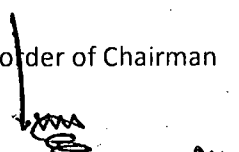


Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - _____ 1420/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/10/2022	<p>The appeal of Mr. Rahim Ullah presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 1420 /2022

RAHIM ULLAH VS GOVT. OF KPK & OTHERS

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APPELLANT

Through:


NOOR MOHAMMAD KHATTAK
ADVOCATE
SUPREME COURT OF PAKISTAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1420 /2022

Mr. Rahim Ullah, Sub Engineer, SDO (OPS)
Public Health Engineering Division Nowshera.

..... **APPELLANT**

VERSUS

- 1- The Govt of Khyber Pakhtunkhwa, through Secretary Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Chief Engineer (Centre) Public Health Engineering Department, Peshawar.
- 5- Mr. Zahid Hussain Shah, SDO (OPS) PHE Sub Division-I, Abbottabad.
- 6- Mr. Raheel Shahzad, SDO (OPS) PHE Division, Mansehra.
- 7- Mr. Waseem Khan, SDO (OPS) PHE Division, Oghi Mansehra.
- 8- Mr. Muhammad Safi Ullah Khan, Sub Engineer PHE Division Bannu with Additional Charge of PHE Sub Division Bannu-II.
- 9- Mr. Adnan, Sub Engineer PHE Sub Division, Saidu Sharif-I, Swat-I

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 31.01.2022 TO THE EXTENT OF NOTE ATTACHED TO RULE (1) (III) (D) IN RESPECT OF PROMOTION ON THE BASIS OF SENIORITY TO BE RECKONED FROM THE DATE OF FIRST REGULAR APPOINTMENT RATHER THAN DATE OF ACQUIRING THE DEGREE OF B.TECH ENGINEERING AND AGAINST THE APPELLATE ORDER DATED 30-09-2022 WHEREBY THE DEPARTMENTAL APPEAL DATED 25-07-2022 HAS BEEN REGRETTEED ON NO GOOD GROUNDS AND AGAINST SUBSEQUENT NOTIFICATION DATED 30.9.2022 WHEREBY JUNIORS TO THE APPELLANT WERE PROMOTED.

PRAYER:

That on acceptance of this appeal the impugned notification, dated 31.01.2022 to the extent of note attached to Rule (1) (iii) (d) and the appellant be promoted on the basis of seniority reckoned from the date regular appointment and not from the date of acquiring B.Tech: Degree. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal is as under:

1. That Appellant is a law-abiding citizen of Pakistan and is an employee of the respondent department performing his duty as sub-engineer (BPS-16) with full zeal & zest.
2. That as per the final seniority list issued on 04.03.2022 the Appellant is at Serial No. 12 and was hopeful for his promotion as the appellant is in the promotion zone. That vide letter dated 25.02.2022 the Appellant along with others were directed to provide ACRs along with relevant documents for placing their cases before the DPC meeting which was supposed to be held shortly. Copy of the Seniority List and letter dated 25.02.2022 is attached as Annexure **A & B.**
3. That astonishingly vide impugned notification dated 31.01.2022 published in the official gazette on 07.02.2022 whereby the method of recruitment through promotion to the post of SDO was amended and a note was inserted for the purpose of reckoning seniority,
Note: for the purpose of promotion, the seniority of the B.Tech (Honors) degree shall be reckoned from the date of appointment or acquiring the degree, whichever is later; and.
Copy of the notification dated 31.01.2022 is attached as annexure **C.**

4. That it is pertinent to mention here that vide notification supra the method of promotion was amended vide the note therein whereby the right of promotion provided by the Khyber Pakhtunkhwa Civil Servant Act, 1973 was badly affected.
5. That the Appellant feeling aggrieved from the notification dated 31.01.2022 published on 07.02.2022 preferred departmental appeal 25-07-2022 before the competent respondent by challenging the "NOTE" in the notification published on 07-02-2022. Copy of the Departmental Appeal is attached as annexure **D.**
6. That vide letter dated 21.07.2022 it has been conveyed that a Departmental Promotion Committee scheduled to be held on 28.07.2022 for the purpose of making promotion on the basis on the basis of impugned service rules notified vide notification date 31.01.2022. Copy of the letter dated 21.07.2022 is attached as annexure **E.**
7. That the appellant filed writ petition No. 2789-P/2022 before the Peshawar High Court Peshawar which was disposed of with the direction to the respondents to "decide the representation of the appellant in accordance with Law as earlier as possible but not later than one month, after the receipt of this order" as well as the interim relief issued on 28-07-2022 shall continue till the decision of the representations of the petitioners now appellant. Copy of the Judgment/order sheet dated 29-09-2022 is attached as annexure **F.**
8. That the appellant placed the attested copy of judgment/order sheet dated 29-09-2022 placed before the respondent no. 1 upon which the departmental appeal dated 25-07-2022 was regretted vide appellate order dated 30-09-2022 on no good grounds. Copy of the appellate order dated 30.09.2022 is attached as annexure **G.**
9. That astonishingly vide notification dated 30.09.2022 the private respondents being juniors to appellant were promoted to the subject post is utter violation of the law and rules on the subject. Copy of notification dated 30.09.2022 is attached as Annexure..... **H.**
10. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned service rules notified by the notification dated 31.01.2022 and published on 07.02.2022 to the extent of note whereby seniority for the purpose of promotion was reckoned from the date of acquiring the degree is against the law, facts, norms of natural justice and materials hence the same is liable to be set aside and needs to be rectified accordingly.
- B- That Appellant have not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That it is worth to mention here that in the sister department seniority for the purpose of promotion to the subject post is determined from the date of initial appointment and not from the date of acquiring the requisite degree. Copy of the service rules of the sister departments is attached as annexure **I.**
- D- That according to section 8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with rule 17 of the Khyber Pakhtunkhwa Civil Servant (APT) Rules, 1989 the seniority inter se of a civil servant appointed to service, cadre or post shall be determined in the case of persons appointed by initial recruitment in accordance with the merit assigned by the Commission or as the case may, the department selection committee; provided that persons selected for appointed to post in earlier selection shall rank senior to the persons selected in a later selection.
- E- That the treatment meted out to the Appellant is a clear violation of the fundamental rights of the Appellant.
- F- That the Appellant have been discriminated by the respondents on the subject noted above and as such the respondents violated the principle of natural justice as well article 27 of the constitution of the Islamic Republic of Pakistan, 1973.
- G- That according to article 38 (e) of the constitution of the Islamic Republic of Pakistan, 1973, that "state is bound to reduce disparity in the income of persons in the service of the Pakistan".
- H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 03-10-2022

APPELLANT


RAHIM ULLAH

Through:



NOOR MOHAMMAD KHATTAK


WALEED ADNAN


UMAR FAROOQ MOMAND


MUHAMMAD AYUB

&


**KHANZAD GUL
ADVOCATES**

AFFIDAVIT

I, Mr. Rahim Ullah S/o Mir Ali Khan, Sub Engineer SDO, Public Health Engineering Division Nowshera, do hereby solemnly affirm and declare on Oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.


DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO. _____/2022

RAHIM ULLAH

V/S

**GOVT. OF KP
& OTHERS**

**APPLICATION FOR SUSPENSION OF THE OPERATION OF
NOTIFICATION DATED 31.01.2022 AND 30.09.2022 TILL THE
FINAL DISPOSAL OF THE APPEAL.**

Respectfully Sheweth;

1. That the above title appeal has been filed today before this Honourable court.
2. That the appellant has challenged the vires of the Rule 1 (iii) (d) issued on 31-01-2022 and published in the official Gazette on 07-02-2022, whereby the rule for promotion has been changed with a "NOTE" mentioned therein.
3. That, the three ingredients required for the grant of status are in favour of the appellant.
4. That the ingredients of the instant petition may very kindly be consider as part and parcel of the main service appeal
5. That any other ground would be agitated at the time of argument.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned notifications dated 31.01.2022 and 30.09.2022 may very kindly be suspended till the disposal of main appeal.

APPELLANT

RAHIM ULLAH

Through:

**NOOR MOHAMMAD KHATTAK,
ADVOCATE
SUPREME COURT OF PAKISTAN**

NOTIFICATION

OFFICE OF CHIEF ENGINEER (CENTRO)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR
No. 06 / CG-13/PHE, Dated: 04/03/2022

In pursuance of Section-8.(S) of the NWEP Civil Servants' Act 1973, the Final Seniority List of B-Tech. (Honours) Sub Engineers (BPS-12/16) of Public Health Engg. Department, as stood on 28.02.2022, is notified as under:-

S.No	Basic Name	Father Name	Home District / Present Post	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Year of Acquiring Degree of B-Tech: Hon (C)	Remarks
1	Riaz Ahmad	Ghulam	Dir Lower	01.03.1966	06.12.1989	06.12.1989	2011	
2	Aurangzeb	Jehanzeb	Mohmand Ager	25.10.1968	13.12.1989	13.12.1989	2011	
3	Iqbal Mahmood	Sultan Muhammad	Dir Upper	20.12.1965	16.09.1993	16.09.1993	2011	
4	Naqi Muhammad	Amir Muhammad	Dir Swabi	19.04.1969	25.09.1993	16.09.1993	2014	
5	Zahid Hussain Shah	Syed Muzaffar Shah	Manshra	01.02.1972	27.02.1996	26.02.1996	2012	
6	Abdali Shah	Haji Sufaid Shah	Malakand	01.02.1966	26.11.1988	26.03.2008	2016	
7	Rahcel Shahzad	Muhammad Farid	Manshra	16.09.1976	30.08.1997	01.07.2008	2013	promoted from Draftsman.
8	Jamilaz Muhammad	Hazra Wali	Swabi	09.01.1971	20.12.1994	11.02.2009	2016	
9	Shoaib Ullah	Amir Ullah	Charsadda	01.03.1990		19.07.2013	2017	
10	Hamid Ali	Satar Khan	Charsadda	20.03.1999	25.07.2013	19.07.2013	2013	
11	Waseem Khan	Saleem Khan	Abbottabad	02.02.1988	22.07.2013	19.07.2013	2013	
12	Rahim Ullah	Mir Ali Khan	Lakki	08.01.1991		19.07.2013	2015	
13	Muhammad Saifullah Khan	Haji Akhtar Zaman	Bannu	15.05.1981		19.07.2013	2004	
14	Adnan	Umar Zada	Swat	10.02.1989	15.08.2013	19.07.2013	2013	
15	Niaz Ali	Mirzali Khan	Lakki	12.06.1984		13.08.2013	2013	
16	Zia ur Rehman	Haji Lutuf ur Rehman	Bannu	15.02.1985		13.08.2013	2011	
17	Mansoor Khan	Noor ul Amin	Mardan	06.04.1986		13.08.2013	2013	
18	Iftikhar Ahmad	Shah Jee Muhammad	Dir Lower	12.04.1992		13.08.2013	2013	
19	Mukhtar Ullah	Watanistan	Mohmand	19.04.1984		13.08.2013	2013	
20	Saleem Khan	Muhammad Ali Khan	Hangu	05.04.1987		13.08.2013	2010	
21	Murad Khan	Taza Khan	Bannu	30.03.1993	10.11.2015	29.10.2015	2016	
22	Alamgir Khan	Muz Ullah	Charsadda	16.02.1992	06.11.2015	29.10.2015	2016	
23	Shaukat Ali	Muhammad Amin	Swat	07.03.1978		29.10.2015	2015	

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A. Hasnain
SUPERINTENDENT
P.H.E DEPARTMENT

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NOTIFICATION

OFFICE OF CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

In pursuance of Section-B(5) of the NWFP Civil Servants Act, 1973, the Final Seniority List of B-Tech: (Honours) Sub Engineers (BPS-12/16) of Public Health Engg. Department, as stood on 28.02.2022, is notified as under:-
No. 06/CG-13/PHE, Dated: 04.03.2022

S.No	Name	Father Name	Home District	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Year of Acquiring Degree of B-Tech: Hon (C)	Remarks
24	Rizwan-Ullah	Gul Zaman	Lakki	13.03.1991	10.11.2015	29.10.205	2015	
25	Saif-ul-Islam	Wedood Shah	Charsadda	27.03.1989	13.11.2015	29.10.205	2015	
26	Amir Shafique	Shafique Ahmad	Hariptar	30.03.1992		29.10.205	2015	
27	Muhammad Nisar	Shamrooz Khan	Mohmand	10.04.1983	12.11.2015	29.10.205	2015	
28	Arshid Ali	Hakeem Said	Mohmand	04.03.1991	06.11.2015	29.10.205	2015	
29	Ahsan Aslam	Muhammad Aslam	Abbottabad	19.01.1990	12.11.2015	29.10.205	2016	
30	Qazi Samair Khan	Qazi Sarfraz Khan	Abbottabad	30.07.1991	24.10.2016	29.09.206	2016	
31	Zafran Ullah	Janat Gul	NWA	10.04.1993	21.03.2017	09.03.207	2017	
32	Muhammad Numan	Muhammad Ishaq	Swabi	10.03.1991	21.03.2017	09.03.207	2017	
33	Inayat Ur Rahman	Hukam Khan	Malakand	02.02.1993	21.03.2017	09.03.207	2017	
34	Haroon Ahmad	Siraj Ahmad	Malakand	25.02.1991	21.03.2017	09.03.207	2015	
35	Fahad Elahi	Fazal Elahi	D.I. Khan	13/11/1992	31.03.2012	10.01.2018	2017	
36	Sohail Ahmad	Rasool Faraz	NWA	10.08.1992		09.03.2020	2020	Under suitable Quota

Endst: No. 06/CG-13

Dated Peshawar the

04/03/2022

- Copy of the Seniority List is forwarded for information to the:-
- 1 - Chief Engineer (North/South/East) Public Health Engg. Department Khyber Pakhtunkhwa Peshawar.
 - 2 - All Superintending Engineers in Public Health Engg. Department Center North/South/East Khyber Pakhtunkhwa.
 - 3 - All Executive Engineers in Public Health Engg. Department Center North/South/East Khyber Pakhtunkhwa.
 - 4 - Section Officer (East) Public Health Engg. Department Khyber Pakhtunkhwa Peshawar

Chief Engineer (Center)

Administrative Officer (Center)

Attested
SUPERINTENDENT
P.H.E DEPARTMENT

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OFFICE OF THE CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

Plot No. 40 Sector-B-II, Hayatabad Phase-V Peshawar E-mail: ce@pkp.gov.pk P.No# 091-9217528 (Aziz)

No. 03/167 /PHE(C).

Dated Peshawar, the 25/02 /2022.

To:

The Superintending Engineers,
PHE Circle Mulkand at Timergara/Mardan/Abbotabad/Hangu/Swat/
Peshawar/Swat.

The Executive Engineers,
PHE Divisions Dir Lower/Dir Upper/Swabi/Abbotabad/Hangu/Kohistan
(L)/Buner/Charsadda/Shangla/Bajaur.

Subject: PROMOTION OF B-TECH SUB ENGINEER (BPS-12 & 16) TO THE POST
ADE/SUB DIVISIONAL OFFICER (BPS-17).

I am directed to refer to the subject noted above and to state that the promotion case of B-Tech Sub Engineers (BPS-12 & 16) to the post of ADE/Sub Divisional Officer (BPS-17) are under process and the DPC meeting will be held shortly. You are therefore, directed to provide ACR's/PER's for the period of last five years, along with non-involvement certificate of the following: Sub Engineers/SDO in (OPS), working in your respective offices, which are urgently required for finalization of their promotion case.

In case of non-compliance and delay, the concerned office will be held responsible for any consequences and accordingly matter will be submitted to the higher-ups for further consideration.

S.No.	Name of officials	Place of Duty
1.	Riaz Ahmad	PHE Division Dir Lower
2.	Aurangzeb	PHE Division Bajaur
3.	Irshad Mahmood	PHE Division Dir Upper
4.	Saqi Muhammad	PHE Division Swabi
5.	Zahid Hussain Shah	PHE Division Abbotabad
6.	Abdali Shah	PHE Division Hangu
7.	Raheel Shuhzud	PHE Division Kohistan (Lower)
8.	Imtiaz Muhammad	PHE Division Buner
9.	Shoaib Ullah	PHE Division Charsadda
10.	Hamid Ali	PHE Division Shangla

Copy forwarded to:

1. The Chief Engineer (North/South/East) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar for information & necessary action, please.
2. The Section Officer (Estt) PHE, Department Peshawar for information with reference to his letter No/ SO (Estt)/PHED/4-53-B/2019-20 dated 04.02.2022.

Parullah
Administrative Officer (Center)

Parullah
Administrative Officer (Center)

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EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA
Published by Authority

PESHAWAR, MONDAY, 07th FEBRUARY, 2022

**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGINEERING DEPARTMENT**

NOTIFICATION

Dated Peshawar, the 31st January, 2022.

No.SO(Estt)/PHED/1-9/2020-21; In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Public Health Engineering Department, in consultation with the Establishment Department and Finance Department, hereby directs that in this Department's Notification No.SO(Estt)/PHED/1-9/2010, dated 06-03-2010, the following further amendments shall be made, namely:

AMENDMENTS

In the APPENDIX:-

- (1) Under the heading "Engineering Cadre":
 - (i) against Serial No.03, in Column No.02, for the existing entry, the following shall be substituted, namely:

Executive Engineer/Design Engineer/Deputy Director (Technical)/Deputy Director (Labs/Projects) (BPS-18)

- (ii) after Serial No.03, the following new entries shall be inserted in the respective Columns, namely:

3-A	Technical Officer/Deputy Director (M&E) (BPS-18)	<p>"By promotion, on the basis of seniority-cum-illness from amongst the holders of the posts of Assistant Engineers/Assistant Design Engineers/ Sub Divisional Officers/Assistant Director (Tech)/ Assistant Technical Officer/Assistant Director (M&E)/Assistant Director (Labs)/Assistant Director (Projects), who possesses Degree of B.Tech (Hons) or Diploma of Associate Engineering from a recognized University/ Board with five years' service as such."</p> <p>Note: For the purpose of promotion, joint seniority of B.Tech (Hons) & Diploma holders shall be reckoned from the date of promotion to BPS-17.</p>
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Issued with... ..

GAZETTE

-11-

(12)

~~DATE~~

~~Hand Rules~~

1368 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 07th FEBRUARY, 2022

(iii) against serial No.04, in column No.05;

- (i) In clause (a), for the words "Five percent", the words "Two percent" shall be substituted;
- (b) In clause (b), for the words "Five percent", the words "Three percent" shall be substituted;
- (c) In clause (c), for the words "Three percent", the words "Eight percent" shall be substituted; and
- (d) after clause (c), as so amended, the following Note shall be inserted, namely:

"Note: for the purpose of promotion, the seniority of B.Tech (Hons) Degree holders shall be reckoned from the date of appointment or acquiring the Degree, whichever is later; and"

(2) Under the heading "Water Quality (WQ) Laboratory's Technical Staff":

(i) against Serial No.26, in column No.05, for the existing entry, the following shall be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Research Officer (Water Quality) with five years service as such."

(ii) against Serial No.28, in column No.05, for the existing entry, the following shall be substituted, namely:

- (a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Assistant who possess at least second class B.Sc Degree in Microbiology or Chemistry from a recognized University, with 5-years service as such; and
- (b) Seventy-five percent by initial recruitment.

(iii) after Serial No.28, the following new entries shall be inserted, in the respective Columns, namely;

"28-A	Laboratory Assistant (BPS-08)	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with two years Diploma in Laboratory Technician from a recognized Medical Faculty.	18 to 30 years	(a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Technician with 5-years service as such. (b) Seventy-five percent by initial recruitment; and
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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY; 07th FEBRUARY, 2022 1389

(iv) Against Serial No.29, in Column No.05, for the existing entry, the following shall be substituted namely:

- (a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Attendant who possess at least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board and two years Diploma in Laboratory Technician from a recognized Medical Faculty, with 5-years service as such; and
- (b) Fifty percent by initial recruitment.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG. DEPARTMENT


ATTORNEY

To

"D" -13-
The worthy Secretary,
Public health engineering department,
Khyber Pakhtunkhwa, Peshawar.

SECY PHED
Dairy No - 2606
25-7-22

Through Proper Channel

Subject: Departmental Appeal/Representation against the Newly amended rules vide Impugned Notification dated 07.02.2022, whereby promotion to the post of Assistant Engineer (BPS-17) is subject to acquiring degree or initial appointment whichever is later.

Respected Sir,

1. That appellant presently serving as sub-engineer in (BPS-16). Since the date of first induction he has never been rendering meritorious service to the department.
2. That while performing duties against the subject post, department circulated final seniority list of the B-Tech (Hons) Sub-Engineers dated 04.03.2022 wherein appellant was placed at serial No. 12 and therefore, is entitled to be promoted against the post of Assistant Engineer (BPS-17) on the basis of seniority-cum-fitness. It is added that appellant came to know on 25.07.2022 about the newly impugned amended rules dated 07.02.2020, whereby it has been held that:-

"for the purpose of promotion, the seniority of B.Tech (Hons) degree holder shall be reckoned from the date of appointment or acquiring the degree, whichever is later".

3. That department has sought credential/documents for PSB which is to be held on 28.07.2022 for promotion to the post of Assistant Engineer (BPS-17) from juniors to the appellant who got appointed way back in the year 2013 and onwards.
4. That being aggrieved, the appellant prefers this Departmental Appeal/Representation inter-alia on the following grounds:-

GROUNDS:

- A. That the impugned rules dated 07.02.2020 has been enacted under the provision contained in sub-rule (2) of Rule 3 of Khyber Pakhtunkhwa Civil Servants (Appointment, promotion and Transfer) Rules, 1989. It is necessary to aver here that the rules ibid has been promulgated by the provisional government for the respective department and under the law department is supposed to frame rules which is not contrary to the basic principles and has been prescribed in the General rules. Therefore, the rules framed by the department are repugnant to the General rules and not sustainable and liable to be struck down.
- B. That as per Rule-17(1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 The seniority inter se of civil servants appointed to service, cadre or post shall be determined in case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission or, as the case may be, the Departmental Selection Committee; provided that persons selected for

ATTEST

appointment to post in an earlier selection shall rank senior to the persons to the persons selected in a later selection. Hence appellant was inducted way back in the year 1989 and that is why was placed at serial No.8 in the final seniority list of the Sub-Engineers (BPS-16). Therefore, the impugned rules are not only against the rules ibid but also against the vested right of the appellant for promotion against the next higher grade.

- C. That it has been held by the apex court in Sheikh Riazatul Haq case that Civil Servant is also citizen of this motherland and under the constitution of Islamic Republic of Pakistan, 1973 he having all fundamental rights to be treated at par with other similar placed person. Article-25 of the Constitution stipulates egalitarian amongst the employees in the other sister department. In this juncture of the matter it is elaborated that in the C&W and irrigation department which are sister department of the Public Health Engineering department, the seniority in all cases of promotion is determined from the date of initial appointment. Reference is made to the verdicts of Hon'ble Superior Courts:-

1991 SCMR 1040

—Art. 25(1)—All citizens are equal before law and entitled to equal protection of law—State, however, is not prohibited to treat its citizens on the basis of a reasonable classification —Reasonable classification—Basis or criterion for classification as to avert violation of Art. 25(1).

2018 PLC (CS) Note 86 (Peshawar)

Equal protection of law means that no person of or class of person shall be denied the same protection of law which is enjoyed by other person or other class of persons in like circumstances. Similarly, reasonable classification amongst different groups of persons is admissible; however, to justify the validity of a classification, it must be shown that it is based on reasonable distinction or that it is on reasonable basis or rest on real or substantial difference of distinction. [para 9 of the judgment]

2004 PLC (CS) 1234 (Peshawar)

—Arts. 25 & 199—Constitutional petition—Police Order (22 of 2002), Arts.7 & 8—Civil Service—Discrimination—Persons in comparable situation, must be treated alike, thus differently treating them would be direct discrimination—Discrimination can arise only through application of different rules to comparable situations of the application of the same rules to different situations—Eventually, the separation of the two units from one another would not be a step justified in law and would be against the spirit and commandants of the provisions of Police Order, 2002 as well as the Constitution.

2003 PLD Peshawar 27

----"Discrimination"—Connotation—Discrimination occurs only when two or more persons, who are similarly placed, in similar situation and in similar ambient circumstances, are treated differently.

ATTESTED

3

Likewise, Reference is made to the *Sheikh Riazat-ul-Haq case that under Article-9 of the Constitution a civil servant has fundamental rights to be treated as per law.* Reliance is placed on 2017 PLC(CS) Note 23 which is as under:-

-15-

"Article-25: Discrimination Similar treatment Scope Alike should be treated Alike."

Besides, this it was held in 2021 PLC (CS) Note.26 that:-

"Equality of State Subjects—Safeguard against discrimination in services—Scope—Respondent along with two others applied for appointment as Junior Clerk against the quota reserved for legal heirs of the police employees who had died during service—Selection Committee recommended the other two candidates and rejected the application of respondent on the ground that his father had died prior to the issuance of notification through which the quota was fixed: hence, without giving retrospective effect to the notification, respondent could not be appointed—Selection Committee, however, recommended another candidate whose father was had also died prior to the notification fixing quota—Discrimination was meted out to the respondent—Authority who had issued an order or done any act could not subsequently take the stance that the order issued or action taken by it was against the law—Respondent was entitled to the same treatment as met by the other candidate whose case was at par with his case—High Court was fully justified to issue direction for appointment of the respondent—Appeals was dismissed."

- D. That after amendment in the impugned rules a final seniority list of the sub-engineers (BPS-16) has been circulated by the department on 04.03.2022 in light of Rule 17 of Khyber Pakhtunkhwa Khyber Pakhtunkhwa Government Servants (Appointment, Promotion and Transfer) Rules, 1989. Therefore, the sole purpose of seniority is to promote the incumbents against the next higher grade while admitted position has been overlooked by the department and has constituted DPC on 28.07.2022 to the post of Assistant Engineer (BPS-17) from the date of acquiring degree instead of initial appointment which is liable to be quashed.
- E. That the appellant was initially recruited in the department in accordance with law and rules where at that time no such condition of degree existed. Therefore, the same cannot be imposed from the retrospective effect. Moreover, by way of impugned rules department has inflicted upon the appellant major punishment because he could not be promoted against the next higher grade.
- F. That under the law department was required to intimate about the newly amended rules because it adversely effects the vested rights of the appellant and thereon he has to be furnished a chance of personal hearing


It is, therefore, respectfully prayed that on acceptance of this Departmental Appeal/Representation, the impugned newly amended rules dated 07.02.2022 may kindly be brushed aside and appellant may graciously be promoted to the post of Assistant-Engineer (BPS-17) in the light of Rule-17 of Khyber Pakhtunkhwa

ATTESTED

-16- 4
Government Servants (Appointment, Promotion and Transfer) Rules, 1989 as well as seniority as circulated by the department on 04.03.2022.

Yours faithfully

Dated: 25/07/2022


RAHIM ULLAH
SUB ENGINEER
PHE DIVISION
NOWSARA

ATTESTED 



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

No.SO(Estt)/PHED/4-53-B/2020-21
Dated Peshawar, the July 21, 2022

To

1. The Additional Secretary (Regulation),
Govt: of Khyber Pakhtunkhwa,
Establishment Department, Peshawar
2. The Additional Secretary (Reg),
Govt: of Khyber Pakhtunkhwa,
Finance Department, Peshawar
3. The Chief Engineer (Center),
PHE Department Peshawar

Subject: **MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE.**

Dear Sir,

I am directed to refer to the subject noted above and to state that a meeting of the Departmental Promotion Committee is scheduled to be held on **28-07-2022 at 1100 Hours** under the chairmanship of Secretary Public Health Engineering Department in his office to consider the following promotion cases:-

- i. Promotion of Diploma Holder Sub Engineers (BPS-16) to the posts of Assistant Engineers/SDOs (BPS-17) on regular basis in PHED.
 - ii. Promotion of B. Tech Hons (Civil) Degree Holder Sub Engineers to the posts of Assistant Engineers/SDOs (BPS-17) on regular basis in PHED.
 - iii. Promotion of Assistants/Senior Scale Stenographers (BPS-16) to the posts of Superintendents (BPS-17) on acting charge basis in PHED.
2. You are, therefore, requested to depute representative of your respective department to attend the said DPC meeting on the scheduled date, time and venue. Working Papers alongwith relevant documents are enclosed herewith.

Yours faithfully,

[Signature]
21/7/22
SECTION OFFICER (ESTT)

ENDST: OF EVEN NO. & DATE

Copy forwarded to the:-

1. Deputy Secretary (Admn) PHE Department Peshawar
2. PS to Secretary PHE Department Peshawar for information.

[Signature]
21/7/22
SECTION OFFICER (ESTT)

[Handwritten signature]

"F"
-18-



BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION NO. _____ /2022

- 1) Mr. Saqi Muhammad,
 - 2) Mr. Abdali Shah,
 - 3) Mr. Imtiaz Muhammad,
 - 4) Mr. Shoaib Ullah,
 - 5) Mr. Hamid Ali,
 - 6) Mr. Rahim Ullah,
- (All SDOs, (OPS) Public Health Engineering Department Khyber Pakhtunkhwa, Peshawar)

..... **PETITIONERS**

VERSUS

- 1- The Govt of Khyber Pakhtunkhwa, through Secretary Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Chief Engineer (Centre) Public Health Engineering Department, Peshawar.

..... **RESPONDENTS**

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 AS AMENDED UPTO DATE

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present writ petition are as under:

ATTESTED
EXAMINER
Peshawar High Court

1. That petitioners are the law-abiding citizens of Pakistan and are the employees of the respondent department in BPS-16 as sub-engineers.

2. That as per the final seniority list issued on 04.03.2022 the petitioners are at serial No. 04, No. 6, No. 8, No. 9, No. 10, and No. 12 and were hopeful for their promotion as they were/are in the promotion zone. That vide letter dated 25.02.2022 the petitioners along with others were directed to provide ACRs along with relevant documents for placing their cases before the DPC meeting which was supposed to be held shortly. Copies of the seniority list and letter dated 25.02.2022 are attached as annexure..... **A & B.**

3. That astonishingly vide impugned notification dated 31.01.2022 published in the official gazette on 07.02.2022 whereby the method of recruitment through promotion to the post of SDO was amended and a note was inserted for the purpose of reckoning seniority,

Note: for the purpose of promotion, the seniority of the B.Tech (Honors) degree shall be reckoned from the date of appointment or acquiring the degree, whichever is later; and.

Copy of the notification dated 31.01.2022 is attached as annexureC.

4. That it is pertinent to mention here that vide notification supra the method of promotion was amended vide the note therein whereby the right of promotion provided by the Khyber Pakhtunkhwa Civil Servant Act, 1973 was badly affected.
5. That the petitioners feeling aggrieved from the notification dated 31.01.2022 published on 07.02.2022 preferred departmental appeal/representation before the competent authority/respondents. Copies of the departmental appeal are attached as annexureD.
6. That vide letter dated 21.07.2022 it has been conveyed that a Departmental Promotion Committee scheduled to be held on 28.07.2022 for the purpose of making promotion on the basis on the basis of impugned service rules notified vide notification date 31.01.2022. Copy of the letter dated 21.07.2022 is attached as annexureE.
7. That feeling aggrieved and having no other remedy the petitioners prefer the instant writ petition on the following grounds amongst other.

GROUND:

- A- That the impugned service rules notified by the notification dated 31.01.2022 published on 07.02.2022 to the extent of note whereby seniority for the purpose was reckoned from the date of acquiring the degree is against the law, facts, norms of natural justice and materials hence the same is liable to be set aside/deleted.
- B- That petitioners have not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That it is worth to mention here that in the sister departments seniority for the purpose of promotion to the subject post is determined from the date of initial

ATTESTED
EXAMINER
Peshawar High Court

appointment and not from the date of acquiring the requisite degree. Copies of the service rules of the sister departments are attached as annexureF.

- D- That according to section 8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with rule 17 of the Khyber Pakhtunkhwa Civil Servant (APT) Rules, 1989 the seniority inter se of a civil servant appointed to service, cadre or post shall be determined in the case of persons appointed by initial recruitment in accordance with the merit assigned by the Commission or as the case may be, the department selection committee; provided that persons selected for appointment to post in earlier selection shall rank senior to the persons selected in a later selection.
- E- That the treatment meted out to the petitioners is a clear violation of the fundamental rights of the petitioners.
- F- That the petitioners have been discriminated by the respondents on the subject noted above and as such the respondents violated the principle of natural justice as well article 27 of the constitution of the Islamic Republic of Pakistan, 1973.
- G- That according to article 38 (e) of the constitution of the Islamic Republic of Pakistan, 1973, state is bound to reduce disparity in the income of persons in the service of the Pakistan.
- H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of this writ petition the impugned notification dated 31.01.2022 to the extent of note attached to rule (1) (iii) (d) may kindly be declared as illegal, unconstitutional and ineffective upon the rights of the petitioners and may be set aside/ deleted. That the respondents may kindly be directed to make promotion on the basis of seniority which is to be reckoned from the date of first regular appointment and not from the date of acquiring the degree. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

ATTESTED
EXAMINER
Peshawar High Court

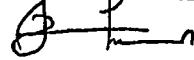
Interim relief:

By way of interim the DPC which is to be held on 28-07-2022 may kindly be suspended till the disposal of instant writ petition.

Dated: 26-07-2022

-21-

PETITIONERS



SAQI MUHAMMAD & OTHER

THROUGH:

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MUHAMMAD AYUB

UMER FAROOQ
ADVOCATES

VERIFICATION:

It is verified that no other earlier writ petition was filed between the parties.

DEPONENT

LIST OF BOOKS:

1. CONSTITUTION OF PAKISTAN.
2. SERVICES LAWS BOOK.
3. ANY OTHER CASE LAW AS PER NEED

ATTESTED
EXAMINER
Peshawar High Court

-22-



PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2
ORDER 29.09.2022	<i>Writ Petition No.2786-P/2022 with Interim Relief with C.M.No.1469-P/2020</i>
	<p>Present: Mr. Noor Muhammad Khattak, Advocate, for Saqi Muhammad etc., petitioners.</p> <p>Syed Sikandar Hayat Shah, Addl. AG along with M/s Muhammad Naeem, Section Officer (Litigation) and Kamran Shahid, ASO, Chief Engineer Office, for the officials of Provincial Government.</p> <p>Mr. Asif Ali Shah, Advocate, along with the added respondent No.7.</p> <p>*****</p> <p>OAISER RASHID KHAN, CJ.-The petitioners, through the instant writ petition, have asked for the issuance of an appropriate writ seeking directions to the respondents to make promotion on the basis of seniority to be reckoned from the date of first regular appointment rather than date of acquiring the degree.</p> <p>2. During the course of brief submissions, it was pointed out to the learned counsel for the petitioners that the relief, sought through the present petition, falls within the exclusive jurisdiction of the Khyber</p>

ATTESTED
EXAMINER
Peshawar High Court

Pakhtunkhwa Service Tribunal and this court in view of the explicit bar contained under Article 212(2) of the Constitution of the Islamic Republic of Pakistan, 1973 cannot interfere in such like matters. He frankly submits that since the representations of the petitioners are pending adjudication before the worthy Secretary to Government of Khyber Pakhtunkhwa, Public Health Engineering Department, Peshawar, therefore, he would be satisfied, if direction is made for early disposal of the same in accordance with law. He however requests for the continuation of the interim order dated 28.07.2022 till the petitioners approach the Khyber Pakhtunkhwa Service Tribunal through their service appeals.

3. Such being the position, we dispose of this writ petition in terms of directing the Secretary to Government of Khyber Pakhtunkhwa, Public Health Engineering Department, Peshawar, to decide the representations of the petitioners in accordance with law as early as possible but not later than one month, after the receipt of this order, whereafter, the petitioners may have recourse for the redressal of their grievance before the proper forum. The interim order

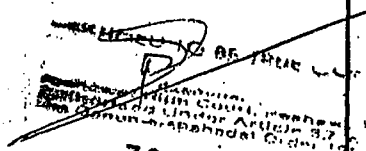
ATTESTED
EXAMINER
Peshawar High Court

dated 28.07.2022 of this court shall continue till the decision of the representations of the petitioners.

Announced.
29. 09. 2022


CHIEF JUSTICE


JUDGE


30 SEP 2022

52256

Date of Presentation of Application 30-9-22

No of Pages 8-P

Copying fee 37

Total 37

Date of Preparation of Copy 30-9-22

Date of Delivery of Copy 30-9-22

By [Signature]



49" -25-

GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the September 30, 2022

NOTIFICATION

No.SO(Estt)/PHED/4-53/2022: The competent authority, on recommendations of the Departmental Promotion Committee, is pleased to promote the following B.Tech (Hons) Degree holders Sub Engineers (BPS-12/16) of the Public Health Engg: Department to the posts of Assistant Engineers/Assistant Design Engineers/Sub Divisional Officers (BPS-17) on regular basis, with immediate effect:

S #	Name	Present Place of Posting
1.	Mr. Zahid Hussain shah	SDO (OPS) PHE Sub Division-I, Abbottabad.
2.	Mr. Raheel Shahzad	SDO (OPS) PHE Division, Mansehra.
3.	Mr. Waseem Khan	SDO (OPS) PHE Division Oghi Mansehra.
4.	Mr. Muhammad Safi Ullah Khan	Sub Engineer PHE Division Bannu with Additional Charge of PHE Sub Division Bannu-II
5.	Mr. Adnan	Sub Engineer PHE Sub Division, Saidu Sharif-I Swat-I

2. The officers, on promotion, will remain on probation for a period of one year in terms of Rule-15 of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. The postings/transfers of the above-named officers will follow.

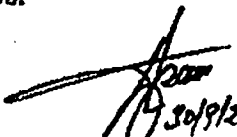
SECRETARY
PHE DEPARTMENT

Endst: No.SO(Estt)/PHED/4-53/2022

Dated Peshawar, the September 30, 2022

Copy forwarded for information and necessary action to the:

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. All Chief Engineers PHE Department Khyber Pakhtunkhwa.
3. All Superintending Engineers PHE Department.
4. Executive Engineer PHE Divisions, concerned.
5. District Accounts Officers concerned.
6. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
7. PS to Secretary PHE Department Khyber Pakhtunkhwa.
8. Officers concerned.
9. Office Order / Personal Files.


30/9/22
(SHER AZAM KHAN)
SECTION OFFICER (ESTT)

-26-

"H"



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
(Civil Secretariat, Technical Block, Police Lane Road, Peshawar)

NO.SOE/PHED/8-43/D.App/022
Dated Peshawar, the September 30, 2022

PHEDKPGovt PHEDKPGovt Msoephed@gmail.com 0919210857 0919213977

To,

- i. Mr.Saqi Muhammad,
SDO (OPS) PHE Sub Division, Lahor, Swabi
- ii. Mr.Rahim Ullah,
Sub Enginer, PHE Division, Nowshera
- iii. Mr.Abdali Shah
SDO (OPS), PHE Division, Charsadda
- iv. Imtiaz Muhammad,
SDO, PHE Sub Division, Daggar, Buner

Subject: **DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE NEWLY AMENDED RULES VIDE IMPUGNED NOTIFICATION DATED 07.02.2022 WHEREBY PROMOTION TO THE POST OF ASSISTANT ENGINEER (BS-17) SUBJECT TO ACQUIRING DEGREE OR INTIAL APPOINTMENT WHICHEVER IS LATER**

I am directed to refer to your appeals No.nil dated 25/7/2022 on the subject noted above and to say that framing of service rules is the domain of Standing Service Rules Committee and amendments in the the existing service rules have been made by the said committee in the best public interest and approved by the competent authority and notified on 07.02.2022.

You are, hereby, informed that the the appeals have been examined and found baseless, therefore, regretted.

[Signature]
30/9/22

SECTION OFFICER (ESTT)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 15TH APRIL, 2019.

**GOVERNMENT OF NWFP
COMMUNICATION & WORKS DEPARTMENT.**

NOTIFICATION

Dated: 25th March, 2010.

No. SOE/C&WD/8-12/2009.— In pursuance of the provisions, contained in sub rule (2) of Rule-3 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous rules, issued in this behalf, the Communication & Works Department in consultation with Establishment Department and Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in columns 3 to 5 of the Appendix to this Notification which shall be applicable to posts in column 2 of the said Appendix.

Secretary to Govt of NWFP
Communication & Works Department.

1173

Printed and published by the Manager,
State, P.C. Dept., Khyber Pakhtunkhwa, Peshawar.

Superintendent (Establishment)
Govt. of Khyber Pakhtunkhwa
C&W Department

APPENDIX

D) ENGINEERING SERVICE

St. No.	Nomenclature of Post	Minimum Qualification Required for Appointment/Promotion	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Chief Engineer	-	-	By selection, on merit from amongst Superintending Engineers/Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc. Engineering (Civil) from a recognized University and have successfully completed Senior Management Course Training.
2.	Superintending Engineer/Principal Design Engineer	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Executive Engineers/Design Engineers/Senior Engineers/Research Officers with at least 12 (twelve) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc. Engineering (Civil/Mechanical/Electrical) from a recognized University.
3.	Executive Engineer/Design Engineer/Senior Engineer/ Research Officer.	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Sub Divisional Officers/Assistant Engineers/Junior Engineers/Assistant Research Officers, possessing Degree in B.E/B.Sc. Engineering, (Civil/Mechanical/Electrical) from a recognized University, with at least 5 (five) years service as such, and have passed the Professional Examination as prescribed in B&R Code.
4.	Sub Divisional Officer/Assistant Engineer/Junior Engineer/ Assistant Research Officer	Degree in BE/B.Sc. Engineering (Civil/Mechanical/ Electrical) from a recognized University	21 - 32 Years	(a) Sixty five percent (65%) by initial recruitment; (b) sixteen and half percent (16.50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers who hold a Diploma of (Civil, Mechanical or Electrical) and have passed Departmental Professional Examination with 10 (ten) years service as such; (c) five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers who possess Degree of B.E or B.Sc. Engineering (Civil, Mechanical or Electrical) at the time of their joining service and have passed Departmental Professional Examination with 05 (five) years service as such; (d) three and half percent (3.5%) by promotion on the basis of seniority-cum-fitness, from amongst the Sub Engineers who acquired Degree of B.E or B.Sc. Engineering (Civil, Mechanical or Electrical) during service and have passed Departmental Professional Examination with 05 (five) years service as such; and (e) ten percent (10%) by promotion on the basis of seniority-cum-fitness, from amongst the Sub Engineers having Degree of B-Tech (Hons) and have passed Departmental Professional Examination with 05 (five) years service as such.
5.	Sub Engineer	Diploma of Associate Engineering (Civil) Electrical/Mechanical from a recognized Board of Technical Education	18 - 30 Years	Note: The seniority in all cases shall be determined from the date of initial appointment. a. Seventy Five percent (75%) by initial recruitment; b. Five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Work Superintendents/ Work Supervisors/Surveyors, with five years service as such, having three years Diploma of Associate Engineering in Civil Technology from a recognized Board. Note-1: For the purpose of promotion, joint seniority list of Work Superintendents, Supervisors and Surveyors with reference to their regular appointment to the post shall be maintained and in case the two dates are similar, the official in BPS-11 shall rank senior. c. Five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Road Inspectors with seven years service as such having three years Diploma of Associate Engineering in Civil Technology, from a recognized Board.

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REVISED APPENDIX

[SEE RULE 8]

29-

1. Nomenclature of posts with EPS	2. Minimum qualification for appointment by initial recruitment	3. Method of recruitment
ENGINEERING CADRE		
1. Engineering Cadre BS-20	By promotion on the basis of seniority-cum-fitness from amongst the officers holding posts in BS-18 and having at least 17 year service against posts in BS-17 and above, possessing Degree in B.E/ Bsc (Engineering) and have undergone advance training course from Local Governance School.
2. Engineering Cadre BS-19	By promotion on the basis of seniority-cum-fitness from amongst the officers holding posts in BS-18 and having at least 12 year service against posts in BS-17 and above and have undergone advance training course from Local Governance School
3. Engineering Cadre BS-18	By promotion on the basis of seniority-cum-fitness from amongst the officers holding posts in BS-17 with at least five year service and have undergone prescribed Departmental training course from Local Governance School as per following quota :- a) 70% from amongst holding the prescribed qualification of B.Sc Bachelor Engineering ; and b) 20% B.Tech(Hons) ; and c) 10% D.A.E.
4. Engineering Cadre BS-17	(i) At least 2 nd Division BS Degree in Civil Engineering from a recognized University; (ii) Age Limit as per Government Policy (iii) Both male and female can apply (iv) Zonal & Reserved Quota as per Government Policy	a) 50% by initial recruitment by the Khyber Pakhtunkhwa Public Service Commission. b) 20% by promotion of BS-16 B-Tech Degree holders with 10-year service c) 20% by promotion amongst the officer BS-16 on the basis of seniority-cum-fitness. d) 10% by promotion amongst the BSc Degree holders with 10-years' service in BS-11
5. Engineering Cadre BS-16	Degree in Civil Engineering from a recognized university	By promotion, on the basis of seniority-cum-fitness, from amongst the official of BS-11 who have passed the prescribed competitive exams through agency/organization to be no by the competent authority.

Submitted Vide Local Council Board meeting dated 24/9/2020

13

-30-

Nomenclature of posts	Minimum qualification for appointment by initial recruitment	Region of Recruitment
Engineering Cadre BS-11	(i) At least 2 nd Division Diploma in Associate Engineering in Civil Technology from recognized institute; (ii) Age Limit as per Government Policy; (iii) Both male and female can apply (iv) Zonal & Reserved Quota as per Government Policy	<p style="text-align: center;">ENGINEERING CADRE</p> (1) Eighty Five (85) percent by initial recruitment through competitive exams by ETBA/ NTS or any other notified by the competent authority. (2) Fifteen (15) percent quota reserved for employees of various posts who opt for PUGF, provided that no employee can opt unless he possess the following conditions:- (a) DAE Civil (2 nd Division Minimum) (b) Competitive Exams through credible agency/ organization as per the rules notified by the competent authority. (c) 5 years regular service experience in BS-5 to BS-11 (d) PERS of Last 5 years.

13

SECRET
LOCAL COUNCIL
KHYBER PAKHTUNKHWA

S No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Method of Recruitments
1	2	3	4
6.	Engineering Cadre BS-11	(i) At least 2 nd Division Diploma in Associate Engineering in Civil Technology from recognized Institute; (ii) Age Limit as per Government Policy (iii) Both male and Female can apply (iv) Zonal & reserved Quota as per Government Policy	(1) Eighty Five (85) percent by initial recruitment through any credentials recruiting record ETEA/NTS or any other notified by the competent authority. (2) Fifteen (15) percent quota reserved for employees of various local counidis in (sic) opt for PUGF, provided. That no employee can opt unless he possess the following conditions:- (a) DAE Civil (2 nd Division Minimum) (b) Competitive Exams through credible agency/organization i.e ETEA, NTS or others nominated by the competent authority. (c) 5 years regular service experience in BS-5 to BS-11 (d) PERs of Last 5 years.

. 32 -

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO: _____ OF 20

Rahim Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Zorath etc

(RESPONDENT)
(DEFENDANT)

I/We (Appellant)

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.


Dated. 3 / 10 / 202



CLIENT


ACCEPTED

NOOR MOHAMMAD KHATTAK
(BC-10-0853)
15401-0705985-5


UMAR FAROOQ


WALEED ADNAN

& 
MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No.(TF) 291-292 3rd floor
