2 Incorrect and misconceived. The grant of BPS-16 was not selection grade rather the senior scale provided in the rule at that time. Moreover, the appellant can not be punished for fault of other because providing complete record was the duty of the concerned offices and not of the appellant. The appellant was and is legally entitled for his claim which can not be denied.
- 3 Admitted correct by the respondents, so no comments.
- 4 Admitted correct by the respondents, so no comments.

**GROUND:**

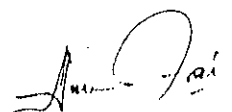
- A) Incorrect, while Para-A of appeal is correct. Moreover, as explained in Para-3 of this rejoinder.

- B) Incorrect, while Para-B of appeal is correct. Moreover, being a recurring cause of action the limitation factor would not attract in the matter.
- C) Incorrect, while Para-C of appeal is correct. The appellants have been discriminated through-out.
- D) Incorrect, while Para-D of appeal is correct. Moreover, as explained in Para-2 and B of this rejoinder.
- E) Incorrect, while Para-E of appeal is correct.
- F) No comments endorsed by the respondents, which means that they have admitted correct Para-F of the Ground of Appeal.
- G) No comments endorsed by the respondents, which means that they have admitted correct Para-G of the Ground of Appeal.
- H) Legal.

It is, therefore, most humbly prayed that the appeal of appellants may kindly be accepted as prayed for.

APPELLANT  
Mohammad Wazir

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

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

  
DEPONENT

**ATTESTED**

