

12.11.2015

Agent of counsel for the appellant present. Seeks adjournment as counsel for the appellant is not in attendance. Adjourned to 1.12.2015 for providing written order regarding acceptance of departmental appeal/ preliminary hearing before S.B.



Chairman

01.12.2015

Counsel for the appellant present. Informed the Tribunal that on the strength of acceptance of departmental appeal provisional seniority list has been issued.

In view of the above, the appeal in hand has become infructuous. Disposed of accordingly. File be consigned to the record room.

ANNOUNCED
01.12.2015


Chairman
01.12.15

30.07.2015

Agent of counsel for appellant present. Learned counsel for the appellant failed to appear due to ailment of his father. Last opportunity extended to 12.8.2015 before S.B.


Chairman

12.08.2015

Counsel for the appellant present. Learned counsel for the appellant informed the Tribunal that the departmental appeal of the appellant has been accepted but written order not yet conveyed to the appellant. Seeks adjournment. Adjourned to 25.8.2015 for further proceedings before S.B.


Chairman

25.08.2015

Appellant with counsel present. Learned counsel for the appellant informed the Tribunal that written order has not been conveyed to the appellant. Seeks adjournment. Adjourned to 28.10.2015 for further proceedings before S.B.


Chairman

28.10.2015

Agent of counsel for the appellant present. Seeks adjournment as counsel for the appellant is not in attendance. To come up for providing written order regarding acceptance of departmental appeal including preliminary hearing on 12.11.2015 before S.B.


Chairman

13.05.2015

Agent of counsel for the appellant present and requested for adjournment as counsel for the appellant is sick. Adjourned to 27.05.2015 for preliminary hearing before S.B.


Chairman

27.05.2015

Counsel for the appellant is stated busy with his ailing father at Islamabad. Adjourned for preliminary hearing to 10.6.2015 before S.B.


Chairman

10.06.2015

Counsel for the appellant present. Learned counsel for the appellant requested for adjournment as the grievances of the appellant are under consideration before the concerned authority. Adjourned to 29.6.2015 before S.B.


Chairman

29.06.2015

Agent of counsel for the appellant present. Counsel for the appellant is not in attendance. Requested for adjournment. Last opportunity granted. Adjourned to 30.7.2015 before S.B.


Chairman

3

28.01.2015

Clerk of counsel for the appellant present, and requested for adjournment due to pre-occupation of the learned counsel for the appellant in the Dar-ul-Qaza, Swat. Request accepted. To come up for preliminary hearing on 17.03.2015.


Member

4

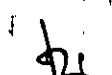
17.03.2015

Agent of counsel for the appellant present. Requested for adjournment. Adjourned to 30.04.2015 for preliminary hearing before S.B.


Member

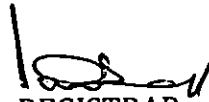

30.04.2015

Counsel for the appellant present. Learned counsel for the appellant seeks adjournment. Adjourned to 13.05.2015 for preliminary hearing before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 1286/2014


| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 29/10/2014 | The appeal Mr. Fazlullah resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing. REGISTRAR  29/10/14 |
| 2 | 7-11-2014 | This case is entrusted to Primary Bench for preliminary hearing to be put up there on 28-1-2015  CHAIRMAN |

The appeal of Mr. Fazlullah Assistant Director LG&RDD Mardan received today i.e. on 21.10.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondent Nos. 4 to 15 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- The annexures- A to S, referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Wakalat nama in favour of appellant is not attached with the appeal which may be placed on it.
- 4- Seventeen spare copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1513 /S.T,

Dt. 22-10 /2014.

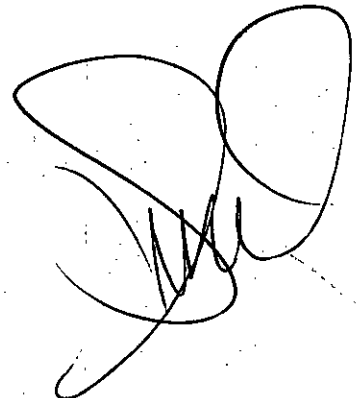

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Peshawar.

In

Resubmitted after completion

- ① objection has been removed
- ② removed
- ③ removed
- ④ removed



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1286 /2014

Fazlullah

The Govt. of Khyber
Pakhtunkhwa and others

Versus

.....Appellant

.....Respondents

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| 4. | Order of the Hon'ble High Court, Peshawar in Writ Petition No.793/2007 | 18.10.2011 | C | 14-17 |
| 5. | Letter of Establishment and Finance Departments | 26.11.2011 | D | 18-19 |
| 6. | Letter of Establishment Department | 20.12.2011 | E | 20-21 |
| 7. | Seniority List | 13.02.1993 | F | 22-25 |
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| 9. | Promotion order of 5 Progress Officers | 03.08.1992 | H | 29 |
| 10. | Order of the Hon'ble High Court in COC No.87-P/2012 | 16.08.2012 | I | 30-31 |
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Appellant

Through

Khaled Rahman
Advocate, Peshawar

Dated: 21 /10/2014

Cell # 0345-9337312

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1286 /2014

Fazlullah,

Assistant Director, LG&RDD, Mardan *Appellant*

Versus

1. **The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.**
2. **The Secretary to Govt. of Khyber Pakhtunkhwa Establishment Deptt., Civil Secretariat, Peshawar**
3. **The Secretary to Govt. of Khyber Pakhtunkhwa Local Government & Rural Development Department, Civil Secretariat, Peshawar**
4. Mr. Faiz Muhammad
Assistant Director, Directorate General of LG&RDD, Khyber Pakhtunkhwa, Peshawar
5. Mr. Israrullah Khan
Assistant Director, LG&RDD, Swabi
6. Mr. Sardar-ul-Mulk
Assistant Director, LG&RDD, Malakand
7. Mr. Akhtar Munir Umarzai
Assistant Director, LG&RDD, Hangu
8. Riaz Ahmad
Assistant Director, Now as Project Director, Municipal Services Delivery Program, University Town, Peshawar
9. Khalid Israr Shah
Assistant Director, LG&RDD, North Waziristan Agency
10. Sajid Gul
Secretary, Provincial Delimitation Authority, Peshawar
11. Said Rahman
Assistant Director, LG&RDD (now on leave) DFID at Sahibzada Abdul Qayum Road, House No.39, University Town, Peshawar
12. Syed Hussain Kazmi
Assistant Director, LG&RDD (now on ex-Pakistan Leave) through Respondent No.3, Secretary LG&RDD, Khyber Pakhtunkhwa.
13. Muhammad Jehangir Khan
Assistant Director, Directorate FATA, LG&RDD

1279
21-10-2014

De - Submitted
to - day. 1/10/16
29/10/16

Warsak Road, Peshawar

14. Qazi Noor-ul-Wahab
Assistant Director, LG&RDD, Mohmand Agency
 15. Alamzeb
Assistant Director, Directorate FATA,
LG&RDD, Warsak Road, Peshawar...*Respondents*
-

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 22.05.2014 ISSUED BY RESPONDENT NO.3 AND THE IMPUGNED FINAL SENIORITY LIST CIRCULATED VIDE LETTER DATED 28.05.2014 WHEREBY APPELLANT WAS SHOWN AS JUNIOR to RESPONDENT NO.4-15 IN VIOLATION OF THE LAW AND RULES AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION ON 25.06.2014 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned order dated 22.05.2014 and the impugned seniority list circulated vide letter dated 28.05.2014 may graciously be set aside and a revised Seniority List in light of Establishment Department letter No.SOR-IV(ED)6-1/2013 dated 10.01.2014 (Annex:-N) may be prepared and the appellant be considered for promotion with all back/consequential benefits w.e.f. due date i.e. 22.11.1991 instead of immediate effect i.e. 16.05.2013.

Respectfully Sheweth,

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

1. That appellant and others were initially appointed as Progress Officers (BPS-16) in the then Local Government & Rural Development Department (LG&RDD) way back in the year 1988 on contract basis. Subsequently, he alongwith others

approached the Hon'ble Peshawar High Court Peshawar for regularization of their services but could not succeed and meanwhile their services were terminated. Their request before the Hon'ble Apex Court also failed and they were directed to approach the Provincial Service Tribunal. On their approach to the Service Tribunal their appeals were dismissed and consequently they again approached the Apex Court and finally their appeals were allowed vide Judgment dated 25.08.2005 and appellant and others were reinstated into service with all back benefits.

2. That the judgment of the Hon'ble Apex Court was implemented by the Department by reinstating the appellant and others in service with all back benefits and regularized them with effect from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005 (Annex:-A & B).
3. That since the appellant was also entitled for promotion to the higher grade as a consequence of the Judgment of the Hon'ble Apex Court which was denied to him, therefore, appellant and others filed Writ Petition No.793/2007 in the Hon'ble Peshawar High Court Peshawar which was disposed of vide order dated 18.10.2011 (Annex:-C) with direction to the Department to decide the matter in accordance with law as per the observation of the Hon'ble Court given in the order viz:

“It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of vacancies to be filled through the promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing the petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the departmental authority to decide it in accordance with law as hinted to above within two months. This writ petition, thus, stands disposed of.”

Thus the Hon'ble Court directed for determining as to:-

- i. *When the petitioners became eligible to the next higher grade?*
 - ii. *What were the Rules applicable thereto (service rules)?*
 - iii. *What was the ratio of vacancies to be filled by initial recruitment/promotion?*
4. That the Department, in the light of the Judgment *ibid*, took up the case of the appellant and others and asked for the advice of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 (**Annex:- D**) wherein in Para-5 it has been admitted that “According to service rules notified on 01.12.1991, the length of service for promotion of

Progress Officer (BPS-16) to the post of Assistant Director (BPS-17) LG&RDD was 03 years. The initial date of appointment of the petitioner was 22.11.1988 and thus they have completed the required length of service on 22.11.1991 and became eligible for promotion to the post of AD (BPS-17) LG&RDD at that time but they could not be promoted as their status was contract.

5. That the Establishment Department vide letter dated 20.12.2011 (Annex:-E) advised that in terms of the employees on contract basis (Regulation of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in the light of the service rules of their posts subject to the availability of vacant positions in the cadre /service group.

Thus the advice of the Establishment Department, Govt. of Khyber Pakhtunkhwa ibid was also in line with the decision of the Hon'ble High Court, Peshawar dated 18.10.2011 as explained in para-3 ibid wherein the Department was given direction that since the appellant have been regularized from initial date of appointment i.e. 22.11.1988, they were to be treated at par with others who were similarly placed in the defunct Directorate General

of LG&RDD and consider their promotion subject to the availability of vacant positions in the cadre/service group.

6. That as per Seniority List circulated vide letter dated 13.02.1993 (**Annex:-F**) the total sanctioned posts of Assistant Directors (BPS-17) as stood on 31.12.1992 were 34 and as per the Service Rules notified on 01.12.1991 (**Annex:-G**), the ratio of promotion and direct induction was 30%:70% out of which 24 posts fell in the quota of initial recruitment while 10 posts fell in the promotion quota. At the total 5 Progress Officers (BPS-16) were promoted vide order dated 03.08.1992 (**Annex:-H**) against the available share of 10 posts and thus promotion quota was short of 5 posts against which the appellant could have been promoted had they been in regular service on the basis of his entitlement as declared by the Hon'ble Court subsequently along with consequential back benefits.
7. That inspite of the clear position as explained above still the desired promotion was not granted to the appellant, therefore, COC No.87-P/2012 was filed before the Hon'ble Peshawar High Court, Peshawar which was disposed of vide order dated 16.08.2012 (**Annex:-I**) in view of the statement of the learned Additional Advocate General that the promotion case of the appellant could not be processed as they had not provided ACRs for consideration of the Departmental Promotion Committee, however, it was also observed that the

appellant and others might invoke their remedy before an appropriate legal forum if so advised.

8. That thereafter, appellant and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due dates vide orders dated 27.08.2012 & 16.05.2013 (**Annex:-J**). The appellant and his other colleagues challenged the order *ibid*, to the extent of its immediate operation vide Departmental Appeal dated 10.06.2013 (**Annex:-K**) which was duly processed and culminated in approval by the competent authority of seniority position vide Statement (**Annex:-L**) wherein the appellant and others were shown to have been appointed w.e.f. 22.11.1988 thus the longstanding grievance of the appellant and others was required to be redressed accordingly.
9. That in the light of the approval mentioned above for further clarification of the seniority of the appellant and others the Department called for the advice of the Establishment Department vide letter dated 07.11.2013 (**Annex:-M**) upon which the Establishment Department gave its opinion vide letter dated 10.01.2014 (**Annex:-N**) whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014 (**Annex:-O**) showing the seniority position of the appellant as approved by the competent authority upon which appellant and others submitted the observations (**Annex:-P**) but meanwhile the those employees who became juniors as a result of regaining seniority of the

appellant and others also submitted objections upon the seniority of appellant and others which was allowed vide impugned order dated 22.05.2014 (**Annex:-Q**) thereby again the appellant and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the appellant was restored by setting aside the order of the appellate authority i.e. the Chief Secretary and immediately the impugned Final Seniority List was issued vide letter dated 28.05.2014 (**Annex:-R**).

10. That being aggrieved by the impugned order dated 22.05.2014 and the impugned Seniority List dated 28.05.2014, appellant preferred a Departmental Representation (**Annex:-S**) thereagainst but the same was not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order and the impugned order/Seniority List, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That it is admitted position that appellant was reinstated into service by the Hon'ble Apex Court with all back benefits including promotion, up-gradation etc. falling due during the course of

service and in the same spirit the matter was earlier interpreted by the Establishment Department and subsequently agreed to by the competent authority, therefore, the appellant was not only entitled for promotion to the next higher grade but with effect from the date of his entitlement i.e. 22.11.1991 but then by issuing the impugned order and Seniority List the appellant has been deprived of his due right which has resulted in serious miscarriage of justice.

- C. That similarly in the light of the judgment of the Hon'ble Peshawar High Court, Peshawar dated 18.10.2011 the Department vide letter dated 26.09.2011 conceded to the position that the promotion of the appellant had become due w.e.f. 22.11.1991 and the advice on the same subject matter was also called from the Establishment Department which was given in affirmative thereby leaving no room for any suspicion into the matter but inspite of the same when the issue was finalized on the objections of others, the impugned order and the impugned Seniority List was hurriedly issued which has adversely affected the service career of the appellant. Hence the impugned order and the impugned Seniority List are against the law and facts, therefore, are liable to be set aside.
- D. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

Khaleel/Rahman,
Advocate, Peshawar.

Dated: 24/09/2014

(17)

GOVERNMENT OF N.W.F.P.,
LOCAL GOVT. ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

NOTIFICATION

Annexure

ANNEX A

Dated Peshawar, the 10th November, 2005

(11)

No.SO(LG-1)3-323/03.- Consequent upon acceptance of Civil Appeals No.44, 45, 47 to 79 of 2005, 1409 of 2004 and 319 of 2005 and setting aside of this Department Notification No.SO(LG-1)2-113/96, dated 30-5-2003 by the Supreme Court of Pakistan vide Judgement dated 25-08-2005, the Competent Authority is pleased to re-instate in service the following officers/officials of the Local Government and Rural Development Department, NWFP with effect from the date of their termination from service viz 30-5-2003 with all back benefits and their services regularized from the date of their initial appointment:-

| Sl.No. | Name of officer/official | Designation with BPS |
|--------|--------------------------|---------------------------|
| 1. | Mr.Zafrullah Khan | Planning Officer (BPS-17) |
| 2. | Mr.Muhammad Zahoor | -do- |
| 3. | Mr.Muhammad Faheem | -do- |
| 4. | Mr.Muhammad Iqbal | -do- |
| 5. | Mr.Pervez Khan | -do- |
| 6. | Mr.Attiq-Ur-Rehman. | -do- |
| 7. | Mr.Fakhr-Uz-Zaman | -do- |
| 8. | Mr.Sarfaraz Khan | -do- |
| 9. | Mr.Arshad Zia | -do- |
| 10. | Mr.Shad Muhammad | Progress Officer (BPS-16) |
| 11. | Mr.Raza Ullah Khan | -do- |
| 12. | Mr.Sheraz Ahmed | -do- |
| 13. | Mr.Abdur Rashid | -do- |
| 14. | Mr.Fazlullah | -do- |
| 15. | Mr.Muhammad Raees Khan | Sub-Engineer (BPS-11) |
| 16. | Mr.Muhammad Ilyas | -do- |
| 17. | Mr.Aziz-Ur-Rehman | -do- |
| 18. | Mr.Muhammad Siddiq | -do- |
| 19. | Mr.Asghar Hussain | -do- |
| 20. | Mr.Salim Javed | -do- |
| 21. | Mr.Amin Gul | -do- |
| 22. | Mr.Dilawar Khan | -do- |

Signature

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| | | |
|-----|----------------------|---------------------------------------|
| 23. | Mr. Munawar Ahmed | -do- |
| 24. | Mr. Muhammad Nazif. | -do- |
| 25. | Mr. Ghulam Akbar. | -do- |
| 26. | Mr. Amanullah Khan | -do- |
| 27. | Mr. Abdali Shah | -do- |
| 28. | Mr. Intizar Muhammad | -do- |
| 29. | Mr. Muhammad Khan | -do- |
| 30. | Mr. Arif Qayum | -do- |
| 31. | Mr. Abdul Hameed | -do- |
| 32. | Malik Mohammad Irfan | -do- |
| 33. | Mr. Fazal-Ur-Rehman | Stenographer, (Jr. Scale (BPS-12). |
| 34. | Mr. Schwanosh | Assistant (BPS-11) |
| 35. | Mr. Naseemullah | -do- |
| 36. | Mr. Muhammad Ismail | -do- |
| 37. | Mr. Iqbal Ahmed | -do- |

2. On re-instatement these officers/officials are placed in the Surplus Pool of Local Government and Rural Development Department for which Finance Department shall create posts, till they are adjusted as per policy of the Provincial Government.

SECRETARY TO GOVT. OF NWFP,
LOCAL GOVT. ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

Endst. No. SO(LG-I)3-323/03

Dated Peshawar, the 10th November, 2005

Copy is forwarded to:-

1. All the Administrative Secretaries, Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The Registrar, NWFP Service Tribunal, Peshawar.
4. The Director General (D&M), LG & RDD.
5. All District Coordination Officers in NWFP.
6. The PS to Chief Secretary, NWFP, Peshawar.
7. The PS to Minister for LG & RD, NWFP, Peshawar.
8. The PS to Secretary, LG & RDD.
9. The Director, FATA, LG & RDD, Peshawar.
10. The Section Officer (Surplus Pool), E&A Department.
11. The Section Officer (General), LG & RDD.
12. All Officers/officials concerned.
13. Personal file of the officer/official concerned.

(DIL MUHAMMAD)
SECTION OFFICER (ETAB.)

Dil Muhammad

Dil

Annexure (19)

GOVERNMENT OF N.W.F.P.,
LOCAL GOVT. ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

NOTIFICATION

Annex B'

13

Dated Peshawar, the 16th December, 2005

No.SO(LG-I)3-323/03.- In continuation of this Department Notification of even number dated 10-11-2005, the Competent Authority is pleased to re-instate in service the following officers/officials of the Local Government and Rural Development Department, NWFP with effect from the date of their termination from service viz 30-5-2003 with all back benefits and their services regularized from the date of their initial appointment:-

| Sl.No. | Name of officer/official | Designation with BPS |
|--------|---------------------------|---------------------------|
| 1. | Mr.Muhamamad Yahya Tanoli | Planning Officer (BPS-17) |
| 2. ✓ | Mr.Shibli Khan | Progress Officer (BPS-16) |
| 3. ✓ | Mr.Ziaullah Khan | Stenographer (BPS-12) |
| 4. ✓ | Mr.Mislah-Ud-Din. | Sub-Engineer (BPS 11) |
| 5. | Mr.Tariq Khan | -do- |
| 6. | Mr.Hayat Khan | -do- |
| 7. | Mr.Abdur Rehman | -do- |

2. On re-instatement these officers/officials are placed in the Surplus Pool of Local Government and Rural Development Department for which Finance Department shall create posts, till they are adjusted as per policy of the Provincial Government.

SECRETARY TO GOVT. OF NWFP,
LOCAL GOVT. ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

Endst. No.SO(LG-I)3-323/03

Dated Peshawar, the 16th December, 2005

Copy is forwarded to:-

1. All the Administrative Secretaries, Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The Registrar, NWFP Service Tribunal, Peshawar.
4. The Director General (D&M), LG & RDD.
5. All District Coordination Officers in NWFP.
6. The PS to Chief Secretary, NWFP, Peshawar.
7. The PS to Minister for LG & RD, NWFP, Peshawar.
8. The PS to Secretary, LG & RDD.
9. The Director, FATA, LG & RDD, Peshawar.
10. The Section Officer (Surplus Pool), F&A Department.
11. The Section Officer (General), LG & RDD.
12. All Officers/officials concerned.
13. Personal file of the officer/official concerned.

(DIL. MUHAMMAD)
SECTION OFFICER (ETAB:)



Annexure

14

Writ Petition No. 793 /2007

- 1. Raza Ullah Khan..
- 2. Shad Muhammad
- 3. Sheraz Ahmad.
- 4. Abdur Rashid
- 5. Fazl Ullah.
- 6. Shibli Khan.

Annex C

Progress Officers C/o Local Government and Rural Development Department, Govt. of N.W.F.P., Peshawar.....Petitioners

VERSUS

- 1. Chief Secretary, Government of N.W.F.P., Peshawar.
- 2. Secretary to Government of N.W.F.P., Establishment Department, Peshawar.
- 3. Secretary to Government of N.W.F.P., Finance Department, Peshawar.
- 4. Secretary to Government of N.W.F.P., Local Government and Rural Development Department, Peshawar.....Respondents.

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Bas
The pet.

ATTESTED

[Signature]
Clerk

[Signature]

15

IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT

Writ-Petition No. 783 of 11th May 2007

JUDGMENT

Date of hearing..... 18.10.2011

Appellant/Petitioner (s) (Raza ul Khan) Sy. M. M. Ashraf
Yousafzai, ADU,

Respondent (s) (Govt. of NWFP) Sy. M. M. Ashraf
AAG

EJAZ AFZAL KHAN, C. J.- Petitioners

through the instant writ petition have asked for the issuance of an appropriate writ directing the respondents to give them the back benefits in accordance with the posts, they were to be promoted to, if they had not been placed in the surplus pool.

2. We heard this case on many occasions. On 16.11.2010 we while hearing this petition, directed the AAG to assist us by giving the formulation as under:-

" We heard this case even before. The only dispute emerging for the consideration of this Court is that though the petitioners were reinstated with back benefits but they were denied the benefits of higher grade to which they were to be promoted mechanically and as a matter of course. The learned AAG wants some

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Page 19

time to see whether prayer of 'the petitioners can be countenanced especially when they were in the surplus pool at the relevant time. Adjourn to 15.12.2010'.

3. The learned AAG after going through the record contended that rules providing for ratio of the vacancies to be filled by initial recruitment and by promotion did not remain the same throughout as they were amended from time to time, therefore, none of the questions urged by the petitioners could be examined without seeing what were the dates, the petitioners became eligible to be promoted to the next higher grade and what were the rules applicable thereto, therefore, it would be proper that this exercise be carried out by the Department itself.

4. We have gone through the record carefully and considered the submissions of the learned counsel for the parties.

5. It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what

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EXAMINER
Peshwar High Court

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was the ratio of the vacancies to be filled through the promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing a petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the Departmental Authority to decide it in accordance with law as hinted to above within two months. This writ petitions, thus, stands disposed of.

Ed/ Ejaz Azzal Khan CJ

Dated: 18.10.2011

Ed/ Yalga Afridi
Judge

CERTIFIED TO BE TRUE COPY

[Signature]

Mag

20/10/2011

No. 4899
Date of Presentation of Application 19/10/2011
No of Pages 4/1
Copying fee 0
Urgent Fee 0
Total 0
Date of Preparation of Copy 20-10-11
Date Given For Delivery 20-10-2011
Date of Delivery of Copy 25-10-2011
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MOST IMMEDIATE

COURT MATTER
GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

No. SO(LG-I)3-367/PIC/2007

Dated Peshawar, the 26th November, 2011

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department

Subject:- REQUEST OF PROMOTION IN LIGHT OF JUDGEMENT OF
THE PESHAWAR HIGH COURT PESHAWAR IN WRIT
PETITION NO.793/2007

Dear Sir,

I am directed to refer to the subject cited above and to say that following surplus Progress Officers (BS-16) of this Department have requested for grant of promotion to the post of Assistant Directors (BS-17) in LG&RDD with effect from 01/12/1991 as per service rules in vogue in 1991 in accordance with seniority list in light of decision/order dated 18-10-2011 of the Peshawar High Court Peshawar (copy attached):-

1. Mr. Sheraz Ahmad
2. Mr. Abdur Rashid
3. Mr. Shibli Khan
4. Mr. Shad Muhammad
5. Mr. Fazlullah

2. Brief facts of that case are stated that above Progress Officers (BS-16) were appointed under the scheme "Strengthening of LG&RDD" during 1988 along with others. The posts against which the incumbents were working created on revenue side with effect from 01-01-1993 but status of the incumbents remained the same. They filed writ petition in the Peshawar High Court for regularization of their services, which was dismissed. Aggrieved of the decision of the learned court, they filed Civil Appeals in the Supreme Court of Pakistan. The Apex Court also dismissed their appeals with the direction to file appeals in Khyber Pakhtunkhwa Service Tribunal. They filed appeals in learned Service Tribunal which were also dismissed. Ultimately, the incumbents filed Civil Appeals in the Supreme Court of Pakistan. The Apex Court accepted their appeals and ordered for their re-instatement in service with all back benefits and regularized them from the date of their initial appointment vide Judgement dated 25-08-2005 (copy attached).

3. In implementation of the Judgement of the Apex Court, all contract employees were regularized with all back benefits including seniority after obtaining advice from the Establishment Department. The above Progress Officer were placed in the Surplus Pool of LG&RDD as offices of Director General, LG&RDD and its allied offices in the settled districts along with posts were abolished during 2001 in devolution process.

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4. The above incumbents filed writ petition No. 795/2007 in the Peshawar High Court, Peshawar for implementation of decision of the Apex Court and prayed for promotion to the post of Assistant Directors (BPS-17) in I.G.&RIDD (copy attached). This Department deposited comments in the learned court accordingly (copy attached). The Peshawar High Court, Peshawar has disposed of the writ petition of the petition vide judgement dated 18-10-2011 in the following manner (copy attached):-

"It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of the vacancies to be filled through promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing a petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the Departmental Authority to decide it in accordance with law as hinted to above within two months. This writ petition, thus, stands disposed of."

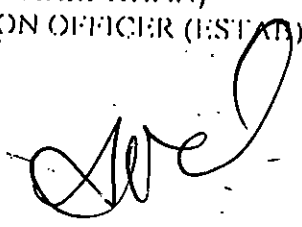
5.7 According to Service Rules notified on 01-12-1991, the length of service for promotion of Progress Officer (BS-16) to the post of Assistant Director (BS-17) I.G.&RIDD was 3 years. The initial date of appointments of the petitioners was 22/11/1988 and thus they have completed the required length of service on 22-11-1991 and become eligible for promotion to the post of Assistant Director (BS-17) I.G.&RIDD at that time but they could not be promoted as their status was contract/project employees. When they were re-instated in service with all back benefits in implementation of judgement of the Supreme Court of Pakistan, the Directorate General, I.G.&RIDD and its allied offices in the settled districts alongwith posts were abolished in 2001 in devolution process. At present this Department has no post of Assistant Director lying vacant under promotion quota against which the promotion case of the petitioners could be considered.

6. In view of above position, I am, directed to request you to kindly advise this Department regarding admissibility of promotion to the post of Assistant Director (BS-17) in I.G.&RIDD so as to facilitate this Department to take decision in the subject case keeping in view above order of the Peshawar High Court, Peshawar.

Encl: As Above.

Yours faithfully,

(SHAHID KHAN)
SECTION OFFICER (ESTAB)



Annenture



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

No.SOR.IV(ED)/6-1/2011/
Dated, Peshawar, the 20th Decr, 2011

20

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Local Govt & RD Department.

Amx E

**SUBJECT: REQUEST OF PROMOTION IN LIGHT OF JUDGMENT OF THE
PESHAWAR HIGH COURT IN WRIT PETITION NO. 793/2007**

Dear Sir,

I am directed to refer to your letter No.SO(LG-1)3-367/PHC/2007 dated 26/11/2011 on the subject noted above and to state that in terms of the Employees on Contract Basis (Regularization of Services) Act, 1989, read with the judgment of the Apex Court announced on 25/8/2005, services of the appellants stood regularized with effect from the date of their contractual appointments.

2. The Department is, therefore, required to determine their seniority vis-a-vis those appointed on regular basis in the defunct Directorate and consider their promotion in light of the service rules of the posts, subject to availability of vacant positions in the Cadre/Service Group.

Yours faithfully,

Sd/-

(MUSHTAQ HUSSAIN)
Sector Officer (R-IV)

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GOVERNMENT OF N.W.F.P.,
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT.

NO. SO(LG-I)4-118/B/89/
Dated Pesh: the 9th Feb. 1993

To

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1. Pir Zahoor Mohammad,
AD, LGRDD, Malakand.
2. Mr. Saadat Khan,
AD, LGRDD, SW-Agency.
3. Mr. Dul Ahmad,
AD, LGRDD, Sunair.
4. Mr. Gulab Khan,
AD, LGRDD, Swat.
5. Mr. Fazli Qadir,
AD, LGRDD, Charsadda.
6. Mr. Lal Mohammad,
AD, LGRDD, Kohat.
7. ~~Mr. Abdul Karim Khan,~~
AD, LGRDD, Peshawar.
8. Syed Iqbal Shah,
AD, LGRDD, Mardan.
9. Mr. Ghulam Habib,
AD, LGRDD, Nowshera.
10. Mr. Mohammad Iqbal,
AD, LGRDD, Swabi.
11. Mr. Rasool Khan,
AD, LGRDD, Mardan.
12. Syed Mutahir Shah,
AD, LGRDD, On deputation
to Pak-Aerian Insp. (Mardan).
13. Mr. Mohammad Aslam,
AD, LGRDD, Abbottabad.
14. Mr. Asmatullah,
AD, DCO General, LGRDD,
NWFP, Peshawar.
15. Mr. Mohammad Qasim Orakzai,
AD, LGRDD, Kurram Agency.
16. Mr. Nisar Ali,
AD, LGRDD, Khyber Agency.
17. Mr. Fais Mohammad Khan,
AD, LGRDD, Dir at Timergara.
18. Mr. Israrullah,
AD, LGRDD, Bajour Agency.
19. Mr. Sakhi Jan,
AD, LGRDD, Maimand Agency.

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20. Mr. Abdul Majid Zakoori,
AD, LGRDD, D.I. Khan.
21. Mr. Khadim Mohammad Hussain,
AD, LGRDD, Haripur.
22. Mr. Mashallah Khan,
AD, LGRDD, NW-Agency.
23. Mr. Abdul Ghaffar,
AD, LGRDD, Kohistan.
24. Mr. Mohammad Latif,
AD, LGRDD, Tank.

22

**SUBJECT:- FINAL SENIORITY LIST OF ASSISTANT DIRECTORS
(BPS-17) IN LGRDD AS STOOD ON 31ST DEC, 1992.**

A number of objections were received from the Assistant Directors (BPS-17) of Rural Development Department on the tentative seniority list circulated vide this Deptt. letter of even number dated 1st November, 1992, and after examining the objections, the Provincial Government in Local Government, Elections and Rural Development Department is pleased to circulate a final seniority list (copy enclosed) of Assistant Directors of Rural Development Department for information and record.

Encl: As above.

(*M. Zahid*)
(*M. Zahid*)
SECTION OFFICER-I

Encl. NO. SO (LS-I) 4-118/B/89/ Dated Peshawar the 9th Feb. 1993

Copy is forwarded to:-

1. The Director General, LGRDD, N.W.F.P., Peshawar for information pl.
2. All the Divisional Directors, LGRDD in NWFP.
3. The Manager, Government Printing Press, Peshawar for publication in the next Government gazettee.

H.M/-

(*M. Zahid*)
SECTION OFFICER-I

M. Zahid

23

LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT ANNEX-I

Sanctioned posts...34

FINAL SENIORITY LIST OF ASSISTANT DIRECTORS BPS-17 IN LG&RDD AS STOOD ON 31ST DEC. 1992.

| S.NO. | Name of Officer | Education Qualification. | Date of birth with domicile. | Date of first entry into Govt. Service. | First Regular appointment to the service/Cadre. | | | Promotion to present BPS | | Date of move-over to next higher grade. | REMARKS IF ANY |
|-------|----------------------|--------------------------|------------------------------|---|---|-----|------------------------|--------------------------|----------|---|----------------|
| | | | | | Date | BPS | Method of recruitment. | BPS | Date | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 12 | 13 |
| 1. | Pir Zakoor Mohammad | B.A. | 8-9-36 Mardan | 8-12-65 BPS-15 | 8-12-66 | 16 | Promotee | 17 | 13-12-74 | 1-12-84 | - |
| 2. | Mr.Saadat Khan | Matric | 10-12-33 S.W.A. | 16-4-55 BPS-16 | 16-4-56 | 6 | -de- | 17 | 15-5-75 | 1-12-88 | - |
| 3. | Mr.Dul Ahmad | M.A(Eco.) | 1-9-50 S.W.A. | 4-7-74 BPS-16 | 4-7-74 | 16 | Direct | 17 | 18-7-78 | -- | --- |
| 4. | Mr.Gulab Khan | M.A(P.S) | 1-8-46 S.W.A. | 15-4-74 Adhoc | 19-3-87 | 17 | -de- | 17 | 1-12-88 | 1-12-88 | --- |
| 5. | Mr.Fazli Qadir | M.A(Eco.) | 9-6-48 Mardan. | 16-7-74 Adhoc | 19-3-87 | 17 | -de- | 17 | -- | 1-12-88 | --- |
| 6. | Mr.Lal Mohammad | M.A(Eco.) | 15-5-39 Mkd. | 1-4-75 Adhoc | 19-3-87 | 17 | -de- | 17 | - | 1-12-88 | --- |
| 7. | Capt.(Retd) Sarfaraz | M.A(Eco) | 15-1-44 Kohat | 1-4-75 Adhoc. | 19-3-87 | 17 | -de- | 17 | - | 1-2-88 | --- |
| 8. | Syed Iqbal Shah | B.A.,LLB. | 3-3-44 Mansehra. | 1-7-75 Adhoc. | 19-3-87 | 17 | -de- | 17 | -- | 1-12-88 | --- |

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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|-----|------------------------------|---------------------------|------------------------------|-------------------------------|---------|-----|----------|-----|--------|---------|-----|
| 9. | Mr. Ghulam Habib | M.Sc. (Hon. Agr.) | 14.11.47 Mardan. | 1.4.75 (Adhoc) | 19.3.87 | 17 | -do- | --- | --- | 1.12.88 | --- |
| 10. | Mr. Mohammad Iqbal | M.Sc (Agri) | 9.7.50 DIK | 1.7.75 Adhoc. | 19.3.87 | 17 | Direct | --- | --- | 1.12.88 | --- |
| 11. | Mr. Rasool Khan | M.A (P.S) | 4.5.51 SWA | 12.7.75 Adhoc. | 19.3.87 | 17 | -do- | --- | --- | --- | --- |
| 12. | Mr. Mutahir Shah | M.Sc (Agri) | 28.7.48 Mardan. | 15.11.75 Adhoc. | 19.3.87 | 17 | -do- | --- | --- | --- | --- |
| 13. | Mr. Mohammad Aslam | M.A. LLB. | 3.5.46 A. Abad. | 27.12.75 Adhoc. | 19.2.87 | 17 | -do- | --- | --- | 1.12.88 | --- |
| 14. | Mr. Asmatullah | M.Sc (Agri) | 8.7.51 DIK. | 29.12.75 Adhoc. | 19.3.87 | 17 | -do- | --- | --- | 1.12.88 | --- |
| 15. | Mr. Mehd Qasim Orakzai. | M.A (P.S) | 1.1.51 Orakzai Agency. | 12.2.75 Adhoc. | 19.3.87 | 17 | -do- | --- | --- | --- | --- |
| 16. | Mr. Nisar Ali | M.A (P.S) | 16.2.51 Pesh: | 12.2.75 | 19.3.87 | 17 | -do- | --- | --- | 1.12.88 | --- |
| 17. | Mr. Faiz Mohammad Khan. | M.A (P.S & Journalism) | 12.4.62 N.W.A. | 8.3.92 | 8.3.92 | 17 | -do- | --- | --- | --- | --- |
| 18. | Mr. Israrullah | M.A (Eco) | 19.4.64 Swabi. | 8.3.92 | 8.3.92 | 17 | -do- | --- | --- | --- | --- |
| 19. | Mr. Sakhi Jan | M.A (P.S) | 9.5.58 Bannu. | 8.3.92 | 8.3.92 | 17 | -do- | --- | --- | --- | --- |
| 20. | Mr. Abdul Majeed Zakoori. | Matric | 1.5.37 DIK | 16.4.56 (B-6 as Worker) | 16.4.56 | B-6 | Promotee | 17 | 3-8-92 | --- | --- |
| 21. | Mr. Khadim Nohd Hussain. | M.A. | 15.3.39 DIK | 5.7.63 (B-9 as Supervisor) | 5.7.63 | B-9 | -do- | 17 | 3.8.92 | --- | --- |
| 22. | Mr. Mashallah Khan | B.A. | 1.1.37 Kohat. | 1.7.61 (B-9 Supervisor) | 1.7.61 | B-9 | -do- | 17 | 3.8.92 | --- | --- |

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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|-----|--------------------|------|-----------------------------|--|---------|------|--------------------------|----|--------|
| 23. | Mr. Abdul Ghaffar | B.A. | 25.6.40 Lakka Marwat. | 15.2.65 (B-9 Supervisor) | 15.2.65 | B-9 | Promotee | 17 | 3.8.92 |
| 24. | Mr. Mohammad Latif | M.A. | 22.2.44 DIK | 15.4.74 (B-16 Adhoc as Cooperative Officer IRDP). | 15.4.74 | B-16 | Direct by absorption. | 17 | 3.8.92 |

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Annexure

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

NOTIFICATION

Annex G

26

Peshawar, dated the 1st December, 1991.

NO.SO(LG-I)2-183/89. In exercise of the powers conferred by sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government and Rural Development Department, in consultation with the Services and General Administration Department and the Finance Department is pleased to direct that in this department notification No.DG(RWP)7(2)/73, dated 26-1-1978, the following further amendments shall be made namely:

AMENDMENTS

In the Appendix,-

(a) for the existing entries in column 6 against Serial No.2 the following entries shall be substituted, namely:

"(i) Seventy per cent by initial recruitment; and

(ii) thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Divisional Progress-Officers with atleast 3 years' service as such."

AD

(b) for the existing entries in columns 2 to 6 against serial No.9 the following entries shall respectively be substituted, namely;

| 2 | 3 | 4 | 5 | 6 |
|----------------|---|---|--|--|
| "Sub-Engineer. | (a) Secondary school certificate or equivalent qualification from a recognised Board; and | Secondary school certificate or equivalent qualification from a recognised Board. | Not less than 21 years and not more than 25 years! | (i) Seventy per cent by initial recruitment; (ii) Twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Work Munshis with atleast ten years' service as such, who have passed departmental Grade B examination; and |

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2 3 4 5 6

(b) three years' course Diploma in Civil Engineering from a recognised Institute.

(iii) ten per cent by promotion, on the basis of seniority cum-fitness, from amongst the holders of the posts of Draftsman with atleast five years' service as such."

(c) after Serial No.9 the following new entries shall be inserted in the respective columns, namely:

1 2 3 4 5 6

"9A. Draftsman.

(a) Secondary school certificate or equivalent qualification from a recognised Board; and

Secondary school certificate or equivalent qualification from a recognised Board.

Not less than 18 years' and not more than 25 years.

(i) By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Tracers who have atleast five years' service as such; or

(ii) if no suitable person is available for promotion, by initial recruitment";

(b) two years' course certificate or Diploma in Civil Draftsmanship from a recognised Institute.

(d) after the existing entries at serial No.17 the following new entries shall be added in the respective columns:

1 2 3 4 5 6

"18. Tracer.

Secondary school certificate or equivalent qualification

Not less than 18 years' and not more than 25 years!

By initial recruitment.

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1 2 3 4 5 6

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from a
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nised
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drawing
as one
of the
subjects.

| | | | | |
|-----------------|---|---|---|----------------------------|
| 19. Work Munshi | Secun- dary school certi- ficate or equi- valent qualifi- cation from a recog- nised Board. | - | Not less than 18 years' and not more than 25 years'. | By initial recruitment. |
|-----------------|---|---|---|----------------------------|

SECRETARY TO GOVERNMENT OF NWFP,
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

Endst.NO.SO(LG-I)2-188/89/ Dated Peshawar the 1st December, 1991
Copy of the above is forwarded to:-

1. All Administrative Secretaries to Government of NWFP.
2. All Divisional Commissioners in NWFP.
3. Secretary to Governor, NWFP, Peshawar.
4. Secretary, NWFP, Public Service Commission, Peshawar.
5. Director General, LG&RDD, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. Secretary, Local Council Board, N.W.F.P., Peshawar.
8. Secretary, Provincial Election Authority, Peshawar.
9. All Divisional Directors, LGRDD in NWFP.
10. All Deputy Commissioners in NWFP.
11. All District and Session Judges in NWFP.
12. Registrar, Peshawar High Court, Peshawar.
13. All Assistant Directors, LGRDD in NWFP.
14. Section Officer (Legis.), Govt. of NWFP, Law Department.
15. Section Officer (Urdu Cell), Govt. of NWFP, S&GAD with
reference to his letter No.SOUC(S&GAD)6-22/90,
dated 1-12-1991.
16. Manager Government Printing Press, Peshawar for publication
in the next Government Gazettee Notification, 40 copies of
the Notification may be sent to this Department.

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H.M/-

(*Fazal-ur-Rehman*)
SECTION OFFICER-I

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GOVERNMENT OF N.W.F.P.,
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

2(1)

DATED PESHAWAR THE 3RD AUGUST, 1992

NOTIFICATION

Annex H (28)

NO. SO(LG-I)2-5/B,-- The Governor North-West Frontier
Province in consultation with the Departmental Promotion/
Selection Committee is pleased to order the promotion
of the following Divisional Progress Officers(BPS-16) to
the posts of Assistant Directors(BPS-17) in Rural Deve-
lopment Department with immediate effect:--

1. Mr. Abdul Majeed Zakoori
2. Mr. Khadim Mohammad Hussain
3. Mr. Mashallah Khan
4. Mr. Abdul Ghaffar
5. Mr. Mohammad Latif

SECRETARY TO GOVERNMENT OF NWFP
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

Endst. NO. SO(LG-I)2-5/B/ Dated Pesh: the 3rd August, 1992

A copy is forwarded to:--

1. The Accountant General, N.W.F.P., Peshawar.
2. The Director General, LGRDD, NWFP, Peshawar.
3. All the Divisional Directors, LGRDD in NWFP.
4. All the Assistant Directors, LGRDD in NWFP.
5. The District Accounts Officer, Haripur.
6. The District Accounts Officer, Tank.
7. The District Accounts Officer, Karak.
8. The Agency Accounts Officer, NW-Agency.
9. The District Accounts Officer, Abbottabad.
10. Mr. Abdul Majeed Zakoori, Acting AD, Directorate
General, LGRDD, NWFP, Peshawar.
11. Mr. Khadim Mohammad Hussain, acting AD, LGRDD, Haripur.
12. Mr. Mashallah Khan, acting AD, LGRDD, NW-Agency.
13. Mr. Abdul Ghaffar, acting AD, LGRDD, Tank.
14. Mr. Mohammad Latif, acting AD, LGRDD, Karak.
15. The Manager, Government Printing Press Peshawar for
publication in the next Government gazettee.
16. Personal files of the officers concerned.

(PAK) D. Q. REHMAN
SECTION OFFICER-I

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET.

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| Date of Order | Order or other proceedings with signature of the Judge |
|---------------|---|
| 1 | 2 |
| 16.8.2012 | <p>C.M. (EH) No.729-P/2012 in COC No.87-P/2012 in W.P.No.793/2007.</p> <p>Present: Mr.Fazal Rabi Dard, Advocate, for the petitioner.</p> <p>Mr.Lal Jan Khattak, AAG, for the respondents.</p> <p>-----</p> <p>YAHYA AFRIDI, J,- Shad Muhammad and three others have sought COC proceedings against named respondents for non-compliance of the orders of this Court in W.P. No.793 of 2007 decided on 18.10.2011.</p> <p>Respondents were put to notice and they have asserted in writing that similarly placed, as the present petitioners, have been granted the relief so directed by this Court, while the case of the petitioner could not be processed, as they had not provided their ACRs for the consideration of their relief relating to promotion. As far as the official benefits were concerned, the same have been paid to the petitioners.</p> <p>On the other hand, the learned counsel for the petitioners vehemently argued that as the petitioners were contract employees and by operation of law or their re-instatement, they</p> |

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are to be granted "proforma promotion" and there is no requirements for submission of their ACRs.

Learned AAG present in Court disputes the said legal proposition and states that the department is still willing to consider the case of the petitioner, if they provide the requisite ACRs, as was rendered by others, similarly placed.

For the reasons stated herein above, this Court finds that though there may be a legal case made out in favour of the petitioners for seeking appropriate remedy before the lawful legal forum, no Contempt of Court is made out by the actions rendered by the respondents.

In view of the above, the notices were issued, are hereby recalled. The petitioners may invoke their remedy before an appropriate legal forum, if so advised.

This petition is disposed of in the above terms. *Edy Yahya Afridi - J*

Announced
16.8.2012.

Edy Jashad Raiser - J

CERTIFIED TO BE TRUE COPY

A. Raiser
May 23/8/12

Examiner
Peshawar High Court Peshawar
Authorized Under Article
the Qanun-e-Shahadat Order 1984

Office 1788

1788

| | |
|-------------------------------------|---------|
| Date of Presentation of Application | 16/8/12 |
| No of Pages | 24 |
| Copying fee | 18 |
| Urgent Fee | |
| Total | 18 |

| | |
|-----------------------------|--------------------|
| Date of Preparation of Copy | 23/8/12 |
| Date Given For Delivery | 23/8/12 |
| Date of Delivery of Copy | 28/8/12 |
| Received By | <i>[Signature]</i> |

[Signature]

Amx J 32
GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

ORDER

Dated: Peshawar the 27th August, 2012

No.SO(LG-I)2-336/Promotion/2012.- The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BPS-16) LG&RDD to the posts of Assistant Director (BPS-17) in the Local Government and Rural Development Department with immediate effect:-

1. Mr.Shad Muhammad
2. Mr.Abdul Rashid
3. Mr.Salim Raza
4. Mr.Asadullah

2. On their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.


SECRETARY GOVT.OF KHYBER
PAKHTUNKHWA, LOCAL GOVT:
ELECTIONS & RURAL DEV:DEPTT:

Encl. Even No. and Date.

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The AGPR Sub-Office, Peshawar.
3. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
4. The Director FATA, LG&RDD, Warsak Road, Peshawar.
5. All Assistant Directors, LG&RDD in FATA.
6. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
7. The Officers concerned.
8. The Manager Government Printing Press, Peshawar.
9. The PS to Secretary, LGE&RDD.
10. Personal Files of the officers concerned.
12. Office order file.


(SHAHID KHAN)
SECTION OFFICER (ESTAB)



Annexure ✓



33

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department

ORDER

Dated Peshawar, the 16th May, 2013

No.SO(LG-I)2-336/Promotion/2012. The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BS-16), Local Government, Elections and Rural Development Department to the post of Assistant Directors (BS-17) in the Local Government, Elections and Rural Development Department with immediate effect:-

- i) Mr.Sheraz Ahmad
- ii) Mr.Fazlullah
- iii) Mr.Shibli Khan

2. On their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.
3. On their promotion, the officers will remain on probation, as per rules.
4. Consequent upon their promotion, postings/transfers of the following officers are hereby ordered with immediate effect:-

| Sl.No. | Name officer | From | To |
|--------|-----------------|--------------|---|
| 1 | Mr.Sheraz Ahmad | On promotion | Assistant Director, LG,E&RDD, Buner to relieve Mr.Israrullah Khan of the additional charge. |
| 2 | Mr.Fazlullah | On promotion | Assistant Director, LG,E&RDD, Mardan against a vacant post. |
| 3 | Mr.Shibli Khan | On promotion | Assistant Director, LG,E&RDD, Dir Lower against a vacant post. |

SECRETARY TO GOVT.OF KHYBER
PAKHTUNKHWA, LG&RDD

Endst No.SO(LG-I)2-336/Promotion/2012

Dated Pesh: the 16th May, 2013

Copy is forwarded:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, LG,E&RDD, Khyber Pakhtunkhwa, Peshawar.
3. The Director, FATA, LG&RDD, Warsak Road, Peshawar.
4. The Assistant Directors, LG&RDD, Swabi, Buner, Mardan and Dir Lower at Timergara.
5. The District Accounts Officers, Swabi, Buner, Mardan and Dir Lower at Timergara.
6. The Officers concerned.
7. The Manager Government Printing Press, Peshawar.
8. The PS to Secretary, LG,E&RDD.
9. The office order file.

(IZAZ ULLAH)
SECTION OFFICER (ESTAB)

[Handwritten signature]

[Handwritten mark]

To

1076

PS/C.S Khyber Pakhtunkhwa

Diary No. 6337Date. 10-6-13

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

34

Subject: Departmental Representation against the order dated 16.05.2013 whereby the appellant was albeit promoted to the post of Assistant Director (BPS-17) in the Local Government, Elections and Rural Development Department but with immediate effect instead of the due date i.e. 22.11.1991.

Annex K
Through proper channel

Respected Sir,

With due respect I have the honour to submit this departmental appeal/representation for your kind consideration and favourable action on the following facts and grounds:

1. That appellant and others were appointed as Progress Officers (BPS-16) in the LG&RDD way back in the year 1988 on contract basis. They subsequently approached the Peshawar High Court, Peshawar for regularization of their services but could not succeed meanwhile they were terminated from service. Their request also did not find favour with the Hon'ble Apex Court which directed them to approach the Provincial Service Tribunal. On their approach to the Provincial Service Tribunal their appeals were dismissed and consequently they again knocked at the door of the Hon'ble Supreme Court of Pakistan in Civil Appeals/Civil Petitions and the Apex Court was pleased to accept the same vide judgment dated 25.08.2005 (*Annex:-A*) and appellant and others were reinstated into service with all back benefits.
2. That the Judgment of the Apex Court was implemented by the Department by reinstating the appellant and others in service with all back benefits and regularized them with effect from the date of their initial appointment vide Notification dated 10.11.2005 and 16.12.2005 (*Annex:-B & C*).
3. That since the appellant was also entitled for promotion to the higher grade as a corollary to the Judgment of the Hon'ble Apex Court which was denied to him, therefore, appellant and others filed writ petition No.793/2007 in the Hon'ble Peshawar High Court, Peshawar which was disposed of vide order dated 18.10.2011 (*Annex:-D*) with the direction to the Department to decide the matter in accordance with law as per the observations of the Hon'ble Court given in the order.

[Signature]

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4. That the Department, in the light of the Judgment *ibid*, took up the case of appellant and others and asked for advise of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 (*Annex:-E*) by crystallizing the queries hinted to by the Hon'ble Peshawar High Court, Peshawar in lucid manner. The Establishment Department vide letter dated 20.12.2011 (*Annex:-F*) advised that *in terms of the Employees On Contract Basis (Regularization Services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellants stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in the light of Service Rules of the posts subject to the availability of the vacant positions in the Cadres/Service Group.*
5. That inspite of the clear position as explained above still the desired promotion was not granted to the appellant, therefore, COC No.87-P/2012 was filed before the Hon'ble Peshawar High Court, Peshawar which was disposed of vide order dated 16.08.2012 (*Annex:-G*) in view of the statement of the learned Additional Advocate General that the promotion case of the appellant could not be processed as they had not provided ACRs for consideration of the Departmental Promotion Committee, however, it was also observed that appellant and others might invoke their remedy before an appropriate legal forum if so advised.
6. That thereafter appellant and others were promoted to the posts of Assistant Director (BPS-17) but with immediate effect instead of the due date vide impugned order dated 16.05.2013 (*Annex:-H*) in violation of the law, rules, Judgment of the Hon'ble Apex Court, therefore, appellant being aggrieved of the same approach your good-self through this departmental Representation inter-alia on the following grounds:

Grounds

- A. That appellant has not been treated in accordance with law and rules on the subject and dealt with in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and was unlawfully denied the promotion to the post of Assistant Director (BPS-17) with effect from the due date which is unjust, unfair and hence not sustainable in the eye of law and is liable to be modified.
- B. That it is admitted position that appellant was reinstated into service by the Hon'ble Apex Court with all back benefits including promotion, upgradation etc. falling due during the course of service and in the same spirit the matter was earlier interpreted by the



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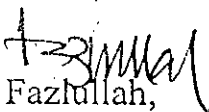
Establishment Department vide letter dated 23.08.2006 (*Annex:-I*) in the case of appellant and others and therefore, on reinstatement into service appellant was also entitled to have not only been promoted to the next higher grade but with effect from the date of his entitlement which admittedly falls on 22.11.1991 but then by passing the impugned order, the promotion was though granted to the appellant but not with effect from the due date which has resulted in serious miscarriage of justice.

- C. That in the light of the judgment of the Hon'ble Peshawar High Court, Peshawar dated 18.10.2011 the Department vide letter dated 26.09.2011 conceded to the position that the promotion of the appellant became due with effect from 22.11.1991 and the advise on the same subject was called from the Establishment Department which was given in affirmative as would be evident from the letter dated 20.12.2011 thereby leaving no room for any suspicion into the matter but with all that the Department denied the promotion to the appellant with effect from the due date by passing the impugned order which is thus illegal, against the facts and hence not tenable under the law.
- D. That the Government of Khyber Pakhtunkhwa vide Notification dated 07.02.2012 (*Annex:-J*) regularized retrospectively the staff of DERA Program w.e.f. 01.07.2005. Similarly the Secretary LG&RDD vide order dated 12.10.2011 (*Annex:-K*) while allowing departmental Representation allowed the seniority w.e.f. the date of regular appointment to the Sub-Engineers including Syed Mehboob Hussain Shah TO(I) etc. Likewise the Government of Khyber Pakhtunkhwa vide Notification dated 25.07.2012 (*Annex:-L*) antedated the promotion of PMS Officers (BPS-17) retrospectively from various dates. Even the Establishment Department in the case of appellant and others.

It is, therefore, humbly requested that on acceptance of this departmental Representation, the impugned promotion order No.SO(LG-I)2-336/Promotion/2012 dated 16.05.2013 may graciously be modified by giving retrospective effect to the same w.e.f. the due date i.e. 22.11.1991 with all consequential back benefits.

Dated: 10 /06/2013

Yours faithfully

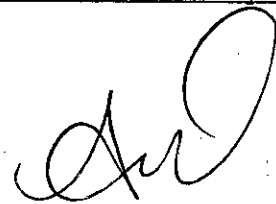

Fazlullah,

Assistant Director
LG&RDD, District Mardan.

Copy forwarded to;

The Worthy Secretary to Govt. of Khyber Pakhtunkhwa LG&RDD, Department Peshawar.

Government of K.P.K
Dairy No. 3072
Date 10-06/2013
Local Govt. LG&RDD
10/06/13



(37)

Amx h

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Statement Showing the date wise Appointment and Promotion of Supervisors, Progress Officers to the Post of Assistant Directors, LG&RDD

| SL. No. | Name of Progress Officer | Method of Recruitment whether by promotion or by initial quota | Date of Apptt./promotion /induction as Progress Officer (BS-16) | Date of Promotion as Asstt. Director (BS-17) |
|---------|--------------------------|--|---|--|
| 1 | Abdul Majeed Zakoori | B-9 (Promotee) | 18-12-1985 | 03-08-1992 |
| 2 | Khadim Muhammad Hussain | -do- | 18-12-1985 | 03-08-1992 |
| 3 | Mashallah Khan | -do- | --- | 03-08-1992 |
| 4 | Abdul Ghaffar | -do- | --- | 03-08-1992 |
| 5 | Muhammad Latif | -do- | --- | 03-08-1992 |
| 6 | Shad Muhammad | - | 22-11-1988 | 27-08-2012 |
| 7 | Sheraz Ahmad | - | 22-11-1988 | 16-05-2013 |
| 8 | Abdul Rashid | - | 22-11-1988 | 27-08-2012 |
| 9 | Fazlullah | - | 22-11-1988 | 16-05-2013 |
| 10 | Shibli Khan | - | 22-11-1988 | 16-05-2013 |
| 11 | Hamid Ullah | B-9 (Promotee) | 03-08-1992 | 01-11-1995 |
| 12 | Aziz-Ur-Rehman | -do- | 03-08-1992 | 01-11-1995 |

See

SECTION OFFICER
AL GOVT. DIRECTIONS AND
DEVELOPMENT CLPIT

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| | | | | |
|----|--------------------|----------------|------------|------------|
| 13 | Muhammad Farid | -do- | 03-08-1992 | 01-11-1995 |
| 14 | Akhtar Munir | -do- | 03-08-1992 | 01-11-1995 |
| 15 | Muhammad Jehangir | Direct | 26-05-1993 | 26-12-1996 |
| 16 | Qazir Noorul Wahab | -do- | 26-05-1993 | 26-12-1996 |
| 17 | Ghulam Qadir | B-9 (Promotee) | 08-10-1996 | 26-06-2000 |
| 18 | Faramoz Khan | -do- | 08-10-1996 | 26-06-2000 |
| 19 | Alam Zeb | -do- | 08-10-1996 | 26-06-2000 |
| 20 | Noor Elahi | -do- | 08-10-1996 | 26-06-2000 |
| 21 | Abdul Qadir | -do- | 08-10-1996 | 26-06-2000 |
| 22 | Muhammad Aslam | -do- | 08-10-1996 | 26-06-2000 |
| 23 | Maqsood-Ur-Rehman | -do- | 08-10-1996 | 26-06-2000 |
| 24 | Qazi Anwar Gul | -do- | 08-10-1996 | 26-06-2000 |

Note:- The officers mentioned at Sl.No.6 to 10 were appointed on contract basis on 22-11-1988. their services have been regularized from the date of their initial appointment i.e. 22-11-1988 in implementation of Judgement dated 25-08-2005 of the Supreme Court of Pakistan.

See

Muhammad
SECTIONAL OFFICER
LOCAL GOVERNMENT
RURAL DEPT.
GOVT. OF PUNJAB
LUDHIANA

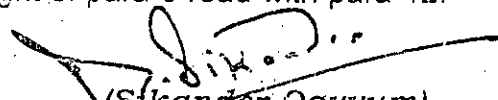
~~Confidential~~

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12. The appellants were re-instated in service with all back benefits and regularized by the LG&RD Department with effect from 22.11.1988 i.e. the date of their contract appointment in light of Supreme Court Judgment dated 25.08.2005 (F/E). They were placed in the surplus pool as the posts of progress officers alongwith other posts under the office of DG, LGE&RD-Department were abolished in 2001 during devolution process till these were revived w.e.from 01.01.2012. The appellants could also not be promoted as Assistant Directors for the aforesaid reason. According to policy (F/J) promotion is always to be notified with immediate effect. Therefore the request of the appellants for ante-dated promotion is not covered under the rules and is liable to rejection by the appellate authority.

13. It may be added that the appellants have been regularized with effect from 22.11.1988 whereas the posts under DG, LG&RD Department were abolished in 2001. Therefore during the period from 1988 to 2001, there is a possibility that regularly appointed progress officers would have been promoted as Assistant Directors. In such a case the appellants will be entitled to regain inter-se-seniority in the higher post and they shall be deemed to have been cleared for promotion alongwith officers junior to them who were considered in the earlier meeting of DPC as per para-7 of circular letter dated 13.04.1987 (F/K). The intervening period can be counted towards increments under FR-26 (c) without arrears.

14. The appellate authority (Chief Secretary) may like to refer to Administrative Department to clarify on para-13 or may dispose off the appeals / representations in light of para-9 read with para-12.


(Sikander Qayyum)
Secretary Establishment
August 20, 2013

Chief Secretary, Khyber Pakhtunkhwa.

15.

H. clarify



Secy LG&RD

22/8
Chief Secretary
Govt of Khyber Pakhtunkhwa

Next page



CAIC S. Khyber Pakhtunkhwa
No. 3163
Date 13.08.2013

Subject:- DEPARTMENTAL REPRESENTATIONS AGAINST THE ORDER DATED 16-05-2013 OF LG,E&RDD WHEREBY THE APPELLANTS HAVE BEEN PROMOTED TO THE POST OF ASSISTANT DIRECTOR (BS-17) IN LG,E&RDD INSTEAD OF THE DUE DATE I.E. 22-11-1991

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16. The requisite information as desired in Para-13/ante is at Flag-AA. However, similar claims of the appellants have already been disposed of by the Peshawar High Court, Peshawar as well as by the Department prior to their promotion to the post of Assistant Directors (BS-17). Probably para-7 of circular letter dated 13-04-1987 (F/K) relates to the cases which are deferred in PSB or DPC due to pending disciplinary actions or whose CR dossiers are incomplete.

[Signature]
(Hifz-Ur-Rahman)
Secretary, LG,E&RDD

Chief Secretary, Khyber Pakhtunkhwa

SO & R-17
SAGAD. Diary No. 179
Date 23/9/13

17.

to re-examine.

Sery Estab.

[Signature]
2/8

[Signature]

next page

Chief Secretary (Row)
Establishment & Admin Dept
File No. 3565
Date 13-9-13

PS to Secy LG & RDD
[Signature]
Date 23/9/13

Chief Secy
No. 3565
Date 13-9-13

1322-5
23/9/13

14337
23/9/13

179
23/9/13

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[Signature]

41

18. As held by the Apex Court, the appellants had become regular civil servants by virtue of provisions of the Khyber Pakhtunkhwa Employees on Contract Basis (Regularization of Services) Act, 1989. They were reinstated in service with all back benefits (F/E). Accordingly, administrative department issued notification, regularizing contractual services of the appellants with effect from the dates of their initial appointments (F/F). According to relevant law/ rules, their seniority was to be determined in respective cadre/ service with reference to the dates of their regular appointments i.e. 22.11.1988. However, since the Directorate LG&RD was then abolished, they were placed in the surplus pool. Now when the Directorate has been revived and they are adjusted in their erstwhile cadre/ department, they shall regain their original seniority, as given in para-6(a) of the Surplus Pool Policy (F/L).


19. The appellants have recently been promoted to the post of Assistant Directors (BS-17) in 2012 and 2013. According to provisions of the Promotion Policy of the Provincial Government, the administrative department has prepared a seniority of promotee Assistant Directors, with particular reference to the dates of regular appointment in the lower post (Progress Officer) at **Annex-AA**. The appellants find their places at S.No.7, 9 and 10.

20. In view of the above, the seniority position at **Annex-AA** is in order. The Chief Secretary, Khyber Pakhtunkhwa may please accord approval to the seniority list placed at **Annex-AA**.


(Sikander Qayyum)
Secretary Establishment
October 09, 2013

Chief Secretary, Khyber Pakhtunkhwa.

Part 20 approved.


Chief Secretary
Govt. of Khyber Pakhtunkhwa

22.

Secy

30E

11/9/10

11/10



11/10

C/S Khyber Pakhtunkhwa
No. 322-13
Date: 09/10/13
Appellants

IMMEDIATE



92

Amir M

GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL DEVELOPMENT DEPARTMENT

No.SO(LG-I)3-367/2013

Dated Peshawar, the 7th November, 2013

To

The Secretary to Govt.of Khyber Pakhtunkhwa,
Establishment Department, Peshawar

Subject:-

DEPARTMENTAL REPRESENTATIONS AGAINST THE ORDER DATED 16-05-2013 OF LG,E&RDD WHEREBY THE APPELLANTS HAVE BEEN PROMOTED TO THE POST OF ASSISTANT DIRECTOR (BS-17) IN LG,E&RDD INSTEAD OF THE DUE DATE I.E. 22-11-1991

Dear Sir,

I am directed to refer to the subject cited above and to say that M/S Sheraz Ahmad, Fazlullah and Shibli Khan, Progress Officers (BS-16) were promoted to the posts of Assistant Directors (BS-17) in Local Government, Elections and Rural Development Department against the posts lying vacant under promotion quota with immediate effect i.e. 16-05-2013 with the approval of Competent Authority (copy attached). Aggrieved of their promotion order, they submitted representations/appeals to the Chief Secretary, Khyber Pakhtunkhwa and prayed for promotion to the post of Assistant Director (BS-17) with effect from 22-11-1991 instead of 16-05-2013. Representations/appeals of the appellants are attached.

2.

Details of the case are illustrated as under:-

- (i) The appellants were initially appointed under the scheme "Strengthening of LG&RDD" during 1988 alongwith others. The posts against which the incumbents were working were created on revenue side with effect from 01-01-1993, by the Finance Department. However, status of the incumbents remained the same. They filed writ petition in the Peshawar High Court, Peshawar for regularization of their services, which was dismissed. Aggrieved of the decision of the learned High court, they filed Civil appeals in the Supreme Court of Pakistan, The Apex Court also dismissed their appeals with the direction to file appeals in Khyber Pakhtunkhwa Service Tribunal. They filed appeals in learned Service Tribunal which were also dismissed (copy attached).
- (ii) Ultimately, the incumbents filed Civil Appeals in the Supreme Court of Pakistan. The Apex court accepted their appeals and ordered for their reinstatement in service with all back benefits and regularized them from the date of their initial appointment by extending the benefit of Khyber Pakhtunkhwa Employees on Contract Basis (Regularization of Service) Act, 1989 vide judgement dated 25-08-2005 (copy attached).

b M

506
(iii) Whether the case will require placement before the Departmental Promotion Committee afresh or otherwise;

Enc: As Above.

Yours faithfully

Mulla
(GAZAFULLAH)
Section Officer (Estab)

(vi) The Directorate General, LG,E&RDD and the offices of Assistant Directors in the settled districts were revived with effect from 01-01-2012 where the post of Assistant Directors (BS-17) became vacant under promotion quota. Keeping in view the orders of the learned High Court as mentioned in para 5 above, the appellants were also heard by the Secretary, LG,E&RDD on 15/02/2012 and their appeals were disposed with the direction to Section concerned to place case of the appellants before the proper forum for decision after establishment of the offices and posting and adjustment of staff (copy enclosed).

(vii) Accordingly, case for promotion of the appellants to the post of Assistant Directors (BS-17) in LG,E&RDD was prepared and placed before the Departmental Promotion Committee for consideration. The Departmental Promotion Committee determined their promotion with immediate effect i.e. 16-05-2013 against which the appellants are aggrieved and filed departmental representation/appeals to the Chief Secretary, Khyber Pakhtunkhwa for grant of retrospective promotion i.e. with effect from 22-11-1991.

(viii) The LG,E&RDD submitted representations/appeals of the appellants to the Chief Secretary, Khyber Pakhtunkhwa. The Chief Secretary, Khyber Pakhtunkhwa has approved the seniority position of the incumbents vide para-21 of the note (copy attached).

3. In order to avoid any legal complication, I am further directed to seek advice/clarification of the Establishment Department on the following points so that the case could be processed further:-

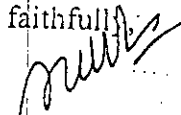
- (i) There are five Progress Officers i.e. M/S Sheraz Ahmad, Abdul Rashid, Shibli Khan, Shad Muhammad and Fazlullah-but M/S.Abdul Rashid and Shad Muhammad have not submitted representations/appeals against their promotion order while the remaining three have submitted representations/appeals against their promotion with immediate effect. Whether the case of these two incumbents who have not filed appeals against their promotion order could also be considered at par with the case of three appellants whose appeals have been accepted or otherwise;
- (ii) The Competent Authority has already upgraded the posts of Assistant Directors from BS-17 to BS-18 personal to the 17 incumbents vide Notification No.SOB(LG)1-4/2003/Vol:II. dated 25-07-2013 (copy attached). When the appellants are given seniority and promotion from retrospective effect, they will also claim up-gradation from BS-17 to BS-18 then what would be the legal status;

Deed

(iii) Whether the case will require placement before the Departmental Promotion Committee afresh or otherwise;

Enc: As Above.

Yours faithfully


(GZAZULLAH)
Section Officer (Estab)



Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

No.SOR.IV(ED)/6-1/2013/

Dated, Peshawar, the January 10, 2014

To

Annex No. 45
The Secretary to Government of Khyber Pakhtunkhwa,
Local Government & RD Department.

SUBJECT: REPRESENTATION AGAINST THE ORDER DATED 16/5/2013 OF LG&RDD WHEREBY APPELLANTS HAVE BEEN PROMOTED TO THE POST OF ASSISTANT DIRECTOR

Dear Sir,

I am directed to refer to Local Government Department letter No.SO(LG-I)3-367/2013 dated 7/11/2013 on the subject noted above and to reply the queries, as under:

- i) The appeals were submitted by LG&RDD in a note for orders of Chief Secretary, being the competent authority. The case was also examined in Establishment Department, in paras 18-20 of the note, where the appellants were found entitled to regain their original seniority. Para 20 was approved. The examination of this Department in the note was based on law/rules/policy on the subject, which applies to all civil servants, hence, the appellants alone may not be singled out for the purpose. Any person of the service if found to make identical case with the appellants is required to be dealt with in the same manner.
- ii) Promotion involves assignment of higher responsibilities, therefore, is always made with immediate effect. As regards personal up-gradation, this issue lies before relevant forum in Finance Department for consideration.
- iii) DPC has already considered and promoted the officers. The issue of regaining of seniority needs not to be placed before the DPC.

Yours faithfully,

Ishtiaq Ahmad
(ISHTIAQ AHMAD)
Section Officer (R-IV)

[Signature]
or before 15th April, 2014 for consideration. Statement before final declaration thereof.



IMMEDIATE

REGISTERED

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department

No.SO(LG-I)3-367/PHC/2014

Dated Peshawar, the 14th March, 2014

To

1. Mr.Tahira Yasmeen,
Acting Director, LG&RDD
2. Mr.Muhammad Zahoor,
Asstt:Director /PO, Dte:FATA,
LG&RD, Warsak Road, Peshawar
3. Mr.Muhammad Fahim,
Asstt: Director/P.O, Dte:FATA,
LG&RD, Warsak Road, Peshawar
4. Mr.Faiz Muhammad Khan,
Project Director, DIKhan
5. Mr.Israrullah,
AD, LG&RDD, Swabi.
6. Mr.Shad Muhammad,
AD, LG&RDD, Khyber Agency
7. Mr.Sheraz Ahmad, AD, LG&RDD, Mansehra.
8. M.Abdul Rasheed, AD, LG&RDD, Haripur
9. Mr.Fazlullah, AD, LG&RDD, Mardan
10. Mr.Shibli Khan, AD, Dte:General, LG&RDD
11. Mr.Sardarul Mulk, AD, LG&RDD, Malakand
12. Mr.Akhtar Munir, AD, LG&RDD, Hangu
13. Mr.Riaz Ahmad, PD, MSDP,
University Town, Peshawar
14. Mr.Khali Israr Shah, AD, LG&RDD,
North-Waziristan Agency
15. Mr.Sajid Gul, Secretary, Provl:Delimitation
Authority, Peshawar
16. Mr.Said Rahman, AD, LG&RDD (Now on leave)
17. Syed Hasnain Kazmi, AD, LG&RDD
(Now on Ex-Pakistan leave)
18. Mr.Muhammad Jehangir, AD,
Dte:FATA, LG&RDD, Warsak Road,
Peshawar.
19. Qazi Noorul Wahab,
AD, LG&RDD, Mohmand Agency
20. Mr.Alam Zeb, AD, Dte:General,
LG&RDD FATA, Warsak Road,
Peshawar
21. Mr.Salim Raza, AD, LG&RDD, Charsadda
22. Mr.Asadullah, AD, LG&RDD, Swat

46

Amx O'

**Subject:- TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS,
lg&rdd AS STOOD ON 30-01-2014.**

Memo:

I am directed to refer to the subject cited above and to enclose herewith copy of Tentative Seniority List of Assistant Directors/Planning Officers with the remarks that reservations on the said list, if nay, may be conveyed to this Department on or before 15th April, 2014 for consideration / settlement before final declaration thereof.

[Handwritten signature]

...P/2....

In case no objection is received by the target date, it would be presumed that no individual has any objection the tentative seniority list. I am, further directed to

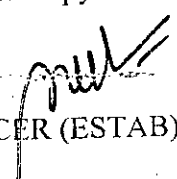
Encl: As Above.


(IZAZ ULLAH)
SECTION OFFICER (ESTAB)

Endst. Even No. & Date.

Copy is forwarded to:-

1. The Director General, LG,E&RDD, Khyber Pakhtunkhwa, Peshawar. Copy of tentative seniority list is attached.
2. The Director FATA, LG&RDD, Warsak Road, Peshawar. Copy of tentative seniority list is attached.
3. The PS to Secretary, LG,E&RDD.


SECTION OFFICER (ESTAB)

47

**TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS/PLANNING OFFICERS (BPS-17)
AS STOOD ON LG&RDD ON 30.01.2014**

Total Sanctioned Posts of Assistant Directors (BPS-17):- 36

| S # | Name of Officer | Educational Qualification | Date of Birth of Domicile | Date of 1 st Entry into Service | 1 st regular appointment to | | | Promotion to present BPS | | Remarks if any |
|-----|---------------------|---------------------------|---------------------------|--|--|-----|-----------------------|--------------------------|------------|---|
| | | | | | Date | BPS | Method of recruitment | BPS | Date | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 12 |
| 1 | Mrs. Tahira Yasmin | M.P.A | 1-1-1957 D.I.K | 25.5.1984 | 25.5.1984 | 17 | Direct | 18 | 17.12.2007 | She has been re-instated in service in implantation of the Judgement of the Khyber Pakhtunkhwa Service Tribunal, Peshawar and services regularized from the date of her initial appointment. i.e. 25.5.1984 |
| 2 | Mr. M. Zahoor (PO) | M.A Eco: | 9.5.1961 MKD | 6.11.1988 | 6.11.1988 | 17 | -do- | 18 | 25-7-2013 | |
| 3 | Mr. M. Fahim (PO) | M.B.A | 14.2.1963 Swat | 6.11.1988 | 6.11.1988 | 17 | -do- | 18 | -do- | |
| 4 | Mr. Faiz Muhammad | M.A (PS) & Journalism | 12.4.1962 N.W.A | 8.3.1992 | 8.3.1992 | 17 | -do- | 18 | -do- | |
| 5 | Mr. Israrullah Khan | M.A Eco: | 19.4.1964 Swabi | 3.3.1992 | 3.3.1992 | 17 | Direct | 18 | -do- | |

SECTION OFFICER
LOCAL GOVT. ENGINEERING AND
URBAN DEVELOPMENT DEPTT

| | | | | | | | | | | |
|----|--------------------------|---------------------|--------------------------------------|------------|------------|----|--------|----|-----------|---|
| 6 | Mr.Shad Muhammad | M.Sc | <u>03-04-1958</u> <u>Mansehra</u> | 22-11-1988 | 22-11-1988 | 16 | Direct | 17 | 27-8-2012 | Consequent upon acceptance of their departmental appeals/representations by the Chief Secretary, Khyber Pakhtunkhwa (Appellate Authority), and advice rendered by the Establishment Department vide letter No.SOR-IV(ED)/6-1/2013, dated 10-01-2014, the officers mentioned at Sl.No.6 to 10 have regained their seniority. |
| 7 | Mr.Sheraz Ahmad | M.A (P.Science) | <u>15-09-1960</u> <u>Swabi</u> | 22-11-1988 | 22-11-1988 | 16 | -do- | 17 | 16-5-2013 | -do- |
| 8 | Mr.Abdul Rashid | M..A | <u>01-01-1961</u> <u>Haripur</u> | 22-11-1988 | 22-11-1988 | 16 | -do- | 17 | 27-8-2012 | -do- |
| 9 | Mr.Fazlullah | M.A (Sociology) | <u>0-8-10-1962</u> <u>Swabi</u> | 22-11-1988 | 22-11-1988 | 16 | -do- | 17 | 16-5-2013 | -do- |
| 10 | Mr.Shibli Khan | M.Sc (Hons:Agri) | 01-05-1965 Swabi | 22-11-1988 | 22-11-1988 | 16 | -do- | 17 | 16-5-2013 | -do- |
| 11 | Mr. Sardarul Mulk | M.Sc.(Hons) | 1/1/1966 Malakand | 7/9/1993 | 7/9/1993 | 17 | Direct | 18 | 25-7-2013 | |
| 12 | Mr. Akhtar Munir Umerzai | M.Sc(Agri) | 1/4/1961 Charsadda | 9.91993 | 9/9/1993 | 17 | -do- | 18 | 25-7-2013 | |
| 13 | Mr. Riaz Ahmad | M.Sc(Hons) AGRI | 16.5.1966 Swabi | 7.9.1993 | 7.9.1993 | 17 | -do- | 18 | 25-7-2013 | |

Attested
R. Mulk

SECTION OFFICER
LOCAL GOVT ELECTORALS AND
SOCIAL DEVELOPMENT DEPT.

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| | | | | | | | | | | |
|----|-------------------------|-------------|-------------------------|------------------------------------|----------------------------------|-----|----------|------|------------|--|
| 14 | Mr.Khalid Israr Shah | M.A(P.S) | 13.10.1966 Bannu | 1.9.1993 | 5.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 15 | Mr.Sajid Gul | M.Sc(Agri) | 9.9.1965 Dir Lower | 5.9.1993 | 5.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 16 | Mr.Said Rehman | M.A (PS) | 25.6.1965 Mohmand | 13.9.1993 | 13.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 17 | Syed Hussain Kazmi | M.Sc (AGRI) | 10.4.1966 Mansehra | 7.9.1993 | 9.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 18 | Mr.Muhammad Jehangir | M.Sc | 17.9.1965 Peshawar | 25.5.1993 | 25/5/1993 Progress Officer | 16 | Promotee | 18 | 26/12/1996 | |
| 19 | Qazi Noor ul Wahab | M.Sc | 16.3.1966 Nowshera | 26.5.1993 | 26.5.1993 Progress Officer | 16 | Promotee | 18 | 26.12.1996 | |
| 20 | Mr.Alam Zeb | M.A | 15.9.1958 Swabi | 23.12.1980 | 23.12.1980 | 16 | Promotee | 18 | 26.12.1996 | |
| 21 | Mr.Salim Raza | M.A | 15-12-1964 Charsadda | 28-02-2990 (Supervisor BS-9) | 28-02- 1990 | B-9 | Promotee | 17 | 27-8-2012 | |
| 22 | Mr.Asadullah | B.A | 28-09-1966 Charsadda | -do- | -do- | B-9 | Promotee | -do- | 27-8-2012 | |

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*Attested
MUK*

To,

Amx P 49
The Secretary
Local Government Election and Rural Dev: Department
Government of Khyber Pakhtunkhwa,
Peshawar

Subject: **TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS LG & RDD AS STOOD ON 30.01.2014.**

Memo:- Please refer to your letter No.SO(LG-1) 3-367/PHC/2014 dated 14.03.2014 on the subject cited above.

Respected Sir,

With great respect, I Fazlullah hereby submit my objection on the above referred seniority list as under:-

1. That the Honourable Peshawar High Court Peshawar was pleased to render the following order in Writ Petition No.793/2007/PHC on 18.10.2011 for non-implementation of Apex Court judgment dated 25.08.2005.

"It is not clear from the available record when the petitioners become eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of vacancies to the filled by initial recruitment, all these questions are to be decided by the Department in the first instance, we, therefore would not embark upon such exercise while hearing a petition under Article 199 of the Constitution

[Signature]

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of Islamic Republic of Pakistan 1973. We therefore, while disposing of this writ petition direct the office to send it to the Department Authority to decide it in accordance with law as hinted to above within two months, this writ petition thus stands disposed”

2. That pursuant to the above stated order, this Department itself worked out the eligibility and exact date of the petitioner promotion as evident from the letter addressed to the Secretary Establishment and Finance while seeking advice vide Letter No.SO(LG-1) 3-367/PHC/2007 dated 26.11.2011 (Annexure A) Para No.5 of the said letter is reproduced as under:-

“According to the service rules notified on 01.12.1991, the length of service for promotion of Progress Officer (BPS-16) to the post of Assistant Director (BPS-17) LG&RDD was 3 years. The initial date of appointment of the petitioners was 22.11.1988 and thus they have completed the required length of service on 22.11.1991 and became eligible for promotion to the post of Assistant Director (BPS-17) LG & RDD at that time but they could not be promoted as their status was contract/ project employees”

3. That in response to this Department letter dated 26.11.2011 as (Annexure A), the Establishment Department sent its reply/advice vide letter No.SOR IV(ED)6-1/2011 dated 20.12.2011 as (Annexure B) which is reproduced below:-

“That in terms of employees on contract basis (Regularization of Services) Act 1989 read with the



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judgment of the Apex Court announced on 25.08.2005, the services of the appellants stood regularized with effect from the contractual appointments. The Department is therefore required to determine their seniority vis-à-vis those appointed on regular basis in the defunct Directorate and consider their promotion in light of the service rules of the posts subject to availability of vacant positions in the cadre/ service group”.

4. In view of the above stated facts based on law/ rules/ judgments of the Honourable Peshawar High Court/ Apex Court and advice of the Establishment Department, it is humbly prayed that I may please be placed on my proper due place in the final seniority list on the date i.e 22.11.1991 which the Department itself had worked out as evident from para 5 of the LG &RDD letter No. No.SO(LG-1) 3-367/PHC/2007 dated 26.11.2011 as Annexure (A) and also request to correct the date of my regaining original seniority as 22.11.1991 instead of 16.05.213 as mentioned at column NO.10 of the proforma of tentative seniority list please.

Yours Faithfully


Fazlullah.

Assistant Director
LG&RDD Mardan

Date: 14/04/2014





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12/2/14

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department

Amel

BEFORE THE SECRETARY, LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT, KYBER PAKHTUNKHWA

APPLICATIONS/OBJECTIONS OF ASSISTANT DIRECTORS, LG&RDD AGAINST THE TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS ISSUED ON 14-03-2014

ORDER
Dated 22/05/2014

This order shall dispose off applications/objections submitted by the following applicants/respondents against the tentative seniority list of Assistant Directors, Local Government and Rural Development Department issued on 14-03-2014:

1. Mr. Akhtar Munir
2. Mr. Sardarul Mulk
3. Mr. Riaz Ahmad
4. Mr. Sajid Gul
5. Mr. Said Rehman
6. Mr. Alam Zeb
7. Mr. Muhammad Jehangir Khan
8. Qazi Noorul Wahab
9. Mr. Abdur Rashid
10. Mr. Shad Muhammad
11. Mr. Sheraz Ahmad
12. Mr. Fazlullah
13. Mr. Shibli Khan
14. Mr. Salim Raza
15. Mr. Asadullah

22/5

2. Parties were summoned and heard and record perused.

3. After hearing the applicants as well as respondents it was observed that M/S Shad Muhammad Khan, Abdur Rashid, Sheraz Ahmad, Fazalullah and Shibli Khan were Progress Officers in BPS-16. As a result of revival of Directorate General, LG&RDD, the posts of Assistant Directors (BS-17) were created in the settled districts. The respondents were promoted to the posts of Assistant Directors (BS-17) in LG&RDD against the quota reserved for promotion. When they were promoted to the posts of Assistant Directors they went in appeal to the Chief Secretary, Khyber Pakhtunkhwa for promotion with retrospective effect. The Appellate Authority (Chief Secretary) disagreed to allow promotion to these incumbents with retrospective effect. However, as a result of their promotion they were placed at Sl. No. 6 to 10 of the tentative seniority list while 12 Assistant Directors recruited/promoted and upgraded to BS-18 prior to these five incumbents were placed junior to them.

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5. In view of the above, I am of the opinion that it is not logical that the officers senior in scale shall be given junior position in their cadre. Hence, I accept appeals of the appellants on the tentative seniority list and order for correction of the tentative seniority list and issue the same as final one in which M/S Shad Muhammad Khan, Abdur Rashid, Sheraz Ahmad, Fazalullah and Shibli Khan should be given seniority from the date of their promotion to the post of Assistant Directors (BS-17) in I.G.&RDD according to rules and policy of the Provincial Government in vogue.

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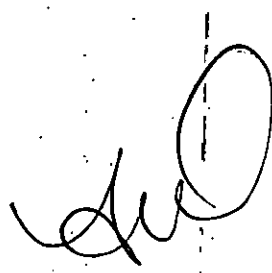

(HIFZ-UR-RAHMAN)
SECRETARY, LG, RDD

Endst. No. SO(LG-I)3-367/PHC/2014 Dated Pesh, the 22nd May, 2014

Copy is forwarded to:-

1. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
2. The Director, FATA, LG&RDD, Warsak Road, Peshawar.
3. All Assistant Directors LG&RDD in Khyber Pakhtunkhwa.
4. The PS to Secretary, LG, E&RDD.
5. Office order file.


(IZAZ ULLAH)
SECTION OFFICER (ESTAB)





IMMEDIATE

REGISTERED

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department

No.SO(LG-I)4-118/B/2014/Vol:II

Dated Peshawar, the 28th May, 2014

To

1. Mr.Tahira Yasmeen,
Acting Director, LG&RDD
2. Mr.Muhammad Zahoor,
Asstt:Director /PO, Dte:FATA,
LG&RD, Warsak Road, Peshawar
3. Mr.Muhammad Fahim,
Asstt: Director/P.O, Dte:FATA,
LG&RD, Warsak Road, Peshawar
4. Mr.Faiz Muhammad Khan,
Project Director, DIKhan
5. Mr.Israrullah,
AD,LG&RDD, Swabi.
6. Mr.Sardarul Mulk, AD,LG&RDD, Malakand
7. Mr.Akhtar Munir, AD,LG&RDD, Hangu
8. Mr.Riaz Ahmad, PD, MSDP,
University Town, Peshawar
9. Mr.Khalid Israr Shah, AD,LG&RDD,
North-Waziristan Agency
10. Mr.Sajid Gul, Secretary, Provl:Delimitation
Authority, Peshawar
11. Mr.Said Rahman, AD,LG&RDD (Now on leave)
12. Syed Hasnain Kazmi, AD,LG&RDD
(Now on Ex-Pakistan leave)
13. Mr.Muhammad Jehangir, AD,
Dte:FATA, LG&RDD, Warsak Road,Peshawar.
14. Qazi Noorul Wahab,
AD,LG&RDD, Mohmand Agency
15. Mr.Alam Zeb, AD, Dte:General,
LG&RDD FATA, Warsak Road,Peshawar
16. Mr.Shad Muhammad,AD,LG&RDD, Mansehra
17. Mr.Sheraz Ahmad, AD,LG&RDD, Khyber Agency
18. M.Abdul Rasheed, AD,LG&RDD, Haripur
19. Mr.Fazlullah, AD,LG&RDD, Mardan
20. Mr.Shibli Khan, AD, Dte:General, LG&RDD
21. Mr.Salim Raza, AD,LG&RDD, Charsadda.
22. Mr.Asadullah, AD,LG&RDD, Swat

(S4)

Annex R

**Subject:- FINAL SENIORITY LIST OF ASSISTANT DIRECTORS
/PLANNING OFFICERS, , LG&RDD AS IT STOOD ON 22-05-2014.**

Memo:

I am directed to refer to the subject cited above and to circulate final seniority list of Assistant Directors/Planning Officers, Local Government, Elections and Rural Development Department as it stood on 22-05-2014 for your information and record.

Encl: As Above.

(IZAZ ULLAH)
SECTION OFFICER (ESTAB)

Contd:.....P/2.....

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Endst. Even No. & Date.

Copy is forwarded to:-

1. The Director General, LG,E&RDD, Khyber Pakhtunkhwa, Peshawar. Copy of final seniority list is attached.
2. The Director FATA, LG&RDD, Warsak Road, Peshawar. Copy of final seniority list is attached.
3. The Manager Government Printing Press, Peshawar. Copy of final seniority list is attached.
4. The PS to Secretary, LG,E&RDD.


SECTION OFFICER (ESTAB)

SS

GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 23rd May, 2014

No.SO(LG-I)4-118/B/2014/Vol:II.- In pursuance of Section-8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973, final seniority list of Assistant Directors/Planning Officers, Local Government, Elections and Rural Development Department, Khyber Pakhtunkhwa as it stood on 22-05-2014 is notified as under:-

FINAL SENIORITY LIST OF ASSISTANT DIRECTORS/PLANNING OFFICERS
LG&RDD AS STOOD ON 22-05-2014

Total Sanctioned Posts of Assistant Directors (BPS-17):- 36

| S # | To | Educational Qualification | Date of Birth of Domicile | Date of 1 st Entry into Service | 1 st regular appointment to service/cadre | | | Promotion to present BPS | | Remarks if any |
|-----|--------------------|---------------------------|---------------------------|--|--|-----|-----------------------|--------------------------|------------|--|
| | | | | | Date | BPS | Method of recruitment | BPS | Date | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 12 |
| 1 | Mrs. Tahira Yasmin | M.P.A | 01-01-1957 DIKhan | 25.5.1984 | 25.5.1984 | 17 | Direct | 18 | 17.12.2007 | She has been re-instated in service in implantation of the Judgement of the Khyber Pakhtunkhwa Service Tribunal, Peshawar and services regularized from the date of her initial appointment i.e. 25.5.1984 |

Attested
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SECTION OFFICER
LOCAL GOVT. ELECTIONS AND
RURAL DEVELOPMENT DEPTD

| | | | | | | | | | | |
|----|-----------------------------|--------------------------|-------------------------------------|------------|----------------------------------|----|----------|----|------------|--|
| 2 | Mr. M. Zahoor (PO) | M.A Eco: | <u>9.5.1961</u> <u>MKD</u> | 6.11.1988 | 6.11.1988 | 17 | -do- | 18 | 25-7-2013 | |
| 3 | Mr. M. Fahim (PO) | M.B.A | <u>14.2.1963</u> <u>Swat</u> | 6.11.1988 | 6.11.1988 | 17 | -do- | 18 | -do- | |
| 4 | Mr. Faiz Muhammad | M.A (PS) & Journalism | <u>12.4.1962</u> <u>N.W.A</u> | 8.3.1992 | 8.3.1992 | 17 | -do- | 18 | -do- | |
| 5 | Mr. Israrullah Khan | M.A Eco: | <u>19.4.1964</u> <u>Swabi</u> | 3.3.1992 | 3.3.1992 | 17 | Direct | 18 | -do- | |
| 6 | Mr. Sardarul Mulk | M.Sc.(Hons) | <u>1/1/1966</u> <u>Malakand</u> | 7/9/1993 | 7/9/1993 | 17 | Direct | 18 | 25-7-2013 | |
| 7 | Mr. Akhtar Munir Umerzai | M.Sc(Agri) | <u>1/4/1961</u> <u>Charsadda</u> | 9.9.1993 | 9/9/1993 | 17 | -do- | 18 | 25-7-2013 | |
| 8 | Mr. Riaz Ahmad | M.Sc(Hons) AGRI | <u>16.5.1966 Swabi</u> | 7.9.1993 | 7.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 9 | Mr.Khalid Israr Shah | M.A(P.S) | <u>13.10.1966</u> <u>Bannu</u> | 1.9.1993 | 5.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 10 | Mr.Sajid Gul | M.Sc(Agri) | <u>9.9.1965 Dir</u> <u>Lower</u> | 5.9.1993 | 5.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 11 | Mr.Said Rehman | M.A (PS) | <u>25.6.1965</u> <u>Mohmand</u> | 13.9.1993 | 13.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 12 | Syed Hussain Kazmi | M.Sc (AGRI) | <u>10.4.1966</u> <u>Mansehra</u> | 7.9.1993 | 9.9.1993 | 17 | -do- | 18 | 25-7-2013 | |
| 13 | Mr.Muhammad Jehangir | M.Sc | <u>17.9.1965</u> <u>Peshawar</u> | 25.5.1993 | 25/5/1993 Progress Officer | 16 | Promotee | 18 | 26/12/1996 | |
| 14 | Qazi Noor ul Wahab | M.Sc | <u>16.3.1966</u> <u>Nowshera</u> | 26.5.1993 | 26.5.1993 Progress Officer | 16 | Promotee | 18 | 26.12.1996 | |
| 15 | Mr.Alam Zeb | M.A | <u>15.9.1958 Swabi</u> | 23.12.1980 | 23.12.1980 | 16 | Promotee | 18 | 26.12.1996 | |

*Attested
Munir*

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| | | | | | | | | | | |
|----|------------------|---------------------|--------------------------------|------------------------------------|------------|-----|----------|------|------------|--|
| 16 | Mr.Shad Muhammad | M.Sc | <u>03-04-1958</u> Mansehra | 22-11-1988 | 22-11-1988 | 16 | Direct | 17 | 27-08-2012 | |
| 17 | Mr.Sheraz Ahmad | M.A (P.Science) | <u>15-09-1960</u> Swabi | 22-11-1988 | 22-11-1988 | 16 | Direct | 17 | 16-05-2013 | Seniority position of Mr.Sheraz Ahmad maintained intact in light of Para-7 of the S&GA Department Circular letter NO.SOR-I(S&GAD)1-29/75, dated 13-04-1987 (copy attached) |
| 18 | Mr.Abdul Rashid | M.A | <u>01-01-1961</u> Haripur | 22-11-1988 | 22-11-1988 | 16 | Direct | 17 | 27-08-2012 | |
| 19 | Mr.Fazlullah | M.A (Sociology) | <u>08-10-1962</u> Swabi | 22-11-1988 | 22-11-1988 | 16 | Direct | 17 | 16-05-2013 | Seniority position of Mr.Sheraz Ahmad maintained intact in light of Para-7 of the S&GA Department Circular letter NO.SOR-I(S&GAD)1-29/75, dated 13-04-1987 (copy attached) |
| 20 | Mr.Shibli Khan | M.Sc (Hons:Agri) | <u>01-05-1965</u> Swabi | 22-11-1988 | 22-11-1988 | 16 | Direct | 17 | 16-05-2013 | -do- |
| 21 | Mr.Salim Raza | M.A | <u>15-12-1964</u> Charsadda | 28-02-2990 (Supervisor BS-9) | 28-02-1990 | B-9 | Promotee | 17 | 27-8-2012 | |
| 22 | Mr.Asadullah | M.B.A | <u>28-09-1966</u> Charsadda | -do- | -do- | B-9 | Promotee | -do- | 27-8-2012 | |

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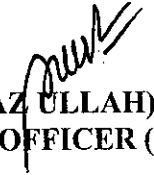
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SELECTION OFFICE Contd. P.43
LOCAL GOVT. ELECTIONS P&S
HEBBAI, NWFP

Endst.No.SO(LG-I)4-118/B/2014/Vol;II

Dated Peshawar, the 23rd May, 2013

Copy is forwarded to:-

1. The Director General, Local Government and Rural Development Department, Peshawar.
2. The Director, FATA, LG&RDD, Warsak Road, Peshawar.
3. All Assistant Directors, Local Government and Rural Development Department in Khyber Pakhtunkhwa.
4. The Manager Government Printing Press, Peshawar.
5. The PS to Secretary, LG,E&RDD.
6. Office order file.


(IZAZ ULLAH)
SECTION OFFICER (ESTAB)

To

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

Recd
25/6/14

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Annex S

Subject: Departmental Representation against the impugned order dated 22.05.2014 issued by the Secretary LG&RDD and the impugned Final Seniority List circulated vide letter dated 28.05.2014 whereby appellant was shown as junior in violation of the law and rules.

Respected Sir,

With due respect I have the honour to submit this departmental representation for your kind consideration and favourable action on the following facts and grounds:

1. That appellant and others were initially appointed as Progress Officers (BPS-16) in the then Local Government & Rural Development Department (LG&RDD) way back in the year 1988 on contract basis. Subsequently, they approached the Hon'ble Peshawar High Court Peshawar for regularization of their services but could not succeed and meanwhile their services were terminated. Their request before the hon'ble Apex Court also failed and they were directed to approach the Provincial Service Tribunal. On their approach to the Service Tribunal their appeals were dismissed and consequently they again approached the Apex Court and finally their appeals allowed vide Judgment dated 25.08.2005 (Annex:-A) and appellant and others were reinstated into service *with all back benefits*.
2. That the judgment of the Hon'ble Apex Court was implemented by the Department by reinstating the appellant and others in service with all back benefits and *regularized them with effect from the date of their initial appointment* vide notification dated 10.11.2005 and 16.12.2005 (Annex:-B & C).
3. That since the appellant was also entitled for promotion to the higher grade as a consequence of the Judgment of the Hon'ble Apex Court which was denied to him, therefore, appellant and others filed writ Petition No.793/2007 in the Hon'ble Peshawar High Court Peshawar which was disposed of vide order dated 18.10.2011 (Annex:-D) with direction to the Department to decide the matter in accordance with law as per the observation of the Hon'ble Court given in the order viz:

"It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of vacancies to be filled



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through the promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing the petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the departmental authority to decide it in accordance with law as hinted to above within two months. This writ petition, thus, stands disposed of."

4. That the Department, in the light of the Judgment *ibid*, took up the case of the appellant and others and asked for the advise of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 (**Annex:-E**) by answering the queries hinted to by the hon'ble Peshawar High Court, Peshawar in lucid manner. The Establishment Department vide letter dated 20.12.2011 (**Annex:-F**) advised that *in terms of the employees on contract basis (Regulation of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in the light of the service rules of their posts subject to the availability of vacant positions in the cadre/service group.*
5. That inspite of the clear position as explained above still the desired promotion was not granted to the appellant, therefore, COC No.87-P/2012 was filed before the Hon'ble Peshawar High Court, Peshawar which was disposed of vide order dated 16.08.2012 (**Annex:-G**) in view of the statement of the learned Additional Advocate General that the promotion case of the appellant could not be processed as they had not provided ACRs for consideration of the Departmental Promotion Committee, however, it was also observed that the appellant and others might invoke their remedy before an appropriate legal forum if so advised.
6. That thereafter, appellant and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due date vide order dated 16.05.2013 (**Annex:-H**). The appellant and his other colleagues challenged the order *ibid*, to the extent of its immediate operation vide Departmental Appeal dated 10.06.2013 (**Annex:-I**) which was duly processed and culminated in approval by the competent authority of seniority position vide statement (**Annex:-J**) wherein the appellant and others were shown to have been appointed w.e.f. 22.11.1988 thus the longstanding grievance of the

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appellant and others stood redressed.

7. That in the light of the approval mentioned above for further clarification of the seniority of the appellant and others the Department called for the advise of the Establishment Department vide letter dated ~~16.05.2013~~ ⁷⁻¹¹⁻²⁰¹³ (Annex:-K) upon which the Establishment Department gave its opinion vide letter dated 10.01.2014 (Annex:-L) whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014 (Annex:-M) showing the seniority position of the appellant as approved by the competent authority upon which appellant and others submitted the observations (Annex:-N) but meanwhile the those employees who became juniors as a result of regaining seniority of the appellant and others also submitted objections upon the seniority of appellant and others which was allowed vide impugned order dated 22.05.2014 (Annex:-O) thereby again the appellant and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the appellant was restored by setting aside the order of the appellate authority i.e. the Chief Secretary and immediately the impugned final Seniority List was issued vide letter dated 28.05.2014 (Annex:-P).

8. That as per Seniority List circulated vide letter dated 13.02.1993 (Annex:-Q) the total sanctioned posts of Assistant Directors (BPS-17) as stood on 31.12.1992 were 34 and as per the Service Rules notified on 01.12.1991 (Annex:-R), the ratio of promotion and direct induction was 30%:70% out of which 24 posts fell in the quota of initial recruitment while 10 posts fell in the promotion quota. At the total 5 Progress Officers (BPS-16) were promoted against the available share of 10 post and thus promotion quota was short of 5 posts against which the appellant could have been promoted had they been in regular service on the basis of his entitlement as declared by the Hon'ble Court subsequently along with consequential back benefits.

It is, therefore, humbly requested that on acceptance of this departmental Representation, the impugned order dated 22.05.2014 and the impugned seniority list circulated vide letter dated 28.05.2014 may graciously be set aside and appellant be considered for promotion w.e.f. due date i.e. 22.11.1991 retrospectively with all consequential back benefits.

Yours faithfully

 Fazlullah,
 Assistant Director
 LG&RDD, Mardan

Dated: 25 / 6 / 2014

