Service Appeal No. 507/2013

28.08.2018 Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 16.10.2018 before D.B.

(Ahmad Hassan)
Member

(Muhammad Amin Khan Kundi)
Member

16.10.2018 Appellant absent. Learned counsel for appellant absent. Mr. Zia Ullah learned Deputy District Attorney present. Case called but neither the appellant appeared nor his counsel turned up. Consequently the present service appeal is dismissed in default. File be consigned to the record room.

Member

Member

ANNOUNCED.
16.10.2018

20.03.2018 Clerk counsel for the appellant and Mr. Muhammad Jan, learned Deputy District Attorney for the respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for arguments on 24.05.2018 before D.B

(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member

24.05.2018 Clerk of the counsel for appellant and Addl: AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 25.07.2018 before D.B.

(Muhammad Amin Khan Kundi)
Member

25.07.2018 Since 25.07.2018 has been declared as public holiday on account of General Election. Therefore, case is adjourned on 28.08.2018 before D.B

READER

02.10.2017 Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24.11.2017 before D.B.

Member (Executive)

Member (Judicial)

24.11.2017 Counsel for the appellant present. Learned District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourn. To come up for argument on 2-2-18 before D.B.

(Gul Zeb Khan)
Member

(Muhammad Hamid Mughal)
Member

02.01.2018 Agent to counsel for the appellant and Mr. Usman Ghani, Learned District Attorney for the respondents present. Agent to counsel for the appellant seeks adjournment as counsel for the appellant is not available. Adjourned. To come up for arguments on 20.03.2018 Before D.B

(Muhammad Amin Kundi)
MEMBER

(Muhammad Hamid Mughal)
MEMBER

12.05.2016 No one present on behalf of the appellant. Mr. Muhammad Jan, GP for respondents present. Notices be issued to the appellant and his counsel. To come up for arguments on 30.09.2016 before D.B.

Member Chairman

30.09.2016 No one present on behalf of the appellant. Mr. Muhammad Jan, GP for respondents present. Notices be issued to the appellant and his counsel. To come up for arguments on 8/12/2017 before D.B.

Member Chairman

08.02.2017 Clerk counsel for appellant and Mr. Ziaullah, GP for respondents present. Clerk counsel for appellant requested for adjournment due to non-availability of learned counsel for appellant today before the Tribunal. Adjourned. To come up for arguments on 13.06.2017 before D.B.

(ASHFAQUE TAJ)
MEMBER

(MUHAMMAD AAMIR NAZIR)
MEMBER

13.06.2017 Clerk of the counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 02.10.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

20.2.2015 Clerk of counsel for the appellant and Mr. Muhammad Jan, GP with Sultan Shah, Assistant for the respondents present. Request made on behalf of the appellant for adjournment, therefore, case is adjourned to 19.8.2015 for arguments.

Member Member

19.08.2015 Appellant in person and Addl: A.G for respondents present. The learned Member (Executive) is on official tour to Abbottabad as well as non-availability of learned counsel for the appellant, therefore, case is adjourned to 14.12.2015 for arguments.

Member

14.12.2015 Mr. Dannies junior to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Senior counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Requested for adjournment. To come up for arguments on 10.5.2016

MEMBER MEMBER

10.5.2016 Counsel for the appellant and Addl. AG for the respondents present. Learned counsel for the appellant submitted application for requisitioning the working papers and minutes of P.S.B dated 08.12.2007. Respondents shall produce copy of the said documents duly attested on or before the next date of hearing. To come up for final hearing before D.B on 22.08.2016.

Member Chairman

12.2.2014 Neither appellant nor counsel for the appellant present. Mr.Sultan Shah, Assistant with AAG for the respondents present. Written reply on behalf of respondents received, copy whereof be handed over to the appellant/counsel for the appellant for rejoinder on 15.5.2014.

Chairman

15.5.2014 Mr. Muhammad Javed, appellant in the connected appeal, on behalf of the appellant and AAG for the respondents present. Rejoinder has not been received, and request for further time made on behalf of the appellant. To come up for rejoinder alongwith connected appeals on 26.8.2014.

Chairman

26.08.2014 Clerk of counsel for the appellant and Mr. Sultan Shah, Assistant for the respondents with AAG present. Rejoinder alongwith application for requisitioning working paper of PSB dated 08.12.2007 regarding promotion, received on behalf of the appellant, copies whereof are handed over to the learned AAG for production of requisite record and arguments alongwith connected appeals on 20.2.2015.

CHAIRMAN

Appeal No. 507/2013.
Mr. Ahmad Khan.

5. 20.08.2013 Appellant with counsel present and heard on preliminary. Contended that the appellant has not been treated in accordance with the law/rules. The impugned appellate order dated 31.01.2013 showing no legality and was received on 04.02.2013. He filed the instant appeal on 28.02.2013 which is within time. He further argued that under the law the appellant is entitled to be promoted as PCS (EG) in BPS-18 from 08.12.2007 when the regular post of PCS (EG) fell vacant and not from 09.10.2012. 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, notice be issued to the respondents. Case adjourned to 29.11.2013 for submission of written reply.

Appellant deposited Security & process fee Rs 640/- Bank receipt is attached with file

Member.

6. 20.8.2013 This case be put before the Final Bench for further proceedings.

Chairman

29.11.2013 Mr.Muhammad Javed, appellant in the connected appeal, on behalf of the appellant and Mr.Sultan Shah, Assistant on behalf of the respondents with AAG present. To come up for written reply/comments on 12.2.2014.

Chairman

3. 26.4.2013 No one is present on behalf of the appellant. In pursuance of the judgment of the august Supreme Court of Pakistan in constitution petition No. 53 of 2007 & constitution petition No. 83 of 2012 titled Sh. Riaz-ul-Haq, Advocate Supreme Court and an other-vs-Federation of Pakistan through Ministry of Law, etc, the case is adjourned on note Reader for proceeding as before on 25.6.2013.

Reader

4. 25-6-2013. None for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 20.8.2013.

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. **507/2013**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/02/2013	The appeal of Mr. Ahmad Khan presented today by Mr. Shakeel Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing. REGISTRAR
2	18-3-2013	This case is entrusted to primary Bench for preliminary hearing to be put up there on 26-4-2013. CHAIRMAN

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 507 /2013

Ahmad Khan.....**Appellant**

VERSUS

Govt of KPK and others.....**Respondents**

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5.	Copy of judgment dt.24.05.2012 of Apex Court	B	15-20
6.	Copy of Notification dt.25.07.2012	C	21-23
7.	Copy of Notification dt.09.10.2012	D	24-25
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10.	Wakalat Nama		

Through Appellant

Shakeel Ahmad
Advocate, Peshawar

Date: __/__/2013

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BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 507 /2013

Ahmad Khan, PCS(E.G) BS-18
Deputy Secretary Law & Order,
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar.....**Appellant**

VERSUS

1. Govt of KPK
   through Secretary Establishment Department,
   Peshawar

2. Govt of KPK
   through Chief Secretary, Peshawar.....**Respondents**

Service Appeal u/s 4 of the KPK Service Tribunal Act, 1974 against the impugned Notification No.SO(E-I)E&AD /4-2/2012 dated 09.10.2012, whereby the appellant was promoted on regular basis with immediate effect instead of 08.12.2007 and order No.489/2013 dated 31.01.2013 vide which departmental appeal of the appellant was filed

Respectfully Sheweth:

Short facts giving to the present appeal are as under:

1. That in earlier round of litigation the appellant brought an appeal before the Service Tribunal, KPK stating therein that he belongs to PSC (EG), he was promoted as Tehsildar on regular basis vide order dated 28.12.1988, he was lastly promoted in PCS(EG) BPS-17 on temporary basis vide Notification dated 06.03.1996, he was promoted to BPS-17 on regular basis on 19.02.2008 in PMS Group/ Cadre with immediate effect, during this period many posts became vacant in PCS(E.G), but instead of ante-dating the promotion of the appellant in BPS-17 (EG) i.e. the date on which the vacancy fell vacant and he became entitled for promotion on his turn in the seniority list of PCS(EG), after exhausting departmental appeal, the appellant filed service appeal before the Service Tribunal, KPK, which was allowed vide order dated 13.03.2009, the relevant portion of the judgment is reproduced below:

"We accept both the appeals, and direct the official respondents of each of the two appellant in the respective dates on which a vacancy become available for the respective turn of the appellant or from the respective dates of their taking charge of such vacancy on officiating / acting charge basis,

which ever is later. The appellants were entitled to the costs of their respective litigation from the official respondents". (Copy of judgment is Annexure "A").

2. That not satisfied with the judgment of KPK Service Tribunal dated 11.03.2009, the respondents filed appeal before the Apex Court which was dismissed vide judgment dated 24.05.2012. (Copy of judgment is Annexure "B").

3. That ultimately the respondent No.2 ante-dated the promotion of the appellant with all back benefits/ consequential benefits and re-designated the post as PCS(EG) BPS-17 vide Notification NO.SOE-II/(ED)2(423)/2010/Vol-II dated 25.07.2012.

4. That the appellant was promoted in BPS-18 on regular basis in PCS(E.G) vide Notification dated 09.10.2012, but with immediate effect instead of w.e.f. 08.12.2007, though he was entitled to be promoted on 08.12.2007 as many permanent vacancy in BPS-18 was lying vacant since 08.12.2007, it is wroth mentioning that PSB was held o n08.12.2007, in which 17 officers were promoted in BPS-18 in PCS(E.G) out of 27 vacant posts in BPS-18 in PCS(E.G), 10 seats left vacant in PCS(E.G) in Grade-18 since in promotion of BPS-17 was ante-dated w.e.f. 01.06.2000 vide Notification dated 25.07.2012 and his name appears at Serial No.6 in the said notification, therefore, he was eligible to be

promoted in BPS-18 in PCS(E.G) when the PSB was held on 08.12.2007 and he was left from promotion, hence, feeling aggrieved, the appellant filed departmental appeal, which was filed vide order dated 31.01.2013, therefore, the appellant approaches this Honourable Tribunal, inter alia, on the following grounds:

GROUNDS:

A. That the act of respondents, not promoting the appellant from the date of their entitlement in the light of the judgment is illegal, without lawful authority, without jurisdiction and violative of the judgment of Service Tribunal and Apex Court quoted above, therefore, the notification dated 09.10.2012 is liable to be modified in the above terms.

B. That the respondents have committed a legal error by not promoting the appellant from the date when the permanent vacancy fell vacant, particularly, when there was no legal impediment on the way of promotion, therefore, the respondents acted in disregard of law and judgments of the superior courts, warrants interference.

C. That it was within the preliminary power of the government under the law to promote the appellant since 01.06.2000 when the present post of PCS (EG) fell vacant i.e. 01.06.2000 by not doing so the

respondents have not acted in accordance with law, therefore, warrants interference.

D. That the appellant worked as PCS (EG) BPS-17 continuously for long (since 06.03.1996) without any break, therefore, the respondents are under legal obligation to promote the appellant from the date when the permanent vacancy fell vacant.

E. That under the law the appellant is entitled to be promoted as PCS (EG) in BPS-18 from 08.12.2007 when the regular post of PCS (EG) fell vacant and not from 09.10.2012.

F. That a large number of posts in BPS-18 PCS (EG) were lying vacant and the appellant was entitled for promotion, he was not promoted in due time, which speaks of malafide on the part of respondents.

G. That the appellant was not promoted in BPS-18 PCS(EG) for no fault of him.

H. That the respondents are under legal obligation to ante-date the promotion of appellant in BPS-18 PCS(EG).

I. That the appellant is entitled to be promoted in Grade-18 in PCS(E.G) after 5 years regular service in BPS-17 in the light of Notification dated 25.07.2012.

J. That even otherwise, the notification of promotion of the appellant in Grade-18 in PCS(E.G) with immediate effect offends the law laid down by the Honourable Service Tribunal and Apex Court in the earlier round of litigation, which resulted in gross miscarriage of justice, warrants interference.

K. That promotion of appellant in BPS-18 in PCS(E.G) w.e.f. 08.12.2007 will not effect anyone.

L. That the appellant seeks leave of this Honourable Tribunal to raise/ argue any additional point at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this service appeal, this Honourable Tribunal may graciously be pleased to declare the impugned Notification No.SO(E-I)E&AD /4-2/2012 dated 09.10.2012 to the extent of promotion with immediate effect instead of i.e. 08.12.2007 when the permanent posts in BPS-18 in PCS(EG) was lying vacant and PSB was held, as illegal, without lawful authority, without jurisdiction and violative of the judgment of Service Tribunal and Apex Court quoted above and the respondents be directed to promote the appellant in BPS-18 PCS(EG) from the date when the permanent vacancy in BPS-18 PCS(EG) fell vacant i.e. 08.07.2012 according to his entitlement.

Appellant

Through

Shakeel Ahmad
Advocate, Peshawar

Date: __/__/2013

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BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No._____/2013

Ahmad Khan.....**Appellant**

VERSUS

Govt of KPK and others.....**Respondents**

AFFIDAVIT

I, Ahmad Khan, PCS(E.G) BS-18, Deputy Secretary Law & Order, Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

KHALID MAHMOOD ADVOCATE ★ ATTESTED ★ OATH COMMISSIONER PESHAWAR HIGH COURT

28-2-13

DEPONENT

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BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No._____/2013

Ahmad Khan.....**Appellant**

V E R S U S

Govt of KPK and others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:

Ahmad Khan, PCS(E.G) BS-18
Deputy Secretary Law & Order,
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar

RESPONDENTS:

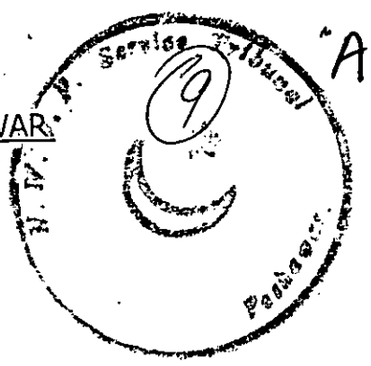
1. Govt of KPK
   through Secretary Establishment Department,
   Peshawar

2. Govt of KPK
   through Chief Secretary, Peshawar

Through Appellant

Shakeel Ahmad
Advocate, Peshawar

Date: __/__/2013



"A"

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 612/2008

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

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

VERSUS

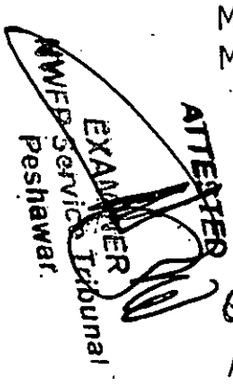
1. Government of NWFP through Secretary Establishment Department, Peshawar.
2. Govt. of NWFP through Chief Secretary, Peshawar. (Respondents)

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

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

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

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



JUDGMENT

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

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

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

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

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

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

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Attested
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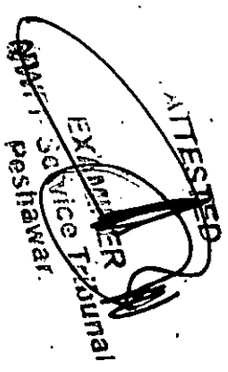
seniority lists of officers of PCS (E.G). His departmental appeal was rejected on 22.03.2008. The present appeal was filed on 16.4.2008 which is within time. The case of Ahmad Khan (Appellant) is similar to the case of Muhammad Iqbal Khattak on facts also. His appeal is also within time.

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

4. We heard the arguments and perused the record.

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



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

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

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

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

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

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

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

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

ATTESTED

EXAMINER
NWFP Service Tribunal
Peshawar

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

Sd/- Justice (R) Salim Khan Chairman

Sd/- Bismillah Shah Member

ANNOUNCED
11.03.2009

Certified to be true copy

Reader
NWFP Service Tribunal
Peshawar

Date of presentation of application	13-4-09
Number of words	2400
Copying fee	14/-
Urgent	2/-
Total	16/-
Name of copyist	
Date of completion of copy	13-4-09
Date of delivery of copy	13-4-09

Attested

(15)

"B"

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:
MR. JUSTICE EJAZ AFZAL KHAN.
MR. JUSTICE MUHAMMAD ATHER SAEED.

C. As. No. 860 to 861 of 2010.
(On appeal against the judgment dt. 11.3.2009 passed by NWFP Service Tribunal, Peshawar in Appeals No. 612 and 613 of 2008).

Govt. of NWFP thr. Secy. Establishment and another. (in both cases)
...Appellants

Versus.

Muhammad Iqbal Khattak. (in CA.860/10)
Ahmed Khan. (in CA.861/10)
...Respondents

For the appellants: Mian Muhibullah Kakakhel, Sr.ASC.
Miss. Tehmina Muhibullah, ASC.
Mir Adam Khan, AOR.
(in both)

For the respondents: Hafiz S. A. Rehman, Sr.ASC.
Mr. Shakeel Ahmed, ASC
(in both).

Date of hearing: 24.05.2012.

JUDGMENT

EJAZ AFZAL KHAN, J. --- These appeals with the leave of the Court have arisen out of the judgment dated 11.3.2009 of the Service Tribunal whereby appeals filed by the respondents were allowed.

2. The points raised and noted while granting leave read as under:-

> "We have heard the learned counsel at some length. We are inclined to grant leave inter-alia on the point as to whether the legal and factual aspects of the controversy have been dilated upon and decided by the Tribunal in accordance with relevant Rules i.e. Rule 8 of the NWFP, Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 and Rule 9(6) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. It is also to be examined as to whether that stop-gap-arrangement can be equated to that of regular promotion and besides that the order passed by the learned Service Tribunal could be made applicable to all

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Supreme Court of Pakistan
ISLAMABAD

Tehsildars who are awaiting their promotion. Since a short question of law is involved in the matter, therefore, the case be listed after four weeks subject to limitation. In the meanwhile operation of the impugned judgment shall remain suspended".

3. Learned counsel appearing on behalf of the appellants contended that though the Governor of the Province in consultation with the Provincial Selection Board was pleased to order the promotion of the respondents in BPS-16 as Extra Assistant Commissioner in BPS-17 in the Ex-PCS (E.B) Cadre with immediate effect on purely temporary basis vide notification dated Peshawar 6th March, 1996, yet it could not earn them any benefit or entitle them to a vested right notwithstanding they have been promoted on regular basis with immediate effect vide notification dated 19.2.2008. They, the learned counsel added, could not have claimed any ante-dated promotion even on the occurrence of any vacancy in such scale in violation of Section 8 of the Civil Services Act or Rule 9 of NWFP Civil Service (Executive Group) Rules, 1997, as decidedly promotion is not a vested right. Appeal before the departmental authority, the learned counsel added, or before the Tribunal claiming ante-dated promotion was, therefore, misconceived. The learned Tribunal, the learned counsel maintained, could not have allowed such appeal when it tended to mar the seniority of many others in the run. The learned counsel to support his contention placed reliance on the cases of "Wajahat Hussain, Assistant Director, Social Welfare, Lahore and 7 others. Vs. Province of the Punjab, through Secretary, Social Welfare and Zakat, Lahore and 81 others" (PLD 1991 S.C. 82), "Sh. Anwar Hussain, Assistant Director, Labour Welfare, Lahore Region, Lahore. Vs. Government of the Punjab through Secretary, Labour Department and others" (1985 SCMR 1201), "Nazeer Ahmed. Vs. Government of Sindh through Chief Secretry Sindh, Karachi and 2 others" (2001 SCMR 352), "Government of Pakistan through Establishment

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Supreme Court of Pakistan
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(17)

Division, Islamabad and 7 others. Vs. Hameed Akhtar Niazi, Academy of Administrative, Walton Training, Lahore and others" (PLD 2003 S.C. 110). The learned counsel next contended that a change in scale by means of promotion is not automatic but dependent on a process involving selection, therefore, any change in scale without such process being violative of the relevant law and rules, cannot be maintained. The learned counsel to support his contention placed reliance on the case of "Abid Hussain Sherazi. Vs. Secretary M/o Industries and Production, Government of Pakistan, Islamabad" (2005 SCMR 1742).

4. As against that learned counsel appearing on behalf of the respondents defended the impugned judgment by contending that where a vacancy occurs in the next higher scale, the Civil Servant officiating or working on acting charge basis thereagainst is not considered for promotion or the process of regular promotion is delayed on account of lethargic attitude of the competent authority or any other exigency so-called, the Civil Servant who is subsequently found fit for such promotion on regular basis cannot be deprived of the salary and other consequential benefits attached to such post. Learned counsel to support his contention placed reliance on the case of "Luqman Zareen and others. Vs. Secretary Education, NWFP and others" (2006 SCMR 1938). The learned counsel next contended that though the NWFP Civil Service (Secretariat Group) Rules, 1997 have been substituted by the NWFP Provincial Management Service Rules, 2007 but the rights of the existing incumbents of both the cadres have been protected by Rule 8 of the latter, therefore, the change in rules would not affect the service structure of the respondents or rights accruing thereunder. The learned counsel next contended that if the concluding paragraph of the impugned judgment is read none of the rights of any of the officers including their seniority has been affected.

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5. We have gone through the entire record carefully and considered the submission of the learned counsel for the parties.

6. The record reveals that the Governor of the Province in consultation with the Provincial Selection Board was pleased to order the promotion of the respondents working in BPS-16 as Extra Assistant Commissioner in BPS-17 in Ex-PCS (E.B) Cadre. The respondents were, no doubt, promoted on temporary basis in the year 1996, all the same, what stands out to be taken notice of is, that it was not done without considering their eligibility and without involving the process of selection as is evident from the order itself. When asked whether the respondents were deficient in terms of qualification or experience to hold the post in the next higher scale, at the time they were promoted temporarily, the reply of the learned counsel for the appellant was in no. When asked whether there was any impediment in the way of the respondents to be promoted to the next higher scale, at the time when a vacancy or two occurred in the said scale, again the answer was in no. When asked what restrained the appellants to defer or delay the process of selection to fill one or any number of vacancies occurring from time to time in the next higher scale, the reply of the learned counsel was that it was because of confusion created by the devolution plan. This answer, to say the least, is too vague to be plausible. When asked who was senior to the respondent and whose right of ranking senior has been affected or impaired by the impugned judgment, again the learned counsel could not refer to anything on the record.

8. There is no dispute with the proposition that the terms and conditions of the service of the respondents, in view of the provision contained in Rule 8 of NWFP Civil Service (Secretariat Group) Rules, 2007, shall continue to be governed by the erstwhile rules. 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. In the case of

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Superintendent
Supreme Court of Pakistan
ISLAMABAD

"Luqman Zareen and others. Vs. Secretary Education, NWFP and others" (2006 SCMR 1938), this Court while dealing with an identical issue held as under :-

> *"It is then a position admitted on all sides that nothing existed in the way of the petitioners on 31.8.2000 which could have disentitled them to regular promotion to the posts in question and that it was only the usual apathy, negligence and bureaucratic red-tapsim which had deprived the petitioners of the fruits that they deserved. The petitioners could not be permitted to be punished for the faults and inaction of others. We are of the view that where a post was available against which a civil servant could be promoted; where such a civil servant was qualified to be promoted to such a higher post; where he was put on the said higher post on officiating or acting charge basis only because the requisite exercise of allowing the regular promotion to the said post was being delayed by the competent authority and where he was subsequently, found fit for the said promotion and was so promoted on regular basis then he was entitled not only t the salary attaching to the said posts but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis and we hold accordingly".*

While dealing with the reservations of the nature expressed by the learned counsel for the appellant, this Court held as under :-

> *"A bare perusal of these judgments would thus, show that this Court had always accepted the principle that a person who was asked to hold a higher post to which he was subsequently promoted on regular basis, was entitled to the salary etc, attaching to such a post for the period that he held the same; that he would also be entitled to any other benefits which may be associated with the said post and further that if a vacancy existed in a higher cadre to which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead put on the said post on officiating basis then on his regular promotion to the said post, he would be deemed to have been so promoted to the same from the date from*

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Supreme Court of Pakistan
ISLAMABAD

which he was allowed to hold the said higher post unless justifiable reasons existed to hold otherwise".

When this being the state of things on factual and legal plain, we don't think the judgment of the learned Service Tribunal is open to any exception. The judgments rendered in the cases of "Wajahat Hussain, Assistant Director, Social Welfare, Lahore and 7 others. Vs. Province of the Punjab, through Secretary, Social Welfare and Zakat, Lahore and 81 others", "Sh. Anwar Hussain, Assistant Director, Labour Welfare, Lahore Region, Lahore. Vs. Government of the Punjab through Secretary, Labour Department and others", "Nazeer Ahmed. Vs. Government of Sindh through Chief Secretry Sindh, Karachi and 2 others", "Government of Pakistan through Establishment Division, Islamabad and 7 others. Vs. Hameed Akhtar Niazi, Academy of Administrative, Walton Training, Lahore and others" and "Abid Hussain Sherazi. Vs. Secretary M/o Industries and Production, Government of Pakistan, Islamabad", (supra) cited by the learned counsel for the appellants are not applicable to the case in hand because of their distinguishable facts and features.

9. For the reasons discussed above, these appeals being without merit are dismissed.

Sd/- Ejaz Afzal Khan, J
Sd/- Muhammad Athar Saeed, J

SEAL OF THE SUPREME COURT OF PAKISTAN

Islamabad.
21st May, 2012.
'Not Approved for Reporting'

Certified to be True Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

Allahabad

SR No:	5828/12 Civil/Criminal
Date of Presentation:	25-5-12
No. of Words:	1800
No. of folios:	18
Requisition Fee Rs:	5.00
Copy Fee in:	11.16
Court Fee stamps:	16.16
Date of Completion of Copy:	31/5/12
Date of delivery of Copy:	31/5/12
Compared by:	Sh. Rizwan Nawaz Adv.
Received by:	

(21) "C"

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the July, 25. 2012

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-17officer 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

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21.	Mr. Naeem Anwar Khan	09.04.2002
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. Khaista 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 Yousafzai	16.02.2007
61.	Mr. Ihsanullah	16.02.2007
62.	Mr. Ghulam Habib	

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN.

A copy is forwarded to:-

1. Additional Chief Secretary, Planning & Dev. Department, Khyber Pakhtunkhwa.
2. Additional Chief Secretary(FATA), FATA Secretariat.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All District Coordination Officers in Khyber Pakhtunkhwa.
9. All Political Agents in FATA.
10. Accountant General, Khyber Pakhtunkhwa.
11. Accountant General(PR) Sub Office, Peshawar.
12. All District Accounts Officers in Khyber Pakhtunkhwa.
13. All Agency Accounts officers in FATA.
14. Officers concerned.
15. P.S to Chief Secretary, Khyber Pakhtunkhwa.
16. P.S to Secretary Establishment, Khyber Pakhtunkhwa.
17. P.S to Special Secretary(Estt) Establishment Department.
18. PAs to AS(E)/AS(HRD)/DS(E) Establishment Department.
19. Office order file.

(TABASSUM)
SECTION OFFICER(E-II)

IHSAN AFRIDI

cc

(24)

TO BE SUBSTITUTED WITH THE NOTIFICATION BEARING SAME NO. & DATE

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar, the October 9, 2012

NOTIFICATION

NO.SO(E-I)E&AD/4-2/2012. Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following officers of (PCS EG)from BS-17 to BS-18, on regular basis with immediate effect:-

S. #.	NAME OF OFFICER
1.	Mr. Muhammad Farooq
2.	Mr. Ahmad Khan Orakzai
3.	Mr. Muhammad Iqbal Khattak
4.	Mr. Muhammad Javed
5.	Mr. Azam Jan Khalil
6.	Mr. Ahmad Jan Afridi
7.	Mr. Tahir Muhammad
8.	Mr. Muhammad Fakhruddin
9.	Mr. Farzand Ali
10.	Mr. Qaiser Khan
11.	Mr. Naeem Anwar
12.	Mr. Damsaz Khan
13.	Mr. Habibullah Wazir
14.	Mr. Zafar Ali Khan
15.	Mr. Abdul Mateen
16.	Mr. Akbar Jalal
17.	Mr. Shams-ul-Alam
18.	Mr. Fazal Rehman
19.	Mr. Rashid Mehmood
20.	Mr. Muhammad Jamil
21.	Mr. Khurshid Anwar
22.	Mr. Perhezgar Khan
23.	Mr. Mushtaq Ahmad
24.	Syed Ismail Ali Shah
25.	Mr. Ahmad Khan
26.	Mr. Jan Muhammad
27.	Mr. Saeed-ur-Rehman
28.	Mr. Arshad Naveed
29.	Mr. Said Ahmad Jan
30.	Mr. Abdul Hamid Jan
31.	Mr. Muhammad Siddique
32.	Mr. Fakhr-uz-Zaman
33.	Mr. Muntazir Khan
34.	Mr. Atta-ur-Rehman
35.	Mr. Ghulam Habib

2. The officers on promotion, will remain 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 & Transfer) Rules, 1989 except the officer mentioned at Sr. No. 20, who shall be on probation till his retirement.

3. Consequent upon the above, the following postings/transfers are made henceforth:-

S.#	NAME OF OFFICERS	FROM	TO	REMARKS
1.	Mr. Muhammad Farooq (PCS EG BS-18)	District Officer (Finance) Battagram.	District Officer (Finance) Battagram.	Already holding BS-18 post.
2.	Mr. Ahmad Khan Orakzai (PCS EG BS-18)	Deputy Secretary, Home Department.	Deputy Secretary, Home Department.	Already holding BS-18 post.
3.	Mr. Muhammad Iqbal Khattak (PCS EG BS-18)	Deputy Secretary Environment	Deputy Secretary Environment	Already holding BS-18 post.

(CONTD.... On Page 2)

Attested

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

S.#	NAME OF OFFICERS	FROM	TO	REMARKS
4.	Mr. Muhammad Javed (PCS EG BS-18)	District Officer (Finance) Peshawar.	District Officer (Finance) Peshawar	Already holding BS-18 post.
5.	Mr. Azam Jan Khalil (PCS EG BS-18)	Director (Admn.) Excise & Taxation.	Director (Admn.) Excise & Taxation (OPS).	Already holding the post.
6.	Mr. Ahmad Jan Afridi (PCS EG BS-18)	EDO(F & P) Peshawar	EDO (F&P) Peshawar (OPS)	-do-
7.	Mr. Tahir Muhammad (PCS EG BS-18)	Land Acquisition Collector PDA	Deputy Secretary, Health Department	Against the vacant post.
8.	Mr. Muhammad Fakhruddin (PCS EG BS-18)	APA FR Kohat.	Deputy Secretary, Industries Department	Against the vacant post.
9.	Mr. Farzand Ali (PCS EG BS-18)	Asstt: to Comr. D.I.Khan.	District Officer (Finance) Tank.	Against the vacant post.
10.	Mr. Qaiser Khan (PCS EG BS-18)	Deputy District Officer (Rev.) Rodkohi D.I.Khan.	District Officer (Finance) D.I.Khan	Vice Sr. No. 11.
11.	Mr. Muhammad Aslam (Officer of Agr. Deptt.)	District Officer (Finance) D.I.Khan	Repatriated to his parent Department i.e. Agriculture Deptt.	
12.	Mr. Naeem Anwar (PCS EG BS-18)	Assistant Coordination Officer, Mardan	Assistant Coordination Officer, Mardan	Already holding the post.
13.	Mr. Damsaz Khan (PCS EG BS-18)	Asst. to Commissioner ® D.I.Khan	District Officer (Finance) Lakki Marwat.	Against the vacant post.
14.	Mr. Habibullah Wazir (PCS EG BS-18)	District Officer (R&E) Tank.	District Officer (R&E) Tank.	Already holding the post.
15.	Mr. Zafar Ali Khan (PCS EG BS-18)	D.O.(R & e) Tor Ghar.	Deputy Secretary, FATA Secretariat.	Against the vacant post.
16.	Mr. Abdul Mateen (PCS EG BS-18)	Assistant Coordination Officer, Chitral.	Assistant Coordination Officer, Chitral.	Already holding the post.
17.	Mr. Akbar Jalal (PCS EG BS-18)	Assistant Coordination Officer, Tank.	Assistant Coordination Officer, Tank.	-do-
18.	Mr. Shams-ul-Alam (PCS EG BS-18)	Assistant Coordination Officer, Dir Upper.	Assistant Coordination Officer, Dir Upper.	-do-
19.	Mr. Fazal Rehman (PCS EG BS-18)	District Officer (R&E) Swabi	District Officer (R&E) Swabi	-do-
20.	Mr. Rashid Mehmood (PCS EG BS-18)	District Officer (R&E) Battagram.	District Officer (R&E) Battagram.	-do-
21.	Mr. Muhammad Jamil (PCS EG BS-18)	Dy. District Officer ® Charsadda.	Deputy Secretary (Aviation Wing) Administration Deptt.	Against the vacant post.
22.	Mr. Khurshid Anwar (PCS EG BS-18)	HRDO Malakand	Deputy Secretary, FATA Secretariat.	Against the vacant post.
23.	Mr. Perhezgar Khan (PCS EG BS-18)	Assistant Coordination Officer, Buner.	Assistant Coordination Officer, Buner.	Already holding the post.
24.	Mr. Mushtaq Ahmad (PCS EG BS-18)	District Officer (R&E) Shangla	District Officer (R&E) Shangla.	Against the vacant post.
25.	Syed Ismail Ali Shah (PCS EG BS-18)	SO Agri: Deptt.	District Officer (R&E) Tor Ghar.	Vice Sr. No. 15.
26.	Mr. Ahmad Khan (PCS EG BS-18)	APA FR D.I.K.	District Officer (Finance) Hang	Against the vacant post.
27.	Mr. Jan Muhammad (PCS EG BS-18)	Secretary, District Public Safety Commission, Peshawar	Deputy Secretary, Public Health Engineering Deptt.	Against the vacant post.

Contd. On Page-3

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

S.#	NAME OF OFFICERS	FROM	TO	REMARKS
28.	Mr. Saeed-ur-Rehman (PCS EG BS-18)	Land Acquisition Collector, SNGPL	Deputy Secretary, Social Welfare Department.	Against the vacant post.
29.	Mr. Arshad Naveed (PCS EG BS-18)	District Officer (R&E) Kohat.	District Officer (R&E) Kohat.	Already holding the post.
30.	Mr. Said Ahmad Jan (PCS EG BS-18)	Director, Local Government FATA	Director, Local Government FATA	-do-
31.	Mr. Abdul Hamid Jan (PCS EG BS-18)	HRDO, Peshawar.	EDO (F&P) Dir Lower (OPS).	Against the vacant post.
32.	Mr. Muhammad Siddique (PCS EG BS-18)	Asstt: to Commissioner, Mardan.	District Officer (Finance) Charsadda	Against the vacant post.
33.	Mr. Fakhr-uz-Zaman (PCS EG BS-18)	District Officer (R&E) Mardan.	District Officer (R&E) Mardan.	Already holding the post.
34.	Mr. Muntazir Khan (PCS EG BS-18)	Deputy Secretary, Home Department	Deputy Secretary, Home Department.	Already holding the post.
35.	Mr. Atta-ur-Rehman (PCS EG BS-18)	Addl. Political Agent Khyber Agency.	Addl. Political Agent, Khyber Agency.	-do-
36.	Mr. Ghulam Habib (PCS EG BS-18)	Deputy Secretary, Home Department.	Deputy Secretary, Home Department.	Already holding the post.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
Dated 10.10.2012

Endst. NO.SO(E-I)E&AD/4-2/2012.

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Additional Chief Secretary (FATA), FATA Secretariat.
4. All Administrative Secretaries in Khyber Pakhtunkhwa.
5. Secretary to Governor, Khyber Pakhtunkhwa.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. Accountant General, Khyber Pakhtunkhwa.
9. District Coordination Officers concerned.
10. Political Agents concerned.
11. District Accounts Officer concerned.
12. Agency Accounts Officer concerned.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Establishment, E&A Department.
15. PS to Secretary Establishment, PS to Special Secretary (E), Deputy Secretary (Estt.), Dy. Secretary (Admn),/ S.O. (E.II), S.O.(E.III), S.O.(Secret) E&AD, and P.A. to Addl. Secretary(Estt.)/PA to Director (Protocol) E&AD.
16. Officers concerned.
17. Controller, Govt. Printing Press, Peshawar.

(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT-I)
PHONE & FAX # 091-9210529

ZIA.UL.HAQ/**

(26) "E"

To

The Chief Secretary,
Government of Khyber Pakhtunkhwa, Peshawar.

SUBJECT: **REQUEST FOR IMPLEMENTATION OF THE JUDGEMENT OF APEX SUPREME COURT OF PAKISTAN DATED 24th MAY 2012 IN APPEAL TITLED GOVT: OF N.W.F.P VS: AHMAD KHAN AND MUHAMMAD IQBAL KHATTAK.**

Respected Sir,

I alongwith others, were promoted to BPS-18 vide notification No. SO(E-1)E&AD/4-2/2012 dated October 9, 2012, with immediate effect. **(Annex-A)**

That I alongwith others, were re-designated as PCS (EG) in pursuance of the Supreme court of Pakistan judgment Dated 24th May 2012, in CPLAs No. 860/2010 & 861/2010 titled Govt; of Khyber Pakhtunkhwa through Secretary Establishment others Vs Muhammad Iqbal Khattak and Ahmad Khan in BPS-17 with all back benefits/consequential benefits and I stood at serial No. 06 date of promotion in PCS (EG), BS-17 is 01st June 2000 vide Provincial Government notification No. SOE-II(ED)2(423)/2010/Vol-II dated 25th July 2012. **(Annex-B, C)**

That the last PSB of PSC (EG) for promotion to BPS-18 was conducted on 08th December 2007, 10 No. of BPS-18 posts/vacancies were left over vacant due to non availability of candidates in the same group.

That I was eligible to promotion to BPS-18 in 2007 if I would have been given my due right in proper time, now in light of the Supreme Court judgment and subsequent Provincial Government notification, I may kindly be promoted from the date of availability of posts/vacancies since 2007.

It is humbly requested that I may kindly be promoted to BPS-18 since 08/12/2007 in light of the Supreme Court decision on 24th May 2012.

Attested

Yours Obediently

(Ahmad Khan)
PCS (EG) B.S-18
Deputy Secretary (L&O)
Home & Tribal Affairs
Department, Peshawar.

(27) "F"

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT

NO. SO (E-I)/E&AD/4-489/2013
Dated Peshawar, the January 31, 2013

52253

To

Mr. Ahmad Khan
Deputy Secretary, Home Department.

SUBJECT: - REQUEST FOR IMPLEMENTATION OF THE JUDGEMNET OF APEX SUPREME COURT OF PAKISTAN DATED 24TH MAY 2012 IN APPEAL TITILED GOVT OF NWFP VS AHMAD KHAN AND MUHAMMAD IQBAL KHATTAK.

Dear Sir,

I am directed to refer to your application dated 10.12.2012 on the subject noted above and to say that your request has been considered and filed.

Yours faithfully,

(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT. I)

Home & T&E Department
Issue (b)
Diary No. 1622
Dated 01-02-013

Attested

BEFORE THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 507/2013

Mr. Ahmad Khan PCS (EG)BS-18 Deputy Secretary Law & Order, Home & TAs Department, Khyber Pakhtunkhwa.

(Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa through Chief Secretary, and others

(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2

Preliminary Objections.

1. The appellant has got no cause of action.
2. The appellant has not come to the tribunal with clean hands.
3. The appeal is bad for mis-joinder and non-joinder of necessary parties.
4. The appeal is badly time barred.
5. That the appellant is stopped by his own conduct to file the appeal.
6. That the appeal is not maintainable in its present form.

FACTS

Para-1 Pertains to record.

Para-2 Pertains to record.

Para-3 Pertains to record.

Para-4 Incorrect. In 2007 the promotion was made against the available vacancies and no further vacancy was available in the promotion quota posts at that time. In light of the judgments of superior courts promotion shall always be made with immediate effect and not with retrospective effect. Moreover, his case for promotion in BS-17 was also disputed and subjudiced at that time, hence he was not eligible for promotion on the doctrine of Lis-Pendens. Policy is Annexes "A"

GROUNDS

A. Incorrect. The appellant was treated as per rules/law and all back/consequential benefits were granted to him in light of courts judgments.

B. Incorrect. The appellant was treated as per rules/law.

C. Incorrect as explained above. However, promotion is not vested right of a Civil Servant.

D. Incorrect. Promotion is made against clear and undisputed vacant posts. Promotion could not be claimed as right only on having required length of service.

E. Incorrect. The appellant was promoted to BS-18 on becoming entitled for promotion.

F. Incorrect. As explained above.

G. Incorrect. As explained above.

H. Incorrect. Promotion of the appellant was ante-dated in BS-17 in accordance with rules/judgments of the courts.

I. Incorrect. Promotion could not be claimed as right only on having required length of service.

J. Incorrect. The appellant was treated as per rules/law and all back/consequential benefits were granted to him in light of courts judgments.

K. Incorrect, hence need no comments.

L. Incorrect. The appeal being devoid of merits may be dismissed with costs without wastage of the precious time of the court.

PRAYERS

It is therefore, respectfully prayed that the appeal being devoid of merits please be dismissed with costs.

(Respondent No.1 & 2)

ANNEX-'A'

Promotion Policy

In order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

I. Length of service.

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

Basic Scale18 :	5 years' service in BS-17
Basic Scale 19:	12 years' service in BS-17 & above
Basic Scale 20:	17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

(i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.

(ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above. or 3 years' service in BS-19.

II. Linking of promotion with training:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20
- National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely

technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

(i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

(ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

(iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S.No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1.	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2.	Training Evaluation Reports as explained hereafter.	--	15%
3.	Evaluation by PSB	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

(i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.

(ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded, points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A

Old PASC & NIPAs

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

TABLE-B

NATIONAL DEFENCE UNIVERSITY

Category		Range	Weighted Average	Points @ 60%=9
A.	Outstanding	76-100%	88%	7.92
B-Plus.	Very Good	66-75.99%	71%	6.39
B- High.	Good	61-65.99%	63.5%	5.71
B-Average.	Average	56-60.99%	58.5%	5.26
B-Low.	Below Average	51-55.99%	53.5%	4.81
B-Minus.	Below Average	46-50.99%	48.5%	4.36
C.	Below Average	40-45.99%	43%	3.87
F.	Below Average	35-39.99%	37.5%	3.37

(d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of specialty. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PER s and 30% marks shall be at the disposal of the PSB.

(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

		Upto 11th June, 2008	From 12th June, 2008
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

(j) The quantification formula and instructions for working out quantified score are annexed.

IV. Promotion of officers who are on deputation, long leave, foreign training:

a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.

b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.

c) [78]In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government, the condition of earning one calendar PER shall not be applicable. The officers on deputation to projects shall be considered for promotion. However, after promotion they will have to actualize their promotion within their cadre.

d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.

e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.

f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.

g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department.

[78] para 1 (iv)(c) substituted vide circular letter No. SORIV/E&AD/1-16/2006, dated 19.4.2010

However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.

h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

V. Deferment of Promotion:

(a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if

(i) His inter-se-seniority is disputed/sub-judice.
(ii) Disciplinary or departmental proceedings are pending against him.
(iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

(e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:
Promotion will always be notified with immediate effect.

VII. Notional Promotion:
In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

First Step

Arithmetic
to derive the ACR

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Where

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N_y =

Second Step

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Aver

Where

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Third Step

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(ii) to pos
(iii) to pos
(iv) to pos

Where

A = Average
B = Average
C = Average
D = Average

Fourth Step

The following
hird step.

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Mr. Ahmed Khan.....(Appellant)

Versus

Govt: KKP and Others..... (Respondents)

PETITION FOR REQUISITIONING WORKING PAPER OF PSB DATED 08-12-2007 REGARDING PROMOTION

Respectfully Sheweth:

That the caption case is fixed for hearing for today.

That the appellant had applied for issuance of certified copy of working paper of PSB dated 08-12-2007regarding promotion, which is essential for assistance of the Honourable Court, (copy of petition is enclosed).

It is, therefore, prayed that on acceptance of this petition the working paper of PSB dated 80-12-2007 regarding promotion may be requisitioned for fair assistance of the Honourable Court.

Appellant

Through

Dated:-18/07/2014

(Shakeel Ahmed)

Advocate

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Mr. Ahmed Khan.....(Appellant)

Versus

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Appellant

Through

Dated:-18/07/2014

(Shakeel Ahmed)

Advocate

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Mr. Ahmad Khan ..... **Appellant**

VERSUS

Govt of Khyber Pakhtunkhwa..... **Respondents**

APPLICATION FOR REQUISITIONING THE WORKING PAPER AND MINUTES OF PSB DATED 08.12.2007.

Respectfully Sheweth:

1. That the captioned case is fixed for hearing for today.

2. That in para no 4 of the appeal the Appellant has contended that 27 posts in BPS-18 were lying vacant, against which 17 officers were promoted in BPS-18 in PCS (EG) and 10 seats left vacant, where on the Appellant could have been promoted, but the respondents have denied the said contention of the Appellant in their comments, however, it is reflected in the working paper and minutes of meeting dated 08.12.2012 placed before the PSB, the Appellant has requested for issuance of the said papers but the respondents

are not providing the same, hence this petition for fair adjudication of the case.

It is, therefore, prayed that on acceptance of this petition the working paper and minutes of meeting dated 08.12.2007 may be requisition in the interest of justice.

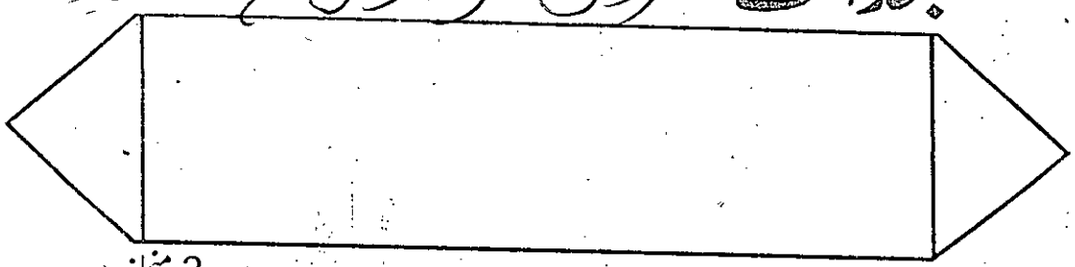
Appellant

Through

SHAKEEL AHMAD

Advocate, Peshawar

بعدالت سروس ٹریبونل پشاور



2 منجانب

28 Feb 2013 مورخہ

Ahmad Khan بنام گورنمنٹ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام کیلئے شکیل احمد ایڈووکیٹ پشاور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک وروپیہ ارعرضی دعوی اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی وپیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہرجانہ التوائے 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 لکھدیا کہ سند رہے۔

المرقوم ——— ماہ ——— 20 سنہ

العبد ——— گواہ العبد ———

بمقام

کے لئے منظور ہے۔

Shakil Ahmad
Advocate Peshawar

Ahmad Khan