



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 533 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/01/2020	<p>The appeal of Mr. Shakeel presented today by Mr. Amjid Ali Mardan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 22/1/2020</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/1/2020</u>.</p> <p> CHAIRMAN</p>

28.02.2019

Learned counsel for the appellant present. Heard.

Admittedly the private respondent No.5 (Naib Qasid) is senior to the appellant. Appellant was promoted to the post of Junior Clerk while the appellant was ignored on the ground that he failed the test.

Learned counsel for the appellant remained unable to demonstrate that how the appellant was rightly promoted from the post of Class-IV to the post of Junior Clerk by ignoring the appellant when in the relevant promotion criteria, there is no provision for any test. Departmental appeal filed by private respondent No.5 has been accepted by the order dated 19.12.2019 made impugned in the present service appeal.

Let pre-admission notice be issued to the learned AAG for arguments. Adjourn. To come up for preliminary arguments on 25.03.2020 before S.B.


Member

25.03.2020. Due to public holidays on the account of Covid-19, therefore the case is adjourned. To come up for the same on 19.06.2020 before SB.


Reader

17.06.2020

None for the parties present. On the last date of hearing the matter was adjourned on the strength of Reader note. The office shall, therefore, issue notices to the parties for 18.08.2020 before S.B.

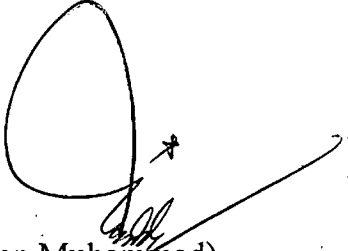

MEMBER

18.08.2020

None for the appellant present. Mr. Ziaullah, DDA for official respondents and private respondent No.5 in person present.

Written reply not submitted. Private respondent No.5 seeks time to submit the same on the next date. Notices be issued to the respondents No. 1 to 4 for submission of written reply.

Adjourned to 09.10.2020 before S.B.


(Mian Muhammad)
Member(E)

21.08.2020

Due to public holiday on account of 1st Moharram, the case is adjourned to 26.10.2020 for the same as before.


Reader

09.10.2020

Nemo for the appellant. Respondent No. 5 in person present.

It transpires from the record that on 18.08.2020 the proceedings were adjourned to 09.10.2020 (today). However, by mistake note reader was written on 21.08.2020, whereby, the proceedings were adjourned to 26.10.2020. In the circumstances it shall be appropriate to issue notices to the parties, except respondent No. 5, for 26.10.2020.

Adjourned accordingly.


Chairman

26.10.2020

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Hussain Akbar Assistant for official respondents present. Private respondent No.5 in person present.

Written reply on behalf of respondents submitted. To come up for preliminary arguments 06.01.2021 before S.B.



(Rozina Rehman)
Member (J)

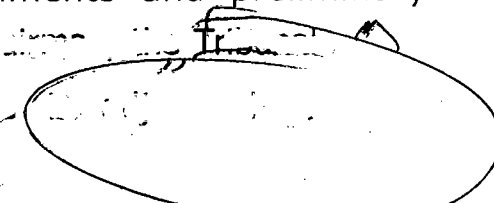
06.01.2021

Neither appellant is present in person nor anyone else representing him has appeared at the moment when the appeal was called for hearing at 10:55 A.M. Private respondent No. 5 is present in person.

Notice be issued to appellant and his respective counsel for attendance as well as official respondents for written reply/comments for 06.04.2021 on which date file to come up for written reply/comments and preliminary hearing before S.B.

06.04.2021

Due to demise of the learned Chairman, the Tribunal is non-functional, therefore, case is adjourned to 13.07.2021 for the same as before.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

06.04.2021

Due to demise of the learned Chairman, the Tribunal is non-functional, therefore, case is adjourned to 13.07.2021 for the same as before.



Reader

S.A No. 533/2020

13.07.2021 Nemo for the appellant. Mr. Muhammad Adeel Butt, Addl. AG for official respondents and private respondent No. 5 in person present.

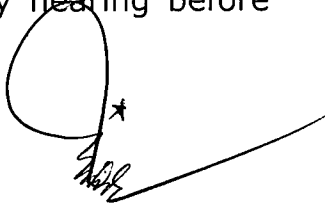
This service appeal has been filed directly in the Tribunal without fulfillment of the formalities of departmental appeal. Pre-admission notice was given to the respondents for submission of reply. Respondents No. 2 and 5 have furnished reply/comments, according to which the appellant was given promotion from class-IV post to the post of Junior Clerk on the basis of a selection process which later-on was annulled by the higher departmental authority on acceptance of departmental appeal by an aggrieved individual. Consequently, promotion as in pursuance including that the appellant were reversed for fresh process of selection on the basis of seniority-cum-fitness. The appellant was not promoted for certain obvious reason in the course of fresh process. To come up for reply of the remaining respondents and preliminary hearing on 05.10.2021 before the S.B.


Chairman

05.10.2021

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents present.

Respondents No. 2 & 5 have already furnished reply/comments. While reply/comments on behalf of official respondents No. 1, 3 & 4 are still awaited, therefore, notices be issued to the said respondents for submission of reply/comments. To come up for reply of official respondents No. 1, 3 & 4 and preliminary hearing before the S.B on 01.12.2021.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

01.12.2021

Appellant in person present. Mr. Kabirullah, Addl: AG respondents present.

Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for reply of official respondents No. 1,3 and 4 and preliminary hearing on 03.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 13.04.2022 before S.B for the same.



Reader

13.04.2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Hussain Akbar, Assistant for the respondents present.

Reply on behalf of respondents No. 1,3 & 4 are still awaited. Learned Addl. AG seeks further time to submit reply. Last opportunity is granted. To come up for reply/preliminary hearing before the S.B on 07.07.2022.



Chairman

7th July, 2022

None for the appellant present. Last chance was given to respondents No. 1,3 and 4 for submission of written reply/comments but today none put appearance on behalf of them nor written reply/comments were filed, hence they are placed ex-parte and their right for submission of reply is struck off. To come up on 18.10.2022 for preliminary hearing before S.B.



(Kalim Arshad Khan)
Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 533

Shakeel.....Appellant

V/S

Additional Commissioner, Mardan Division,
Mardan and others..... Respondents

INDEX

S.No	Description of Documents	Annexure	pages
1.	Memo of appeal with affidavit		1-5
2.	Stay application with affidavit		6-7
3.	Address of parties		8
4.	Copy of the test result	A	9
5.	Copy of working paper	B	10
6.	copy of the minutes of DPC	C	11-13
7.	copy of promotion order dated 12.06.2019	D	14
8.	Copy of departmental appeal	E	15
9.	order of Additional Commissioner, Mardan Division, Mardan dated 19.12.2019	F	16-18
10	Copy of the certificate	G	19
11	(Appeal) Rules, 1986	H	20
12	Copy of the seniority list	I	21-24
13	Copy of preamble and section 9 of the Land Revenue Act, 1967	J	25-26
14	Copy of order No. 2530/ACR /Reader dated 29.11.2019	K	27
15	Copy of Esta Code provision.	L	28-30
16	copy of Rules 2015 <i>Wakalat Khuma</i>	M M	31-36 37

Dated _____

Appellant

Through

Amjad Ali
Amjad Ali (Mardan)

Advocate Supreme Court

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 533

Shakeel Junior Clerk Deputy Commissioner Office Mardan.

Resident of Sowaryan (Toru).....Appellant

V/S

1. Additional Commissioner, Mardan Division, Mardan.
2. Deputy Commissioner, Mardan.
3. Departmental Promotion Committee through its Chairman Deputy
Commissioner, Mardan.
4. Fitness Test Committee through its Chairman/Assistant Commissioner,
Mardan.
5. Ajmeer Khan son of Khushmir Khan village Mayar Tehsil and District
Mayar Naib Qasid Deputy Commissioner Office, Mardan
.....Respondents

Subject: APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER OF
RESPONDENT NO.1 DATED 19.12.2019 WHEREIN
PROMOTION ORDERS OF THE APPELLANT FROM NAIB
QASID TO JUNIOR CLERK DATED 12.06.2019 HAS BEEN SET-
ASIDE WITHOUT GIVING ANY OPPORTUNITY OF HEARING TO
THE APPELLANT WHICH IS ILLEGAL AGAINST LAW AND
FACTS.

PRAYER ON ACCEPTANCE OF THIS APPEAL IMPUGNED ORDER
DATED 19.12.2019 PASSED BY THE ADDITIONAL
COMMISSIONER MARDAN DIVISION, MARDAN MAY PLEASE

(2)

BE SET-ASIDE AND THE PROMOTION ORDER DATED 12.06.2019 PASSED BY RESPONDENT NO.2 ON THE RECOMMENDATION OF RESPONDENT NO. 3 & 4 MAY PLEASE BE RESTORED WITH ALL BACK BENEFITS. IT IS FURTHER PRAYED THAT ORDER No. 2530/ACR /READER DATED 29.11.2019 PASSED BY ASSISTANT TO COMMISSIONER (REVENUE) MARDAN DIVISION; MARDAN MAY PLEASE BE SET-ASIDE TO THE EXTENT OF SERVICE APPEALS. ANY OTHER RELIEF DEEMED FIT MAY ALSO BE GRACIOUSLY GRANTED.

Respected Sir,

Appellant humbly submit as under:

1. That appellant was serving as Naib Qasid in the Deputy Commissioner Office Mardan and served to the entire satisfaction his superiors.
2. That 3 posts of the Junior Clerks falling in the promotion quota fell vacant and the respondent No. 4 found the appellant eligible / fit for promotion and was properly recommended by respondent No. 3 and thereafter promotion order dated 12.06.2019 passed by respondent No.2. (Copy of the test result is annexure-A, Copy of working paper is annexure-B, copy of the minutes of DPC is annexure-C, copy of promotion order dated 12.06.2019 is annexure-D).
3. That respondent No.5 filed departmental appeal dated 25.06.2019 before the Commissioner, Mardan Division, Mardan. However astonishingly instead of Commissioner, Mardan Division, Mardan respondent No.1 passed impugned order dated 19.12.2019 wherein promotion order dated 12.06.2019 in favor of appellant was set-aside without impleading appellant and without giving opportunity of hearing and issued a

(3)

direction of constituting a fresh Departmental Promotion Committee (DPC) which is illegal against law and facts on following grounds. (Copy of departmental appeal is annexure-E, order of Additional Commissioner, Mardan Division, Mardan dated 19.12.2019 is annexure-F)

GROUNDS

- A. Because appellant is equipped with the requisite qualification such as B.A, for the post of junior clerk. (Copy of the certificate is annexure G)
- B. Because appellant was found eligible by the DPC comprising of 3 members and the findings of DPC cannot be legally set-aside by the high authority as it is subjective evaluation with objective criteria which falls squarely within the domain of the DPC.
- C. Because the job description of the Addl: Commissioner, Mardan Division, Mardan does not include deciding Departmental appeal.
- D. Because the worthy Commissioner of the Division has got no legal authority to transfer service appeal to any other office in the Division.
- E. Because as per rules-3 of the Khyber Pakhtunkhwa departmental appeal Rules- 1986, appeal lies to the next higher authority and therefore in all the District departmental appeals against the orders of the Deputy Commissioner are decided by the Divisional Commissioner. {Copy of relevant rules 2(a) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 is annexure-H}
- F. Because appellant being senior and found fit / eligible has been properly recommended by the DPC. (Copy of the seniority list is the annexure -I)

(4)

- G. Because section 9 of the Land Revenue Act, 1967 is concerned with Revenue Matter as evident from the preamble of the Act and by no stretch of imagination it can be applied to the service appeals. (Copy of preamble and section 9 of the Land Revenue Act, 1967 is annexure-J)
- H. Because the office order No. 2530/ACR /Reader dated 29.11.2019 is illegal void ab-initio as the worthy Commissioner cannot pass such type of order in generalize form to transfer all Revenue, Service appeals and objection petition before the Additional Commissioner, Mardan Division, Mardan. (Copy of order is annexure-K)
- I.
- J. Because impugned order passed by the Additional Commissioner, Mardan Division, Mardan on the strength of office order dated 29.11.2019 is illegal and without lawful authority.
- K. Because the next higher Authority to the Deputy Commissioner, Mardan is the Commissioner, Mardan Division, and Additional Commissioner, Mardan Division, Mardan has got limited jurisdiction to the extent of Revenue matters only.
- L. Because appellant has not been given the opportunity of hearing and thus condemned unheard which is violation of the 1st Principle of the Natural justice which is very well entrenched in our judicial system. since the Garden of Adam & Eve.
- M. Because the principle of Esta Code 2011 cannot be legal applied to Rules of 2015. (Copy of Esta Code provision is annexure-L and copy of Rules 2015 are annexure-M)

(5)

It is therefore, humbly prayed that, on acceptance of this appeal impugned order dated 19.12.2019 passed by the Additional Commissioner Mardan Division, Mardan may please be set-aside and the promotion order dated 12.06.2019 passed by respondent no.2 on the recommendation of respondent no.3 & 4 may please be restored with all back benefits. It is further prayed that order No. 2530/ACR /Reader dated 29.11.2019 passed by Assistant to commissioner (Revenue) Mardan Division; Mardan may please be set-aside to the extent of service appeals. Any other relief deemed fit may also be graciously granted

Jul

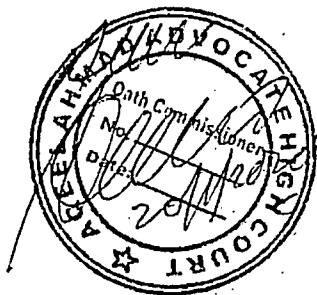
Appellant
Through

Amjad Ali

Amjad Ali (Mardan)
Advocate Supreme Court

AFFIDAVIT

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



Jul

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

6

Service Appeal No. _____

Shakeel.....i.....Appellant

V/S

Additional Commissioner, Mardan Division,

Mardan and others..... Respondents

SERVICE APPEAL

Subject: APPLICATION OF SUSPENSION OF OPERATION OF
IMPUGNED ORDER DATED 19.12.2019 PASSED BY THE
ADDITIONAL COMMISSIONER, MARDAN DIVISION, MARDAN
WHO IS INCOMPETENT AUTHORITY IN SERVICE MATTERS

Respected Sir!

1. That the service appeal from the order of Deputy Commissioner of the District can be heard and decided by the Commissioner of the Division only and not any other authority.
2. That the worthy Commissioner of the Division has got no legal Authority to transfer service appeal to any other office in the Division.
3. That as no Additional Commissioner can pass order with respect to terms and condition of service of a civil servant so the Additional Commissioner also does not vest the powers to decide the matters pertaining to terms and condition of service of a civil servant.
4. That balance of convenience lies in favor of appellant.

5. That there shall irreparable loss to the appellant if impugned order is not suspended.

It is therefore humbly prayed that on acceptance of this application operation of impugned order dated 19.12.2019 passed by Additional Commissioner, Mardan Division; Mardan may please be suspended till decision of the appeal.

Appellant

Through

Amjad Ali (Mardan)

Advocate Supreme Court

AFFIDAVIT

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

Deponent



(3)

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

Service Appeal No. _____

SHAKEELAppellant

V/S

Additional Commissioner, Mardan Division, Mardan and others

.....Respondents

MEMO OF ADDRESS

APPELLANT

Shakeel Junior Clerk Deputy Commissioner Office Mardan

Resident of Sowaryan (Toru)

RESPONDENTS

1. **Additional Commissioner, Mardan Division, Mardan.**
2. **Deputy Commissioner, Mardan.**
3. **Departmental Promotion Committee through its Chairman Deputy
Commissioner, Mardan.**
4. **Fitness Test Committee through its Chairman/Assistant Commissioner,
Mardan.**
5. **Ajmeer Khan son of Khushmir Khan village Mayar Tehsil and District
Mayar Naib Qasid Deputy Commissioner Office, Mardan**

Appellant

Through

Amjad Ali (Mardan)

Advocate Supreme Court

Ann-A

9

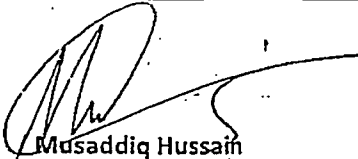
9


9 Ann-A


Result of Promotion of Naib Qasid to junior Clerk BPS-11

S.No	Name of Candidate	Designation	Test Marks (Out of 70)	Typing Marks (Out of 30)	Total Marks	Remarks
1	Tauseef Khan	Naib Qasid	38	22	60	Pass
2	Inayat Ullah	Naib Qasid	40.5	19	59.5	Pass
3	Farzand Ali	Naib Qasid	37.5	15	52.5	Pass
4	Shakeel	Naib Qasid	37	15	52	Pass
5	Janas Khan	Naib Qasid	42.5	8	50.5	Fail
6	Muslim Shah	Naib Qasid	35.5	12	47.5	Fail
7	Mahboob Ali	Naib Qasid	37	5	42	Fail
8	Ajmir Khan	Naib Qasid	32	9	41	Fail
9	Nawaz Khan	Naib Qasid	29	3	32	Fail
10	Nasarullah	Naib Qasid	22	9	31	Fail
11	Niqab Khan	Chowkidar	20	10	30	Fail
12	Itbar Said	Naib Qasid	29.5	0	29.5	Fail
13	Sulaiman	Naib Qasid	14	10	24	Fail
14	Samshad Ali	Naib Qasid	20	3	23	Fail
15	Willayat	Chowkidar	22	0	22	Fail
16	Azghar Khan	Naib Qasid	14	0	14	Fail
17	Usman Ali	Naib Qasid	10	0	10	Fail
18	Muhammad Jellani	Naib Qasid	6	0	6	Fail
19	Waqas Rauf	Naib Qasid	3	0	3	Fail
20	Salman Khan	Naib Qasid	1	0	1	Fail
21	Yousaf Khan	Chowkidar	1	0	1	Fail

83
68
23
55


Musaddiq Hussain
District Nazir
DC Office Mardan


Asadullah
Assistant Commissioner
Mardan


Saad Ahmad
Superintendent
DC Office Mardan



10
A/B

OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

WORKING PAPER FOR RECRUITMENT/PROMOTION AGAINST THE VACANT POSTS OF JUNIOR CLERKS(BPS-11):

1. In office of the Deputy Commissioner, Mardan, 06 posts of J/Clerks (BPS-11) are lying vacant, which are to be filled in by initial appointment and by promotion as detailed below:

S//	Name of post	Method of recruitment in light of BoR Notification No. 2074/Estt:1/11/135/SSRC, dated 23.01.2015.		Sanctioned Strength	Posts filled	Vacant	Remarks
		Method of recruitment	Qualification				
1	2	3	4	5	6	7	8
	Junior Clerk (BPS-11)	i. 67% by initial recruitment. ii. 33% from amongst the eligible Class-IV employees.	At least SSC 2 nd class Plus 30 w.p.m speed in typing	Total: 29 Initial quota: 20 Promotion quota: 09	Total: 23 Initially appointed: 17 Promotees: 06	Total: 06 Initial quota: 03 Promotion quota: 03	As per criteria laid down in column No.3 & 4; 03 posts will be filled by initial appointment; 03 by promotion from amongst class-IV employees.

2. Criteria for promoting Class-IV employees is Seniority-cum-fitness. Since there are no ACRs of Class-IV employees, and the rules are also silent about any clear mechanism to assess their fitness; therefore, a balanced & well-articulated test has been prepared to ascertain fitness of the said employees, which has been given below:

A 100 Marks Criteria for evaluation/assessment	
Typing Speed Test (30 Marks)	Written Test (70 Marks)
One mark will be given for each correct word upto 30 words per minute (prescribed speed for fresh candidate is 30 w.p.m) and there will be no mark for beyond 30 w.p.m. speed. However, less than 12 w.p.m (40% of the prescribed speed for fresh candidates) will be considered failed).	35 marks each for English & Urdu, composed of only routine office work related questions. (However a person who failed in getting at least 35 marks in this category will also be considered failed).
Qualifying aggregate Marks will be 50%. Senior most Class-IV employee will be promoted as Junior Clerks, amongst the candidates qualified the said assessment test.	

3. In initial quota of Junior Clerks, 03 posts have already been advertised through Education Testing Evaluation Agency (ETEA), which shall be filled from amongst the successful candidates, as per rules, after receiving the result.
4. Besides, candidates in the Deceased Employees' Children's Quota, who have at least SSC 2nd Division qualification, will be called to appear in typing test so that their eligibility may be ascertained for the post of Junior Clerks.
5. In case any Class-IV employee is promoted as Junior Clerk, the Committee will also decide to fill up the vacant post occurred due to such promotion, from amongst candidates for the said posts.

Deputy Commissioner
Mardan



(11)

Am - C

OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Minutes: MINUTES OF THE MEETING OF DSC/DPC, DATED FOR PROMOTION OF CLASS-IV EMPLOYEES AGAINST THE POST OF JUNIOR CLERKS (BPS-11) AND APPOINTMENT OF FRESH EMPLOYEES IN CLASS IV CATEGORY

Venue: Deputy Commissioner Office Mardan.

Date/Time: 30-05-2019 at 12:00 Noon

In attendance:

Mr. Mohammad Abid Khan, Deputy Commissioner Mardan. (In chair)

Mr. Niaz Muhammad, Addl Deputy Commissioner, Mardan. (Member)

Mr. Karim Gul, Assistant to Commissioner, Mardan Division, Mardan. (Member)

The meeting was started with the Holy Name of Almighty Allah. After welcome note following promotion/appointment cases were discussed and decisions taken:

1. PROMOTION OF OF CLASS-IV EMPLOYEES TO THE POSTS OF JUNIOR CLERKS

As per Khyber Pakhtunkhwa (Appointment, Promotion and Transfer Rules, 1989) read with Board of Revenue notification No. 2074/Estt:II/135/SSRC, dated 23.01.2015, 33% quota has been reserved for Class-IV employees to be promoted against the post of Junior Clerks, on the basis of seniority-cum-fitness. DC office, Mardan, has 03 vacant posts of J/Clerks (BPS-11), which are to be filled in from amongst Class-IV employee on the basis of seniority-cum-fitness, under the ibid rules. Since there are no ACRs of Class-IV employees, and the rules are also silent about any clear mechanism to assess their fitness; therefore, a balanced & well-articulated test formula was prepared to ascertain fitness of the Class-IV employees, which has been given below:

A 100 Marks Criteria for evaluation/assessment	
Typing Speed Test (30 Marks)	Written Test (70 Marks)
One mark will be given for each correct word upto 30 words per minute (prescribed speed for fresh candidate is 30 w.p.m) and there will be no mark for beyond 30 w.p.m. speed. However, less than 12 w.p.m (40% of the prescribed speed for fresh candidates) will be considered failed).	35 marks each for English & Urdu, composed of only routine office work related questions. (However a person who failed in getting at least 35 marks in this category will also be considered failed).
Qualifying aggregate Marks will be 50%. Senior most Class-IV employee will be promoted as Junior Clerks, amongst the candidates qualified the said assessment test.	

For written/typing test, a Sub Committee in the Chairmanship of AC, Mardan was constituted which had to carry out the said process and to submit its report to the DSC. The Committee accordingly submitted its report wherein the following 04 candidates have been declared qualified:

S/#	Name of Class-IV Employee	Designation	Written test score out of 70	Typing Test score	Total Mks	No. in Seniority	Remarks
1	Farzand Ali s/o Mohib Gul	Naib Qasid	37.5	15	52.5	23	Passed
2	Shakeel s/o Siraj Muhammad	Naib Qasid	37	15	52	55	Passed
3	Inayatullah s/o Musafar Khan	Naib Qasid	40.5	19	59.5	68	Passed
4	Muhammad Taseef Khan s/o Imtaiz Khan	Naib Qasid	38	22	60	83	Passed

(12)

DECISION:

In light of seniority list stood on 31.12.2018 and test result submitted by the Committee constituted for the purpose of ascertaining fitness of the candidates, the Departmental Promotion Committee unanimously recommended the following three Naib Qasids (BPS-03) to the posts of Junior Clerk (BPS-11):

1. Farzand Ali s/o Mohib Gul
2. Shakeel s/o Siraj Muhammad
3. Inayatullah s/o Musafar Khan

2. APPOINTMENT OF JUNIOR CLERK IN DECEASED EMPLOYEES' CHILDREN QUOTA:

As per ibid rules, qualification for initial appointment against the post of Junior clerk is 2nd class SSC and a typing speed of 30 w.p.m. Therefore, call letters were issued to all eligible candidates to appear in the typing test, amongst whom only one candidate i.e. Mr. Naveed Khan s/o Shafiq-Ur-Rehman appeared in the said test. His typing speed was 8 w.p.m, as such he could not qualify the test.

DECISION:

As per rules, the candidate for fresh appointment against the post of Junior Clerk should have at least SSC 2nd division of education and a typing speed of 30 w.p.m. Since, the candidate failed in proving his eligibility/fitness in typing test; therefore, it was decided not to recommend him for appointment against the post of J/Clerk. However, he can be appointed against any other post of BPS falling in the domain of deceased employees' children quota, subject to occurrence of vacancy, his eligibility & willingness.

3. APPOINTMENT OF MR. RIAZ ALI AGAINST THE POST OF PATWARI (BPS-09)

MR. Riaz Ali s/o Yousuf Khan r/o Lund Khwar had submitted an application, stating therein that he had passed patwar exam in the year 1989, but due to junior in the waiting list, he was not appointed as patwari in Distt Mardan. Therefore, he joined service as Patwari in CDA, Islamabad, wherein he worked for 04 years; and thereafter worked in Settlement Operation Manshra for four years, as well; therefore, requested for appointment on revenue side in Distt, Mardan.

Old Inderaj-E-Nam was perused which shows that he was a candidate at S# 74, which was subsequently deleted due to overage, vide office order No.192-92/DK/HVC, dated 07.02.2001 by DC, Mardan. The applicant also produced judgment in W.P No. 2189-P of 2013, titled Riaz Alam Shah & others VS Govt of Khyber Pakhtunkhwa, wherein the Honorable Peshawar High court Peshawar observed that the respondents had served in Settlement project, therefore, they might be appointed on revenue side irrespective of the fact that they had crossed the upper age limit. The said judgment was complied with and the petitioners were appointed as Patwaris. Therefore, in light of the precedent set in the abovementioned judgment, vide order No. 925/DC(M)/RA-04(14), dated 09.05.2019 his enrolment in the Register of Inderaj-E-Nam was restored.

DECISION:

Since there are 52 vacant posts of Patwaris, and there is only one candidate in Ideraj-E-Nam i.e. Mr. Riaz Ali, therefore, he was recommended to be appointed against the vacant post of Patwari (BPS-09).

4. APPOINTMENT AGAINST THE VACANT POSTS OF NAIB OASID (BPS-03)


Against the 03 vacant posts of Naib Qasid (BPS-03), the following candidates in different quota were recommended for appointment:

S#	Name of Candidate	Father's name	Quota in which he is candidate
1	Muhammad Ibrar	Ajab Gul	Deceased employees' sons quota
2	M. Saddam Khan	Hamayun Khan	Deceased employees' sons quota
3	Pir Rahmat	Pir Fida Muhammad	Employees Sons' Quota (25%)

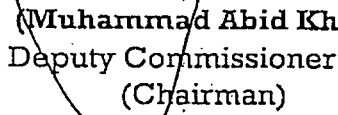


(Karim Gul)

Assistant to Commissioner (Rev)
Mardan Division, Mardan (Member).



(Niaz Muhammad)
Addl Deputy Commissioner
Mardan (Member)



(Muhammad Abid Khan Wazir)
Deputy Commissioner, Mardan
(Chairman)



OFFICE OF THE DEPUTY COMMISSIONER MARDAN

Ph #: 0937-9230048-56
Fax No#: 0937-9230303
Email: dcmardan0937@gmail.com

No. 1323 /DC (M)/EA-23
Dated, Mardan the 12/06/2019

File-D
14

OFFICE ORDER

Consequent upon recommendation made by the Departmental Promotion Committee, in its meeting dated 30.05.2019, the following Naib Qasids (BP-03) are hereby promoted to the post of Junior Clerk (BPS-11) on regular basis with immediate effect, under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, read with Govt. of Khyber Pakhtunkhwa, Board of Revenue Notification No. 2074/Estt: I/135/SSRC, dated 23.01.2015, with immediate effect.

S#	Name of Naib Qasid promoted to the post of J/Clerk.
1	Farzand Ali s/o Mohib Gul
2	Shakeel s/o Siraj Muhammad
3	Inayatullah s/o Musafar Khan

The afore-mentioned officials shall be on probation for a period of one year (extendable) as envisaged in Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 15(1) of Khyber Pakhtunkhwa (Appointment, Promotion & Transfers) Rules, 1989.

Deputy Commissioner
Mardan

Endst No & Date Even:

Copies forwarded to:

1. The District Comptroller of Accounts, Mardan for necessary action, please.
2. Addl Deputy Commissioner, Mardan.
3. Accounts Officer, DC office, Mardan for necessary action.
4. Assistant Commissioner, Mardan/Takht Bhai/Katlang.
5. Officials concerned.

Deputy Commissioner
Mardan

NE

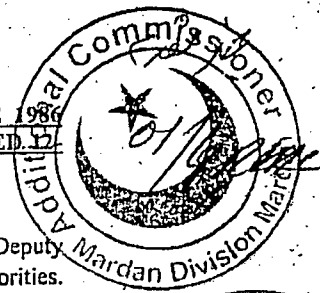
Handwritten Urdu text at the top of the page.

To

The Commissioner,
Mardan Division, Mardan.

Subject:

DEPARTMENTAL APPEAL UNDER CIVIL SERVANT APPEAL RULE 1986
AGAINST THE ORDER OF DEPUTY COMMISSIONER MARDAN DATED BY
06-2019.



Dear Sir,

1- It is respectfully submitted that the appellant was appointed as Naib Qasid in 09-05-2007 in Deputy Commissioner Office Mardan. Since then the appellant is serving to the satisfaction of higher authorities. The appellant has already passed his Matric certificate before entry into service in year 1993. Now the appellant has further improved his educational qualification and acquired B.A. in 2nd Division. Copies of his educational qualifications are annexed as A, B, C.

2. The appellant is now eligible for promotion to the post of Junior Clerk. According to the Service Rules, the Post of Junior Clerk in DC Office is required to be filled 33% from the Naib Qasid, Chowkidar, Sweeper, and Bearer on the basis of seniority cum fitness. The appellant is at serial No. 20 of the tentative seniority list as it stood on 31-12-2018 which was circulated by the DC Mardan office on 07-01-2019. Copy of tentative seniority list of Naib Qasid etc. is annexed D. There are three Matriculate Naib Qasid in The tentative seniority list. Serial No. 4 Mr. Mohib Gul has already retired and after Muhammad Jelani at serial No. 06, Munawar Shah at serial No.8, of the Tentative Seniority List, the appellant is the 3rd senior most Naib Qasid in DC Mardan office. Copy of retirement order of Mohib Gul is annexed as E.

Handwritten circled number '15' and 'Annex-E'.

3- The DC office Mardan vide office order No.1323/DC(M)/EA-23 dated 12-06-2019, without even finalizing the tentative seniority list promoted 1) Mr. Farzand Ali S/O Mohib Gul, 2) Shakeel S/O Siraj Muhammad and Inayat Ullah S/O Musafir Khan to the post of Junior Clerk who are at serial No. 23, 55 and 68 of the tentative seniority list.

4- The appellant is at serial No.03 of the seniority list of Naib Qasid (Matric Passed) etc. in DC office Mardan after Muhammad Jelani and Munawar Shah. None of them were considered for promotion and very junior persons mentioned in Para-3 above were promoted. Copy of their promotion order is annexure F.

5- It is stated that the post of junior clerk, falling to the promotion quota in DC Office Mardan is filled on the basis of seniority cum fitness. They are not subject to any conditional promotion tests as prescribed in the Khyber Pakhtunkhwa Esta Code 2011. Copy of the Service Rules and policy instructions in the Esta Code are annexed as G and H.

6- Despite the clear policy instructions ibid, the Naib Qasid of DC Office Mardan were compelled to appear in the typing test on 10-05-2019 just to accommodate his favorites.

7- Therefore, the appellant has been constrained to submit the instant department appeal amongst others, on the following grounds.

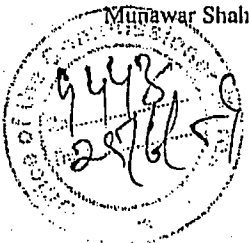
The promotion of junior Naib Qasid as stated in Para-3 above is violation of policy instructions and service rule governing the post.

Handwritten word 'Reader' with a signature.

The two senior most Naib Qasid Muhammad Jelani and Munawar Shah has not yet filed an appeal against the order of Deputy Commissioner Mardan dated 12-06-2019. However, the appellant at serial No. 03 of the Senior Most officials, prefer this department appeal against the excesses and illegality of Deputy Commissioner Mardan.

The tentative seniority list is issued for the concerned officials to raise objection if any over the seniority list and promotion is made on final and undisputed seniority list. Therefore, the promotion of Junior Clerks as stated above is illegal.

Therefore, it is very humbly requested to set a side the promotion of Mr. Farzand Ali, Shakeel and Inayat and consider the appellant and other senior most Naib Qasid i.e. Mr. Muhammad Jelani and Munawar Shah for promotion from the date of eligibility.



03219316938

Handwritten signature of the appellant.

Appellant
Ajmeer Khan S/O Khushmir Khan
Vill. Mayar District and Tehsil Mardan
Naib Qasid DC Office Mardan
Dated: 24-06-2019

no 56

Date of Application 16/11/2020

Name of Applicant ...

Ward ...

Urgent Fee ...

Big of Copyist ...

Date of Preparation 17/11/2020

ATTESTED
Signature of the Additional Commissioner
Additional Commissioner
Mardan Division, Mardan
21/11/2020

مقرر علیٰ ذریعہ مفصلہ لکھنے کے لئے جس کے لئے درخواستیں کی گئیں ہیں وہاں سے اس کے لئے درخواستیں لکھنے کے لئے

19/12/19

26/06/19



**IN THE COURT OF ABDUL KABIR KHAN ADDITIONAL COMMISSIONER
MARDAN DIVISION MARDAN.**

Ajmir Khan

Appellant

Vs

Deputy Commissioner Mardan

Respondent

(16)

Aux-F

Case No..... 01/4RMC
Date of institution: 26/06/2019
Date of Decision: 19/12/2019

**DEPARTMENTAL APPEAL UNDER CIVIL SERVANT APPEAL
RULE 1986 AGAINST THE ORDER OF DEPUTY COMMISSIONER
MARDAN DATED 12/06/2019.**

ORDER:-

This appeal is preferred against the order of Deputy Commissioner Mardan dated 12/06/2019 vide which three Naib Qasids (BPS-03) were promoted to the posts of Junior Clerk (BPS-11). Feeling aggrieved from the said order, the present appellant filed an appeal before this court.

Concisely stated facts of the case are that the appellant was appointed as Naib Qasid on dated 09/05/2007 in the office of Deputy Commissioner Mardan. Since the appellant is serving to the satisfaction of higher authorities. The applicant has already passed matric examination before entry into Govt service and has further improved academic qualification to the level of graduation. The applicant is now eligible to the post of junior clerk on seniority cum-fitness basis.

Today counsel for the petitioner made arguments stated that the appellant is at Serial No.3 of the Seniority list of Naib Qasids (Matric passed). As per rules and regulations, 67% quota for initial recruitment while 33% quota for promotion on the basis of seniority cum-fitness but in the instant case, a test has been conducted by the appointing authority which is against the prescribed rules. The office of

Deputy Commissioner Mardan has submitted their Para-wise comments who have categorically quoted in Para 2 in Khyber Pakhtunkhwa, coupled with Board of Revenue Notification 2074/Estt:1/135/SSRC, dated 23/01/2015 junior clerks are appointed in the following modes.

1. 67% by initial recruitment.
2. 33% from the amongst eligible class-IV employees on seniority cum-fitness bases.

It has been clarified that the said rules provide qualification for the post of Junior Clerk matric with 2nd class and to determine the seniority cum-fitness at computer typing test was held and the appellant failed the same.

From perusal of available record and arguments of the respective counsel, it reveals that all the proceedings carried out by the office of the Deputy Commissioner Mardan is against the rules and regulations. Criteria for selection for promotion has been laid down in under rules 7 of the NWFP, Civil Servant Appointment Promotion and Transfer (Rules 1989) appointed by promotion to post in BPS 2 to BPS 16 shall be made on the recommendation of Departmental Selection Committee. In Para 2 of the said rules, it has been held that in order to ensure a fair degree of selection, minimize the chances of discretion and favoritism, the provincial Govt have laid down the following criteria for promotion.

1. Criteria for selection for promotion:- promotion to any post in grade below grade 16 shall not be subject to any test. The suitability of a candidate shall be determine on the basis of service record i.e. Seniority cum-fitness.

Ironically in the present case, the above quoted rules have been violated by the office of the Deputy Commissioner Mardan while

ATTESTED

Examiner/Reader
Additional Commissioner's Court
Mardan Division, Mardan

21/01/2020

18

making the promotion from the post of Naib Qasid to the post of junior Clerk and a discretionary power has been exercised by conducting a test. Thus depriving the eligible candidates from their due rights after serving in the department since long. Moreover, the constitution of the Pakistan provides equal opportunity to every citizen but in the present case, an arbitrary order has been passed without consulting the rules and regulations. It is further to clarify that the Annual Confidential Reports are mandatory for those matric passed Naib Qasids who are falling in the orbit of the promotion zone. This criteria has been laid down by the provincial Govt from time to time to determine the seniority cum-fitness of an eligible candidate for promotion.

Keeping in view the above ex-position, the appeal in hand is hereby accepted and the office order bearing No.1323/DC/(M)/EA-23 dated Mardan 12/06/2019 passed by the Deputy Commissioner Mardan is hereby set aside and the office of the Deputy Commissioner Mardan is directed to constitute a fresh Departmental Promotion Committee for appointment/promotion of the eligible candidates on seniority cum-fitness basis in the light of Appointment, Promotion and Transfer rules 1989.

File be consigned to record room after necessary completion.

Announced.
19/12/2019

[Signature]
Additional Commissioner
Mardan Division, Mardan



no 56
Date of Application... 14/1/2020
Name of Applicant... [Signature]
Wards... 1200 Fee 12
Urgent Fee... X
No of Copies... [Signature]
Date of Preparation... 21/01/2020

ATTESTED

[Signature]
Examiner/Reader
Additional Commissioner's Court
Mardan Division, Mardan
21/01/2020

ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD
(Examinations Department)



REVISED / DUPLICATE RESULT INTIMATION CARD

Ann-G
(19)

Semester: Spring/Autumn 2012 Region Peshawar

Roll No. Registration No.

This is to inform that Mr./Ms. Shakool
Has declared PASS/FAIL in the following Course(s) of B.A. Program:

S.NO.	COURSE CODE	MARKS	GRADE	POSITION
1	F 485	62	B	Pass

Result Declaration Date: 7/8/03
Signature of Dealing Official: [Signature]
7/8/03

[Signature]
CONTROLLER OF EXAMINATIONS

Note: This result card is issued, errors and omissions accepted, as a notice only. Any entry appearing in it does not itself confer any right or privilege independently to the grant of a proper certificate/degree, which will be issued under the regulations in due course of time.

**Khyber Pakhtunkhwa
Civil Servants (Appeal) Rules, 1986**

20

[Gazette of Khyber Pakhtunkhwa, Extraordinary, Page No. 1290-1293, 2nd June, 1986]

No. SORII (S&GAD) 3(4)/78 (Vol. 11).---In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, (Khyber Pakhtunkhwa Act XVIII of 1973), read with section 22 thereof, the Governor of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:--

1. Short title, commencement and application.---(1) These Rules may be called the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.

(2) They shall come into force at once and shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with the affairs of the Province.

2. Definitions.---In these rules, unless there is anything repugnant in the subject or context;

(a) "Appellate Authority" means the officer or authority next above the competent authority;

(b) "Competent Authority" means the authority or authorised officer, as the case may be, as defined in the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 1973, or the authority competent to appoint a civil servant under the rules applicable to him; and

(c) "Penalty" means any of the penalties specified in rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 1973.

3. Right of Appeal.---(1) A civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms and conditions of his service may, within thirty days from the date of communication of the order to him, prefer an appeal to the appellate authority:

Provided that where the order is made by the Government, there shall be no appeal but the civil servant may submit a review petition:

¹[Provided further that the appellate or the reviewing authority, as the case may be, may condone the delay in preferring the appeal or the review petition, if it is satisfied that the delay was for the reasons beyond the control of the appellant or that the earlier appeal or review petition was not addressed to the correct authority.]

1

(12)

OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

**FINAL SENIORITY LIST OF CLASS-IV EMPLOYEES. WORKING IN OFFICE OF THE DEPUTY COMMISSIONER. MARDAN
AS STOOD ON 31-12-2018**

1	2	3	4	5	6	7	8
S#:	Name	Father's Name	Designation	Date of Birth	Date of Appointment	Qualification	Mode of recruitment as per Seniority list
1.	Javed Khan	Nasir Khan	Naib Qasid	01/07/1963	19/05/1982	-	Initially appointed
2.	Malik Taj	Muhammad Umar Khan	Naib Qasid	1964	16/06/1986	Nil	Initially appointed
3.	Khalid Khan-I	Arif Gul	Naib Qasid	01/05/1969	18/08/1987	Middle	Initially appointed
4.	Mohib Gul	Inam Gul	Naib Qasid	20/04/1959	29/08/1988	SSC	Initially appointed
5.	Mohabat Shah	Kabil Shah	Naib Qasid	01/01/1969	29/08/1988	Nil	Initially appointed
6.	Muhammad Jailani	Dad Muhammad	Naib Qasid	07/01/1970	29/08/1988	SSC	Initially appointed
7.	Lal Zada	Sahib Zada	Naib Qasid	1967	12/09/1988	Nil	Initially appointed
8.	Munawar Shah	Rahim Shah	Naib Qasid	15/11/1963	26/10/1988	SSC	Initially appointed
9.	Fazle Khaliq	Abdul Khaliq	Naib Qasid	25/03/1968	14/11/1989	Nil	Initially appointed
10.	Liaqat Ali	Misal Khan	Naib Qasid	1965	01/01/1990	Nil	Initially appointed
11.	Wisal Khan-I	Gul Madin	Naib Qasid	1962	17/10/1991	-	Initially appointed
12.	Khalid Khan-II	Ghulam Mohiuddin	Naib Qasid	05/05/1972	24/05/1992	Nil	Initially appointed
13.	Izzat Gul	Samar Gul	Chowkidar	16.03.1984	29.03.2004		Initially appointed
14.	Abid Ali	Abdul Hakim	Chowkidar	01.01.1978	25.06.2004	NIL	Initially appointed
15.	Malik Aman	Muhammad Nisar	Chowkidar	04.01.1976	04.07.2005	NIL	Deceased Son Quota
16.	Sajjad	Inam Gul	Naib Qasid	1984	07/04/2006	Nil	Deceased Son Quota
17.	Khan Sher	Dheran Uddin	Naib Qasid	1973	08/04/2006	Nil	Initially appointed
18.	Hashim ali	Amir Muhammad Khan	Chowkidar	26.05.1976	09.01.2007	--	Deceased Son Quota
19.	Zahir Shah	Shakoor Muhammad	Naib Qasid	13/03/1989	13/03/2007	Nil	Initially appointed
20.	Ajmeer Khan	Khushmir Khan	Naib Qasid	15/12/1974	09/05/2007	FA	Deceased Son quota
21.	Itbar Said	Awal Said	Naib Qasid	15/04/1976	09/05/2007	BA	Deceased Son Quota
22.	Abdur Rahim	Abdus Samad	Naib Qasid	07/11/1976	09/05/2007	SSC	Employees' Son Quota
23.	Farzand Ali	Mohib Gul	Naib Qasid	01/03/1979	09/05/2007	SSC	Employees' Son Quota
24.	Samiullah	Munawar Shah	Naib Qasid	10/04/1989	29/07/2008	SSC	Initially appointed
25.	Muhammad Asif	Lal Muhammad	Naib Qasid	1989	01/09/2008	Nil	Initially appointed
26.	Ahmad Ali Shah	Mukamil Shah	Chowkidar	01.01.1980	29.06.2009	NIL	Initially appointed

27.	Fazle Ghafoor	Said Ghafoor	Naib Qasid	1963	01/12/2009	Nil	Initially appointed
28.	Janis Khan	Said Qamash	Naib Qasid	01/01/1980	08/06/2009	MA	Initially appointed
29.	Mujahid Alam	Zarin Khan	Naib Qasid	26/04/1978	02/07/2009	SSC	Initially appointed
30.	Sajidullah	Ihsan Ullah	Naib Qasid	03/04/1971	01/11/2010	FA	Initially appointed
31.	Shahi Nawab	Muhammad Nawab	Naib Qasid	18/01/1973	01/11/2010	Nil	Initially appointed
32.	Muhammad Iqbal	Mehmood Khan	Naib Qasid	01/03/1975	01/11/2010	Nil	Initially appointed
33.	Muhammad Hikmat Khan	Akmal Khan	Naib Qasid	1983	01/11/2010	-	Initially appointed
34.	Dilaram Khan	Khan Dad	Naib Qasid	1984	01/11/2010	-	Initially appointed
35.	Nawaz Khan	Hazrat Muhammad	Naib Qasid	15/12/1972	04/11/2010	Nil	Initially appointed
36.	Zahid Hussain	Nobat Khan	Naib Qasid	1977	04/11/2010	-	Initially appointed
37.	Robina	Nadeem Maseeh	Sweeper	01.01.1982	05.11.2010	NIL	Initially appointed
38.	Shakeel ur Rahman	Said Rahman	Naib Qasid	28/06/1972	06/10/2011	Nil	Initial Appointment
39.	Asif Hayat	Sartaj Muhammad	Naib Qasid	03/03/1988	27/12/2011	FA	Deceased Son Quota
40.	Amjad	Muntazir Khan	Naib Qasid	22/04/1988	27/12/2011	-	Deceased Son Quota
41.	Wisal Khan 2 nd	Muhammad Khan	Naib Qasid	01/04/1982	27/12/2011	SSC	Deceased Son Quota
42.	Kamran	Aurang Zeb	Naib Qasid	26/04/1978	01/01/2012	SSC	Deceased Son Quota
43.	Ameen Ali	Darvish Ali	Mali	01.01.1984	01.07.2013	-	Initially appointed
44.	Kiran Faheem	W/O Faheem Rafique	Sweeper	01.01.1981	07.08.2013	NIL	Initially appointed
45.	Nasrullah	Said Wali Jan	Chowkidar	03.04.1975	21.02.2014	BA	Initially appointed
46.	Muhammad Zubair	Tajuddin	Chowkidar	01.10.1975	21.02.2014	NIL	Disable Quota
47.	Hizbullah	Ihsanullah	Chowkidar	30.12.1975	21.02.2014	BA	Initially appointed
48.	Shakeel Maseeh	Anwar Maseeh	Sweeper	03.04.1976	21.02.2014	SSC	Initially appointed
49.	Mukhtyar Hussain	Faqir Gul	Sweeper	04.03.1981	21.02.2014	BA	Initially appointed
50.	Zubair Khan	Khalid Khan	Chowkidar	01.02.1983	21.02.2014	-	Initially appointed
51.	Asif Khan	Zarif Khan	Chowkidar	15.02.1984	21.02.2014	BA	Initially appointed
52.	Usman Akbar	Usman Ghani	Sweeper	12.12.1986	21.02.2014	-	Initially appointed
53.	Yousaf Khan	Faizullah Khan	Chowkidar	06.01.1988	21.02.2014	SSC	Initially appointed
54.	Muslim Shah	Malang Jan	Naib Qasid	11/04/1979	26/02/2014	BA	Initially appointed
55.	Shakeel	Siraj Muhammad	Naib Qasid	12/03/1987	26/02/2014	BA	Initially appointed
56.	Sham shad Ali	Safdar Ali	Naib Qasid	02/04/1980	27/02/2014	SSC	Initially appointed
57.	Shahzad	Juma Khan	Naib Qasid	01/01/1990	27/02/2014	Middle	Initially appointed
58.	Maaz	Umar Khan	Naib Qasid	05/01/1993	27/02/2014	Nil	Initially appointed
59.	Muhammad Shahid	Muntazir Rahman	Naib Qasid	10/03/1990	28/02/2014	-	Initially appointed
60.	Mukhtiar Ali	Gul Dad	Naib Qasid	01/01/1988	03/03/2014	Middle	Initially appointed
61.	Abdus Samad	Shamsher	Naib Qasid	11/09/1986	19/06/2014	Nil	Deceased Son Quota
62.	Iftikhar Khan	Gulmast Khan	Naib Qasid	11/04/1978	24/07/2014	Middle	Initially appointed
63.	Muhammad Wajid	Abdul Wadood	Bearer	03.02.1988	10.10.2014	-	Initially appointed

23

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19

64.	Asadullah	Muhammad Khan	Naib Qasid	1986	25/11/2014	Nil	Initially appointed
65.	Muhammad Asif	Johar Zada	Cook	11.02.1979	22.02.2015	Middle	Initially appointed
66.	Shabbir Ahmad	Jehanzeb	Chowkidar	05.06.1994	07.07.2015		Deceased Son Quota
67.	Sarfraz Khan	Khan Gul	Chowkidar	01.01.1980	08.09.2015		Deceased Son Quota
68.	Inayatullah	Musafar Khan	Naib Qasid	04/01/1995	08/09/2015	BA	Deceased Son Quota
69.	Laiq Ahmad	Said Anwar Khan	Naib Qasid	14/02/1985	09/09/2015	Middle	Initially appointed
70.	Kamran Hayat	Mukaram Khan	Naib Qasid	11/02/1993	21/09/2015	BA	Initially appointed
71.	Fahim Rafique	Muhammad Rafique	Sweeper	27.04.1980	09.10.2015	Middle	Initially appointed
72.	Asghar Khan	Kishwar Khan	Naib Qasid	10/02/1987	28/04/2016	BA	Deceased Son Quota
73.	Ikram ud Din (Disable)	Nasruddin	Naib Qasid	09/04/1975	25/05/2016	SSC	Disable Quota
74.	Imran	Muhammad Inamul Haq	Bearer	05.04.1984	25.05.2016	SSC	Initially appointed
75.	Khadim Hussain	Abdul Qadar	Naib Qasid	1981	03/08/2016	-	Initially appointed
76.	Waqar Ahmad	Misbahullah	Naib Qasid	15.03.1981	05.08.2016	-	Initially appointed
77.	Usman Ali	Anwar Ali	Naib Qasid	15/02/1995	15/08/2016	FA	Initially appointed
78.	Inzamam ul Haq	Saleh Muhammad	Naib Qasid	01.02.1996	15/08/2016		Initially appointed
79.	Ghaffar Ali	Johar Muhammad	Naib Qasid	01.01.1987	05.09.2016		Initially appointed
80.	Wajid Ali	Niaz Muhammad	Naib Qasid	14.04.1988	25.05.2017	SSC	Initially appointed
81.	Muhammad Zakir	Awal Khan	Naib Qasid	01.01.1985	29.05.2017		Disable Quota
82.	Mehboob Ali	Shad Muhammad	Naib Qasid	11.01.1978	06.02.2018	MA	Initially appointed
83.	Muhammad Tausif Khan	Imtiaz Khan	Naib Qasid	29.09.1996	06.02.2018	SSC	Initially appointed
84.	Adnan Ali Shah	Tilawat Shah	Naib Qasid	04.04.1985	01.03.2018		Initially appointed
85.	Muhammad Saddiq	Muhammad Yousuf	Naib Qasid	17.03.1989	01.03.2018	SSC	Initially appointed
86.	Sonia	Shaukat Maseeh	Sweeper	01.01.1993	20.03.2018		Initially appointed
87.	Niqab Khan	Ashraf Khan	Chowkidar	19.03.1996	11.04.2018	FA	Initially appointed
88.	Sulaiman	Roman-Uddin	Naib Qasid	14.04.1993	03.10.2018	Intermediate	Initially appointed
89.	Salman Khan	Wilayat Khan	Naib Qasid	08.04.1999	03.10.2018	SSC	Initially appointed
90.	Waqas Rauf	Abdur Rauf	Naib Qasid	22.03.2000	19.10.2018	SSC	Initially appointed

DEPUTY COMMISSIONER
MARDAN

24

4

15

No. 258 /DCM/EA-35

Dated Mardan the 06 /02/2019

Copies are forwarded to:

1. Addl Deputy Commissioner, Mardan .
2. District Officer (F&P), Mardan.
3. Assistant Commissioner, Mardan/Takht Bhai.
4. All the Addl Assistant Commissioners Mardan/Takht Bhai/Katlang/Rustam.
5. Database Manager, SDC Mardan.
6. Tehsildar Mardan/Katlang/Takht Bhai/Rustam.
7. Incharge of all Sections DC office, Mardan.

DEPUTY COMMISSIONER
MARDAN

Am - J (25)

THE PUNJAB/SINDH/NWFP/BALUCHISTAN LAND REVENUE ACT, 1967

(Act XVII of 1967)

[28th December, 1967]

An Act to consolidate and amend the law relating to Land Revenue in the Province of Punjab/Sindh/NWFP/Balochistan

Preamble.---Whereas it is expedient to consolidate and amend the law relating to the making and maintenance of records-of-rights, the assessment and collection of land-revenue, the appointment and functions of Revenue Officers and other matters connected with the Land Revenue Administration in the Province of Punjab/Sindh/NWFP/Balochistan, or incidental thereto;

It is hereby enacted as follows:---

COMMENTS

Oral gift through mutation. Concurrent findings of fact by Courts below that donor had not gifted land to donee as three ingredients of gift were not established; that statements of donee's witnesses were not in line with each other in factum of gift; and that donee had not examined himself as witness. High Court in revision while revising such findings substituted its own conclusion. Validity. Entries in Revenue Record were not foundation of title, but only evidence thereof. Interpretation of entries made therein would remain a question of fact not liable to be reopened in revision. Concurrent findings of fact reached by Courts below on basis of evidence would be sacrosanct for purposes of revision before High Court as in reaching such findings, Courts below had not committed any jurisdictional error. High Court was not justified to give weight to mutation in question in view of evidence produced by parties. Supreme Court set aside impugned judgment and restored judgments of Courts below.²

Revenue Officer under the Land Revenue Act has no power to make inquiry into genuineness of documents duly registered under Registration Act, 1908. Nor such power is available to Revenue Officer under the Colonization of Government

1. The West Pakistan Act alongwith Amending West Pakistan Acts and Ordinances continued in force in Punjab, NWFP and Balochistan by Art. 19, Province of West Pakistan (Dissolution) Order (P.O. I of 1970). It applies as subsequently amended by Pb., Sindh, NWFP and Balochistan amendments.

(26)

hearing of review application, situation had changed by the compromise of opposing parties. None of the right-holders had raised objection to the acceptance of review application to nullify the earlier remand order. Remand order was reviewed with the result that consolidation scheme as confirmed before remand order was restored.⁴

Review of judgment rendered by Board of Revenue in revisional jurisdiction. Memo. of revision preferred by petitioner before Board of Revenue showed that main ground taken therein, was that petitioner was from majority community while respondent belonging to minority community was appointed Lambardar. Such important factor as also fact of registration of criminal case against respondent for allegedly preparing bogus conveyance deed and forging signatures and stamps of various officials, had not received adequate attention in impugned judgment. Fact that respondent was not owner of land on relevant date was also overlooked by Collector and Commissioner. None of such grounds were adjudicated upon by Board of Revenue which had dismissed revision *in limine*. Such fact by itself was sufficient cause for entertainment of Review petition. Review petition against judgment of Board of Revenue rendered in revisional jurisdiction was maintainable in circumstances.⁵

Consolidation Scheme. Review of order of Board of Revenue. Land in question, being under structures partly and having also been alienated, same could not be given to respondent. Order in question, therefore, could not be implemented and its review appeared to be necessary. Order of Board of Revenue was thus, reviewed and that of Additional Commissioner was restored.⁶

Review. Jurisdiction of Board of Revenue. Extent. Power to review under S. 8, West Pakistan Board of Revenue Act, 1957 being limited, Member, Board of Revenue was not competent to set aside the order passed by his predecessor and substitute it by his own order for there had neither been discovery of new and important matter or evidence, which, after exercise of diligence was not within respondent's knowledge or could not be produced at the time when earlier order was passed nor order passed in earlier round suffered from any mistake or error apparent on the face of the record nor there were any sufficient reasons warranting review within ambit of S. 8, West Pakistan Board of Revenue Act, 1957.⁷

9. Additional Commissioners and Additional Collectors.--- Government may appoint in any Division an Additional Commissioner or in any District an Additional Collector, who shall exercise throughout the Division or District concerned all or any of the powers and discharge all or any of the duties conferred or imposed on a Commissioner or Collector, as the case may be, by or under this Act, subject to the general supervision and control of the

4. 1992 CLC 878.
5. 1992 CLC 1439.
6. 1992 CLC 646.
7. 1992 CLC 2338.



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

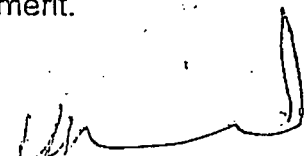
No 2530 /ACR/Reader

Dated Mardan the 29/11/2019

OFFICE ORDER

(27)

In light of section 9 of Land Revenue Act 1967 and with the approval of the Worthy Commissioner Mardan Division Mardan; all the Revenue, Service appeals and objection Petitions pending before the court of Worthy Commissioner Mardan Division Mardan are hereby transferred to the court of Additional Commissioner Mardan for further disposal on merit.

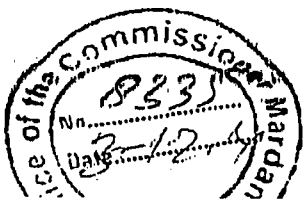

Assistant to Commissioner (Rev),
Mardan Division Mardan

No & date even

Copy forwarded to:

- 1- The Additional Commissioner Mardan for necessary action please.
- 2- PS to Commissioner Mardan Division, Mardan.


Assistant to Commissioner (Rev),
Mardan Division Mardan



Amar L
(28)



ESTA CODE

ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011

A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS

COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT

انجمن خواتین کے ذریعے تیار کیا گیا ہے۔
صدر دفتر خواتین، اسلام آباد

PROCEDURE FOR SELECTION FOR PROMOTION/INITIAL RECRUITMENT

I am directed to say that under rule 7 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 appointment by promotion to posts in BPS-2 to BPS-16 shall be made on the recommendations of the appropriate Departmental Promotion Committee. Similarly, under rule 11 of the rules ibid, initial appointments to posts in BPS-1 to 15 shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. However, no criteria for selection has so far been prescribed.

2. In order to ensure a fair degree of selection, minimize the chances of discretion and favouritism, the Provincial Government have laid down the following criteria for selection for promotion vis-a-vis initial recruitment to the posts which are filled by the department concerned:-

(I) **Criteria for Selection for Promotion:-** Promotion to any post in a grade below Grade-16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of service record i.e seniority-cum-fitness.

(II) **Criteria of Selection for initial recruitment:-**

(i) For post in Grades 1 to 4- No special criteria has been laid down and the committee concerned shall adopt its own method and procedure for selection.

(ii) For posts in Grade-5 and above in all departments- -In addition to the total marks allocated for a written competitive examination, if any held, the total marks will be 100 as per distribution given below:-

(a)	Prescribed qualification	...70
(b)	Higher qualification	...12
(c)	Experience	...10
(d)	Interview	...08

3. Para 2 above indicates only the general distribution of the marks. To enable the Administrative Departments to develop criteria of comparative grading of candidates within the above overall framework, S&GAD has done a model exercise (attached as Annexure) for guidance of all concerned.

4. I am accordingly directed to request you to kindly ensure that the aforesaid criteria for selection for promotion vis-a-vis initial recruitment to posts is adhered to strictly in filling the vacant posts in future.

منشی کابینہ، حکومت پاکستان، اسلام آباد
 2۔ منشی کابینہ، حکومت پاکستان، اسلام آباد
 3۔ منشی کابینہ، حکومت پاکستان، اسلام آباد
 4۔ منشی کابینہ، حکومت پاکستان، اسلام آباد

Ajma

COMPARATIVE GRADING OF QUALIFICATIONA. Minimum Prescribed Qualification.

1	<u>For Non-Professional Posts</u>	First	Second	Third	Total Mark 70
(i)	Matric	70	53	42	
(ii)	Matric	35	26	21	
	FA/F.Sc	35	27	21	
(iii)	Matric	23	17	14	
	FA/F.Sc	23	17	14	
	B.A/B.Sc	24	18	14	
(iv)	Matric	17	13	10	
	F.A/F.Sc	17	13	10	
	B.A/B.Sc	17	13	11	
	M.A/M.Sc	19	14	11	
2.	<u>For Professional Posts.</u>				
(i)	<u>For four examination</u>				
	Ist Professional.	17	13	10	
	2 nd Professional	17	13	10	
	3 rd Professional	17	13	10	
	Final	19	14	12	
(ii)	<u>For three examination</u>				
	Ist Professional.	23	17	14	
	2 nd Professional	23	17	14	
	Final	24	19	14	
(iii)	<u>For two examination</u>				
	Ist Professional	35	26	21	
	Final	35	27	21	

B. Higher Qualification 12

(Next above the qualification prescribed under the rules).

one stage above	06
two stage above	08
three stage above	12

C. Experience 10

Experience of one year	04
Experience of two years	07
Experience of three years and above	10

D. Interview 08

Total marks... 100

درود علیہ السلام
 دست راستی - یہ رسم ہے جو شیخ الاسلام نے بیان کیا ہے۔
 انٹرویو اور اس کے بعد انٹرویو کو پیش کرتی
 صدر فریاد

Amir M

(31)

(18)

GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT

Peshawar Dated the 23/01/2015.

NOTIFICATION

No. 2074/Estt:III/135/SSRC. In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department, in consultation with Establishment Department and the Finance Department, hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

APPENDIX

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Superintendent (BPS-17)	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioner and Political Agents.

2.	Senior Scale Stenographer (BPS-16) (37)	(i) At least Second Class Bachelor's Degree, from a recognized university; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and (iii) Knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; and (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents: Provided that if no suitable person is available for promotion then by initial recruitment.
3.	Assistant (BPS-16)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 years	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with atleast five years service as Junior and Senior Clerk in the Offices of Deputy Commissioners and Political Agents of district concerned; and (b) twenty five percent by initial recruitment from amongst the candidates of the district concerned.
4.	Head Clerk (BPS-14)	By transfer from amongst Senior Clerks (BPS-14) of the district concerned.
5.	Stenographer (BPS-14)	(i) At least Second Class Intermediate or equivalent qualification from a recognized Board;	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.

	3	(ii) a speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and (iii) knowledge of computer in using MS Word, MS Excel.		
6.	Senior Clerk (BPS-14)			By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the district concerned with atleast two years service as such.
7.	Computer Operator (BPS-12)	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years), from a recognized university; (ii) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-to 28 years	By initial recruitment from amongst the candidates of the district concerned.
8.	Pesh Imam (BPS-12)	Sanad in Dars-e- Nizami or a Sanad of Fazail-e-Arabi <u>Note: Preference will be given Hafiz-e-Quran.</u>	18-to 32 years	By initial recruitment from amongst the candidates of the district concerned.
9.	Sub Engineer (BPS-11)	Diploma in Associate Engineering in Civil Technology from Board of Technical Education with certificate in Computer Aided Design (CAD) from recognized Institution.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
10.	Junior Clerk (BPS-11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing.	18 to 30 years	(a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the district concerned with two years service as such, who have passed Secondary School Certificate Examination; and (b) sixty seven percent by initial recruitment from

MS

				<p>the candidates of the district concerned.</p> <p>Note: For the purpose of promotion there shall be maintain a common seniority list of Qasid and Naib Qasid etc with reference to the date of their appointment:</p> <p>Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment:</p> <p>Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possession the requisite qualification shall be promoted in preference to the senior official or officials.</p>
11.	Reader/Record Keeper (BPS-7)	At least second division in Secondary School Certificate or equivalent qualification from a recognized Board.	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.
12.	Alhamad (BPS-5)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
13.	Driver (BPS-4)	Literate having LTV driving license issued by the competent authority. Preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
14.	Khadim (BPS-4)	Literate. Note: Preference will be given to Hafiz-e-Qurān	18-32 years	By initial recruitment from amongst the candidates of the district concerned.

15.	Process Server (BPS-2)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
16.	Qasid (BPS-2)		---	By promotion on the basis of Seniority-cum-fitness, from amongst the Naib Qasids with two years as such.
17.	Naib Qasid/ Chowkidar/Sw eeper/ Mali (BPS-1)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned."


33

Sd/-
SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT

No.2075-2114/Estt:III/135/SSRC

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All Deputy Commissioners, in Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 printed copies thereof to the undersigned for record.


DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 533 of 2020

Shakeel Ex. Junior Clerk Deputy Commissioner's office, Mardan

.....Appellant


VERSUS

1. Addl Commissioner Mardan Division, Mardan.
2. Deputy Commissioner, Mardan.
3. Departmental Promotion Committee through its Chairman, Deputy Commissioner, Mardan.
4. Fitness Test Committee through its Chairman/Assistant Commissioner, Mardan.
5. Ajmeer Khan S/O Khushmir Khan Village Mayar, Tehsil & District Mayar, Naib Qasid, DC Office, Mardan.

.....Respondents

INDEX

S#	Description of Documents	Annexure	Page
1	Para-wise Comments	-	1-5
2	Copy of the minutes of DPC dated 28.01.2020	"A"	6-7
3	Copy of letter dated 03.02.2020	"B"	8-9
4	Copy of Letter dated 17.02.2020	"C"	10
5	Copy of letter No. Estt: II/DPC/Mardan/9472, dated 16.03.2020	"D"	11
6	Minutes of the meeting dated 16.03.2020	"E"	12-14
7	Copy of order No. 481/DC(M)/EA-04, dated 30.04.2020	"F"	15-16
8	Copy of order No. 1323/DC(M)/EA-23, dated 12.06.2019	"G"	17
9	Copy of order No.482/Dc(M)/EA-04, dated 30.04.2020	"H"	18
10	Copy of circular dated 11.02.1987	"J"	19-20
	Copy of (PLD 2008 SC 769)	"M"	21-26


Assistant Establishment
DC Office, Mardan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 533 of 2020

Mr. Shakeel, Ex. Junior Clerk Deputy Commissioner's office, Mardan

.....**Appellant**

VERSUS

1. Addl Commissioner Mardan Division, Mardan.
2. Deputy Commissioner, Mardan.
3. Departmental Promotion Committee through its Chairman, Deputy Commissioner, Mardan.
4. Fitness Test Committee through its Chairman/Assistant Commissioner, Mardan.
5. Ajmeer Khan S/O Khushmir Khan Village Mayar, Tehsil & District Mayar, Naib Qasid, DC Office, Mardan.

.....**Respondents**

SUBJECT: APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974. AGAINST ORDER DATED 19.12.2019 WHEREIN PROMOTION ORDERS OF THE APPELLANT FROM NAIB QASID TO JUNIOR CLERK DATED 12.06.2019 HAS BEEN SET ASIDE WITHOUT GIVING ANY OPPORTUNITY OF HEARING TO THE APPELLANT WHICH IS ILLEGAL AGAINST LAW AND FACTS:

Respected Sir,

Para-wise comments on behalf of Respondent No.02

Preliminary Objections:

1. The appellant has got no cause of action.
2. The appellant has not come to the Tribunal with clean hands.
3. The appellant has no locus Standi to file the appeal.
4. The appeal is bad for mis-joinder and non-joinder of necessary parties.
5. This Hon'ble Tribunal has got no jurisdiction.
6. The appeal is time-barred.
7. That the appellant did not file any departmental appeal as prerequisite of section-4 of the Khyber Pukhtunkhwa Service Tribunal Act 1974.

Reply on Facts:

1. Pertains to record, hence no comments are offered.
2. Facts are that as per Board of Revenue notification No. 2074/Estt:I;II/135/SSRC, dated 23.01.2015 (**Annex-M of the Appeal**), 33% quota has been reserved for Class-IV employees to be promoted against the post of Junior Clerks, on the basis of seniority-cum-fitness. DC office, Mardan, had 03 vacant posts of J/Clerks (BPS-11), to be filled in by promotion of Clas-IV employees on the basis of seniority-cum-fitness, under the ibid rules. This office adopted mechanism to assess fitness of candidates through a test, explained below:

A 100 Marks Criteria for evaluation/assessment	
Typing Speed Test (30 Marks)	Written Test (70 Marks)
One mark for each correct word upto 30 words per minute (prescribed speed for fresh candidate is 30 w.p.m) and there was no mark for beyond 30 w.p.m. speed. However, less than 12 w.p.m (40% of the prescribed speed for fresh candidates) would be considered failed).	35 marks each for English & Urdu, composed of only routine office work related questions. (However a person who failed in getting at least 35 marks in this category would also be considered failed).
Qualifying aggregate Marks were 50%. Senior most Class-IV employee would be promoted as Junior Clerks, amongst the candidates qualified the said assessment test.	

For written/typing test, a Sub Committee in the Chairmanship of AC, Mardan was constituted which carried out the said process and to submit its report to the DPC, wherein the following 04 class-IV candidates were declared qualified:

S#	Name , of Employee	Class-IV	Designation	Written test score out of 70	Typing Test score	Total Mks	No. in Seniority	Remarks
1	Farzand Ali s/o Mohib Gul		Naib Qasid	37.5	15	52.5	23	Passed
2	Shakeel s/o Siraj Muhammad		Naib Qasid	37	15	52	55	Passed
3	Inayatullah s/o Musafar Khan		Naib Qasid	40.5	19	59.5	68	Passed
4	Muhammad Taseef Khan s/o Imtaiz Khan		Naib Qasid	38	22	60	83	Passed

(Copy of the report is Annex-A of the Appeal)

Out of four successful Class-IV employees, top three in Seniority order, including the appellant were promoted to the post of Junior Clerk (BPS-11), vide order dated 12.06.2019, **which is Annex-D of the appeal.**

Feeling aggrieved of the said process, one of the Naib Qasids, Mr. Ajmir Khan filed service departmental appeal with Commissioner, Mardan, which was disposed of vide judgment dated 19.12.2019 by setting aside the said promotions/DPC on the ground that Rule-7 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 provides that promotion to any post from BPS-02 to BPS-16 shall not be subject to any test and the suitability of candidates shall be determined on the basis of service record i.e. seniority cum fitness; therefore, ordered to constitute a fresh Departmental Promotion Committee for promotion of eligible candidates on seniority cum fitness basis in light of APT Rules, 1989. **(Order of the Departmental Appellate Authority is Annex-F of the appeal)**

In pursuance of the said judgment, meeting of the Departmental Promotion Committee was convened on 28.01.2020, wherein, promotion of class-IV employees was discussed in light of the said judgment.

The Committee after threadbare discussion decided to seek advice of Board of Revenue/Administrative Department regarding the following issues came out during the discussion:

1. The Addl Commissioner in his judgment dated 19.12.2019 quoted the Rule-7(2) of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) rules, 1989 as: (i) Promotion to any post in grade below 16 shall not be subject to any test. The suitability of a candidate shall be determined on the basis of service record i.e. Seniority-cum-fitness”.

Since the said clause had been reflected from circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, therefore, it was decided that advice of the Administrative Department i.e. Board of revenue might be sought whether the said circular was in place or replaced/amended/repealed, and whether it was applicable to the instant case or otherwise.

2. Secondly, the Board of Revenue might further be requested to clarify whether typing of 30 W.P.M is mandatory for promotion of Class-IV to the post of Junior Clerk or it is only for initial recruitment. **(Copy of the minutes of DPC dated 28.01.2020 is Annex-A of the Comments)**

The respondent No. 2 vide letter No. 186/DC(M)/EA-23, dated 03.02.2020, sought advice of Board of Revenue, regarding the said queries **(Annex-B of the Comments)**. The Assistant Secretary (Estt) Board of Revenue vide letter No. Estt:II/DPC/Mardan/5843, dated 17.02.2020 gave advice regarding the said queries as under:

1. The provision in para 2(1) of the letter dated 11.02.1987 is still intact.
2. Para-2(1) of the letter dated 11.02.1987 provided that promotion to any post in grade below grade 16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of seniority cum fitness.

(Letter dated 17.02.2020 is Annex-C of the Comments)

Likewise the Board of Revenue, vide a subsequent letter No. Estt: II/DPC/Mardan/9472, dated 16.03.2020, advised respondent No. 02 to consider the candidates, under rule 10(a) on the basis of seniority cum fitness, with two years of service as such, and who have passed secondary school certificate. **(Annex-D of the Comments)**

In light of the above, the DSC in its subsequent meeting dated 16.03.2020 recommended to the appointing authority to cancel the promotion order bearing No. 1323/DC(M)/EA-23, dated 12.06.2019; and recommended the Respondent No.05 alongwith two other candidates for promotion to the post of Junior Clerks (BPS-11), from the Seniority List, on the basis of seniority cum fitness. **(Minutes of the meeting dated 16.03.2020 are Annex-E of the Comments).**

Consequently, the respondent No. 02, vide office order No. 481/DC(M)/EA-04, dated 30.04.2020 cancelled earlier order No. 1323/DC(M)/EA-23, dated 12.06.2019, reverted the appellant alongwith two other promotees to the posts of Naib Qasid and respondent No. 05 alongwith two other Class-IV employees were promoted, accordingly, vide order No. 482/Dc(M)/EA-04, dated 30.04.2020 .

(Copy of order No. 481/DC(M)/EA-04, dated 30.04.2020 is Annex-F of the Comments)
 (Copy of order No. 1323/DC(M)/EA-23, dated 12.06.2019 is Annex-G of the Comments)
 (Copy of order No.482/Dc(M)/EA-04, dated 30.04.2020 is Annex-H of the Comments) .

3. Incorrect. The Commissioner Mardan Division Mardan properly transferred the cases to Addl Commissioner, Mardan; and the Additional Commissioner is competent to hear appeals against the orders of Deputy Commissioner. In light of circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, the Respondent No.1 set aside the DPC/ promotion of the appellant and directed the respondent No. 02 to constitute new DPC for promotion of eligible candidates on seniority cum fitness basis, in light of APT Rules, 1989.

REPLY ON GROUNDS

- A. No comments regarding qualification of the appellant; however pertinent to mention that the post of Junior Clerk from which the appellant has been reverted falls in promotion quota which is filled by Seniority Cum Fitness basis, as explained in judgment of departmental appeal dated 19.12.2019. Further private respondent was also qualified and was promoted on the basis of seniority cum fitness.
- B. The Departmental Appellate Authority has rightly set aside the promotion of the appellant in light of circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, which is important part of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer Rules), 1989. detail reply has been given in para-2.
- C. The Civil Servant Appeal Rules, 1986, Rule-2(a) defined the appellate authority- the officer or authority next above the competent authority. Commissioner and Addl Commissioner both are basically Revenue Officers. And Section-9 of the West Pakistan Land Revenue Act, 1967, has authorized the Commissioner to distribute and assign business to Addl Commissioner and the Addl Commissioner has same powers as of Commissioner in disposing of the business/cases assigned to him. The instant case has also been properly transferred by orders of the Commissioner Mardan Division, Mardan to Addl commissioner, Mardan Division, Mardan, vide order No. 2530/ACR/Reader, dated 20.11..2020.
- D. As explained above.
- E. As explained in reply of Para-C above, the Commissioner alongwith Addl Commissioner is competent appellate authority against appealable orders of the Deputy Commissioner. Job Description of both Commissioner and Addl commissioner is same, and the Addl Commissioner carry out all those functions assigned to him by the Commissioner.
- F. Incorrect. The criteria adopted for his eligibility was set aside by the departmental appellate authority in light of circular No. SORI(S&GAD)45-1/75,

dated 11.02.1987, which has been endorsed by the Administrative Department i.e. Board of Revenue vide letter No. No.Estt:II/DPC/Mardan/5843, dated 17.02.2020

(Copy of circular dated 11.02.1987 is Annex-I)

- G. Incorrect. Appointment and Powers of Revenue Officers are regulated by Chapter-III, Section-9 of the West Pakistan Land Revenue Act-1967, according to which Additional Commissioner has the same powers and carries out all functions assigned to him by the Divisional Commissioner, under his general supervision & control.
- H. Incorrect. Commissioner and Addl Commissioner both are basically Revenue Officers. And Section-9 of the West Pakistan Land Revenue Act, 1967, has authorized the Commissioner to distribute and assign business to Addl Commissioner and the Addl Commissioner has same powers as of Commissioner in disposing of the business/cases assigned to him.
- I.
- J. As explained in reply of Para G & H above.
- K. As Explained in reply of Para G & H above.
- L. Incorrect. The departmental appeal was preferred against the proceedings of the DPC and order of the respondent No. 2.
- M. Incorrect. It is applicable to all govt departments including revenue department, which has been confirmed by Board of Revenue vide letter No. 186/DC(M)/EA-23, dated 03.02.2020 as well **(Annex-B of the Comments)**.

Likewise The Apex Supreme Court of Pakistan Civil Appeal No.1346 of 2007, Fazali Rehmani v. Chief Minister, N.W.F.P. Peshawar and others (PLD 2008 SC 769) held that

“Needless to point out that since the instructions contained in the ESTACODE have the force and effect of rules, by virtue of subsection (2) of section 25 of the Civil Servants Act, 1973 as has been held by this Court in the cases of (i) Secretary to the Govt. of the Punjab v. Abdul Hamid Arif and others (1991 SCMR 628) and (ii) Muhammad Yousaf and others v. Abdul Rashid and others (1996 SCMR 1297)”

And that “S. 25(2)--instructions contained in ESTACODE have the force and effect of rules, by virtue of S. 25(2), Civil Servants Act, 1973.

(Annex-J of the Comments)

In view of the above, the appeal is baseless; therefore, it is requested to be dismissed in limine.

**Deputy Commissioner
Mardan (Respondent No.2)**



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Minutes: MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION OF CLASS-IV EMPLOYEES TO THE POSTS OF JUNIOR CLERKS (BPS-11)
Venue: Deputy Commissioner Office Mardan.
Date/Time: 28-01-2020 at 02:00 p.m
In attendance: Mr. Mohammad Abid Khan, Deputy Commissioner Mardan. (In chair) Mr. Naik Muhammad, Addl Deputy Commissioner (F&P), Mardan. (Member) Mr. Muhammad Adnan, Assistant to Commissioner (Dev), Mardan Division, Mardan. (Member)

Meeting of the Departmental Promotion Committee was convened in pursuance of Judgment by the Addl Commissioner, Mardan dated 19.12.2019 in service appeal titled Ajmeer Khan VS DC Mardan.

Background of the DPC meeting: As per Board of Revenue notification No. 2074/Estt-II/135/SSRC, dated 23.01.2015, 33% quota has been reserved for Class-IV employees to be promoted against the post of Junior Clerks, on the basis of seniority-cum-fitness. DC office, Mardan, had 03 vacant posts of J/Clerks (BPS-11), which were to be filled in from amongst Class-IV employee on the basis of seniority-cum-fitness.

Meeting of the DPC for promotion of Class-IV to the posts of Junior Clerks was held on 30.08.2019. To ascertain fitness of the Class-IV employees, the following assessment test was devised:

A 100 Marks Criteria for evaluation/assessment	
Typing Speed Test (30 Marks)	Written Test (70 Marks)
One mark will be given for each correct word upto 30 words per minute (prescribed speed for fresh candidate is 30 w.p.m) and there will be no mark for beyond 30 w.p.m. speed. However, less than 12 w.p.m (40% of the prescribed speed for fresh candidates) will be considered failed).	35 marks each for English & Urdu, composed of only routine office work related questions. (However a person who failed in getting at least 35 marks in this category will also be considered failed).
Qualifying aggregate Marks will be 50%. Senior most Class-IV employee will be promoted as Junior Clerks, amongst the candidates qualified the said assessment test.	

For written/typing test, a Sub Committee in the Chairmanship of AC, Mardan was constituted which had to carry out the said process and to submit its report to the DSC. The Committee accordingly submitted its report wherein the following 04 candidates were declared qualified:

S#	Name of Class-IV Employee	Designation	Written test score out of 70	Typing Test score	Total Mks	Remarks
1	Farzand Ali s/o Mohib Gul	Naib Qasid	37.5	15	52.5	Passed
2	Shakeel s/o Siraj Muhammad	Naib Qasid	37	15	52	Passed
3	Inayatullah s/o Musafar Khan	Naib Qasid	40.5	19	59.5	Passed
4	Muhammad Taseef Khan s/o Imtaiz Khan	Naib Qasid	38	22	60	Passed

From amongst the above-mentioned successful candidates, the following three senior were recommended for promotion, from the seniority list:

1. Farzand Ali s/o Mohib Gul
2. Shakeel s/o Siraj Muhammad
3. Inayatullah s/o Musafar Khan

Feeling aggrieved of the said process, Mr. Ajmir Khan Naib Qasid filed service appeal with Commissioner, Mardan, which has been disposed of by setting aside the said promotions/DPC and ordered to constitute a fresh Departmental Promotion Committee for promotion of eligible candidates on seniority cum fitness basis in light of APT Rules, 1989.

The Committee after threadbare discussion decided to seek advice of BOR regarding the following issues came out during the discussion:

1. In the judgment, Rule 7 sub Rule (2) of the APT has been quoted as: (i) Promotion to any post in grade below 16 shall not be subject to any test. The suitability of a candidate shall be determined on the basis of service record i.e. Seniority-cum-fitness".

Since that said clause has been reflected from circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, therefore, it was decided that advice of BOR might be sought whether the said circular is still in place or replaced/amended/repealed, and whether it is applicable to the instant case or otherwise.

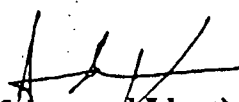
2. The Board of Revenue notification No. 2074/Estt:II/135/SSRC, dated 23.01.2015, provides for qualification and method of recruitment as under:

Junior Clerk (BPS-11)	(i) AT least Second Class Secondary School Certificate or equivalent qualification from recognizer Board.	18 to 30 years of age	(a) Thirty three percent by promotion on the basis of seniority cum fitness from amongst the Qasids & Naib Qasids including holders of other equivalent posts in the district concerned with two years of service as such, who have passed secondary School Certificate Examination; and
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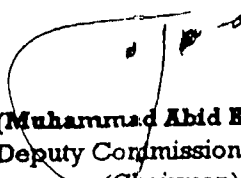
It was decided that BOR might further be requested to clarify whether typing of 30 W.P.M is mandatory for promotion of Class-IV to the post of Junior Clerk or it is only for initial recruitment.

3. Thirdly, whether the condition of qualification of SSC second class is applicable to promotion of Class-IV, as well, or a candidate with 3rd division can also be promoted as Junior Clerk.

In view of advice by Board of Revenue, meeting of the Committee will be called for further course of action, accordingly.


(Muhammad Adnan)
Assistant to Commissioner (Dev)
Mardan Division, Mardan (Member)


(Naik Muhammad)
Addl Deputy Commissioner (F&P)
Mardan (Member)


(Muhammad Abid Khan Wazir)
Deputy Commissioner, Mardan
(Chairman)


OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

To No. 186/DC(M)/EA-23

Date: 03-02-2020

(8)
B⁹

The Secretary-I,
Board of Revenue, Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: ADVICE REGARDING QUALIFICATION FOR PROMOTION OF CLASS IV EMPLOYEES TO THE POST OF JUNIOR CLERK

Memo:

As per Board of Revenue notification No. 2074/Estt:II/135/SSRC, dated 23.01.2015, 33% quota has been reserved for Class-IV employees to be promoted against the post of Junior Clerks, on the basis of seniority-cum-fitness. DC office, Mardan, had 03 vacant posts of J/Clerks (BPS-11), which were to be filled in from amongst Class-IV employee on the basis of seniority-cum-fitness.

Meeting of the DPC for promotion of Class-IV to the posts of Junior Clerks was held on 30.05.2019. To ascertain fitness of the Class-IV employees, the following assessment test was devised:

A 100 Marks Criteria for evaluation/assessment	
Typing Speed Test (30 Marks)	Written Test (70 Marks)
One mark will be given for each correct word upto 30 words per minute (prescribed speed for fresh candidate is 30 w.p.m) and there will be no mark for beyond 30 w.p.m. speed. However, less than 12 w.p.m (40% of the prescribed speed for fresh candidates) will be considered failed).	35 marks each for English & Urdu, composed of only routine office work related questions. (However a person who failed in getting at least 35 marks in this category will also be considered failed).
Qualifying aggregate Marks will be 50%. Senior most Class-IV employee will be promoted as Junior Clerks, amongst the candidates qualified the said assessment test.	

For written/typing test, a Sub Committee in the Chairmanship of AC, Mardan was constituted which had to carry out the said process and to submit its report to the DSC. The Committee accordingly submitted its report wherein the following 04 candidates were declared qualified/fit:

S#	Name of Class-IV Employee	Designation	Written test score out of 70	Typing Test score	Total Marks	Remarks
1	Farzand Ali s/o Mohib Gul	Naib Qasid	37.5	16	52.5	Passed
2	Shakeel s/o Siraj Muhammad	Naib Qasid	37	15	52	Passed
3	Inayatullah s/o Musafar Khan	Naib Qasid	40.5	19	59.5	Passed
4	Muhammad Taseef Khan s/o Imtaiz Khan	Naib Qasid	38	22	60	Passed

From amongst the above-mentioned successful candidates, the following three senior were recommended for promotion, from the seniority list:

1. Farzand Ali s/o Mohib Gul
2. Shakeel s/o Siraj Muhammad
3. Inayatullah s/o Musafar Khan

Feeling aggrieved of the said process, Mr. Ajmir Khan Naib Qasid filed service appeal with Commissioner, Mardan, which has been disposed of by setting aside the said promotions/DPC and ordered to constitute a fresh Departmental Promotion Committee for promotion of eligible candidates on seniority cum fitness basis in light of APT Rules, 1989.

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The Committee after detailed discussion, decided to seek advice of BOR regarding the following issues, noticed during the discussion:

- 1. In the judgment, Rule 7 sub Rule (2) of the APT has been quoted as: (i) Promotion to any post in grade below 16 shall not be subject to any test. The suitability of a candidate shall be determined on the basis of service record i.e. Seniority-cum-fitness".

Since that said clause has been reflected from circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, therefore, it was decided that advice of BOR might be sought whether the said circular is still in place or replaced/amended/repealed, and whether it is applicable to the instant case or otherwise.

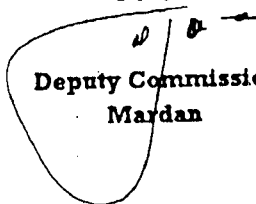
- 2. The Board of Revenue notification No. 2074/Estt:II/135/SSRC, dated 23.01.2015, provides for qualification and method of recruitment as under:

Junior Clerk (BPS-11)	(i) AT least Second Class Secondary School Certificate or equivalent qualification from recognizer Board.	18 to 30 years of age	(a) Thirty three percent by promotion on the basis of seniority cum fitness from amongst the Qasids & Naib Qasids including holders of other equivalent posts in the district concerned with two years of service as such, who have passed secondary School Certificate Examination; and
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It was decided that BOR might further be requested to clarify whether typing of 30 W.P.M is mandatory for promotion of Class-IV to the post of Junior Clerk or it is only for initial recruitment.

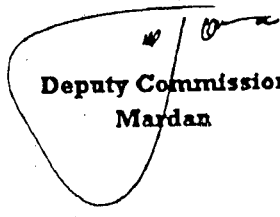
- 3. Thirdly, whether the condition of qualification of SSC second class is applicable to promotion of Class-IV, as well, or a candidate with 3rd division can also be promoted as Junior Clerk.

It is therefore, requested that this office may be advised regarding the three points mentioned above, so that the issue may be disposed of accordingly, please.


 Deputy Commissioner
 Mardan

Endst No. & Date Even:

Copy to:
The Commissioner, Mardan Division, Mardan.


 Deputy Commissioner
 Mardan

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GOVERNMENT OF KHYBER PAKHTUNKHWA,
 BOARD OF REVENUE,
 REVENUE & ESTATE DEPARTMENT.
 No. Estt:II/DPC/Mardan/5843
 Peshawar dated the 17/02/2020.

To

The Deputy Commissioner,
 Mardan.

SUBJECT: ADVICE REGARDING QUALIFICATION FOR PROMOTION OF CLASS-IV EMPLOYEES TO THE POST OF JUNIOR CLERK.

Dear Sir,

I am directed to refer to your letter No. 186/DC(M)/EA-23 dated 03.02.2020 and to state that:-

1. The provision in Para-2(1) of the letter dated 11.02.1987 is still intact.
2. Para-2 (1) of the letter dated 11.02.1987 provided that promotion to any post in a grade below Grade-16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of service record i.e seniority-cum-fitness.
3. In the District Cadre Ministerial Service Rules 2015, the qualification for the post of Junior Clerk is at least second Class SSC which is still intact and shall be followed in letter and spirit please.

EA
 AR

DC OFFICE MARDAN	
Diary No. 426	
19-2-2020	
ADC (Rev)	
ADC (F&P)	
AC (M)	
AC (T.Blu)	
AAC	
A.O	
Supdt:	✓
P.S	

Assistant Secretary (P.S.I)



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
No. Estt:II/DPC/Mardan/ 9572
Peshawar dated the 16/03/2020.

11
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To

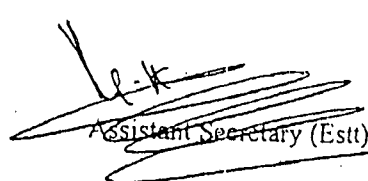
The Deputy Commissioner,
Mardan.

SUBJECT: APPLICATION FOR PROMOTION FROM NAIB QASID TO THE POST
OF JUNIOR CLERK.

Dear Sir,

I am directed to refer to the subject and to enclose copy of application submitted by Mr. Munnawar Shah Naib Qasid of your office with the request you to consider the applicant strictly under rule 10(a) of column 5 of the District Cadre Ministerial Service Rules 2015, reproduced below please.

- (a) Thirty three percent by promotion on the basis of seniority cum fitness from amongst the Qasids & Naib Qasids including holders of other equivalent posts in the district concerned with two years of service as such, who have passed secondary School Certificate Examinations;


Assistant Secretary (Estt)



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Minutes: MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION OF CLASS-IV EMPLOYEES TO THE POSTS OF JUNIOR CLERKS (BPS-11)
Venue: Deputy Commissioner Office Mardan.
Date/Time: 16.03.2020 at 03:00 p.m
In attendance: 1. Mr. Muhammad Abid Khan, Deputy Commissioner Mardan. (In chair) 2. Mr. Naik Muhammad, Addl Deputy Commissioner (F&P), Mardan. (Member) 3. Mr. Muhammad Adnan, Assistant to Commissioner (Dev), Mardan Division, Mardan. (Member)

Background of the DPC meeting:

DC office, Mardan had 03 vacant posts of J/Clerks (BPS-11), which were to be filled in from amongst Class-IV employee on the basis of seniority-cum-fitness, in light of Board of Revenue notification No. 2074/Estt:I;II/135/SSRC, dated 23.01.2015, wherein 33% quota has been reserved for Class-IV employees to be promoted against the post of Junior Clerks.

A meeting of the DPC for promotion of Class-IV to the posts of Junior Clerks was held on 30.05.2019. To ascertain fitness of the Class-IV employees, the following assessment test was devised:

A 100 Marks Criteria for evaluation/assessment	
Typing Speed Test (30 Marks) One mark was to be assigned for each correct word upto 30 words per minute (prescribed speed for fresh candidate is 30 w.p.m) and there would be no mark for beyond 30 w.p.m. speed. However, less than 12 w.p.m (40% of the prescribed speed for fresh candidates) would be considered failed).	Written Test (70 Marks) 35 marks each for English & Urdu, composed of only routine office work related questions. (However a person who failed in getting at least 35 marks in this category would also be considered failed).
Qualifying aggregate Marks were 50%. Senior most Class-IV employees would have to be promoted as Junior Clerks, amongst the qualified candidates.	

For written/typing test, a Sub Committee in the Chairmanship of AC, Mardan was constituted which had to carry out the said process and to submit its report to the DPC. The Committee accordingly submitted its report wherein the following 04 candidates were declared qualified:

S#	Name of Class-IV Employee	Designation	Written test score out of 70	Typing Test score	Total Mks	Remarks
1	Farzand Ali s/o Mohib Gul	Naib Qasid	37.5	15	52.5	Passed
2	Shakeel s/o Siraj Muhammad	Naib Qasid	37	15	52	Passed
3	Inayatullah s/o Musafar Khan	Naib Qasid	40.5	19	59.5	Passed
4	Muhammad Taseef Khan s/o Imtaiz Khan	Naib Qasid	38	22	60	Passed

From amongst the above-mentioned successful candidates, the following three senior were recommended for promotion, from the seniority list:

1. Farzand Ali s/o Mohib Gul
2. Shakeel s/o Siraj Muhammad

Feeling aggrieved of the said process, Mr. Ajmir Khan Naib Qasid filed service appeal with Commissioner, Mardan, which was disposed of vide judgment dated 19.12.2019 by setting aside the said promotions/DPC and ordered to constitute a fresh Departmental Promotion Committee for promotion of eligible candidates on seniority cum fitness basis in light of APT Rules, 1989.

In pursuance of the said judgment, meeting of the Departmental Promotion Committee was convened on 28.01.2019, wherein, promotion of class-IV employees was discussed in light of the said judgment.

The Committee after threadbare discussion decided to seek advice of Board of Revenue/Administrative Department regarding the following issues came out during the discussion:

1. In the judgment, Rule 7 sub Rule (2) of the APT has been quoted as: (i) Promotion to any post in grade below 16 shall not be subject to any test. The suitability of a candidate shall be determined on the basis of service record i.e. Seniority-cum-fitness".

Since that said clause had been reflected from circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, therefore, it was decided that advice of BOR might be sought whether the said circular was in place or replaced/amended/repealed, and whether it was applicable to the instant case or otherwise.

2. The Board of Revenue notification No. 2074/Estt:I;II/135/SSRC, dated 23.01.2015, provides for qualification and method of recruitment as under:

Junior Clerk (BPS-11)	(i) AT least Second Class Secondary School Certificate or equivalent qualification from recognizer Board.	18 to 30 years of age	(a) Thirty three percent by promotion on the basis of seniority cum fitness from amongst the Qasids & Naib Qasids including holders of other equivalent posts in the district concerned with two years of service as such, who have passed secondary School Certificate Examination; and
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It was decided that BOR might further be requested to clarify whether typing of 30 W.P.M is mandatory for promotion of Class-IV to the post of Junior Clerk or it is only for initial recruitment.

3. Thirdly, whether the condition of qualification of SSC second class was applicable to promotion of Class-IV, as well, or a candidate with 3rd division could also be promoted as Junior Clerk.

Vide letter No. 186/DC(M)/EA-23, dated 03.02.2020, advise of BOR, regarding the said queries, was sought. The Assistant Secretary (Estt) Board of Revenue vide letter No. Estt:II/DPC/Mardan/5843, dated 17.02.2020 gave advise regarding the said queries as under:

1. The provision in para 2(1) of the letter dated 11.02.1987 is still intact.
2. Para-2(1) of the letter dated 11.02.1987 provided that promotion to any post in grade below grade 16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of seniority cum fitness.
3. Vide letter No. Estt: II/DPC/Mardan/9472, dated 16.03.2020, the Assistant Secretary (Estt) advised this office to consider the applicant, under rule 10(a) on the basis of seniority cum fitness, with two years of service as such, and who have passed secondary school certificate. Worthy to mention that Mr. Mr. Munawar Shah, Naib amongst the candidates with SSC

In light of the forgoing facts & circumstances, the Committee recommended to the appointing authority to cancel the promotion order bearing No. 1323/DC(M)/EA-23, dated 12.06.2019; and the following candidates were recommended for promotion to the post of Junior Clerks (BPS-11), from the Seniority List, on the basis of seniority cum fitness.

S#:	Name	Father's Name	Designation	Date of Appointment	Qualification	Mks in SSC	Div	Decision by DPC
1.	Javed Khan	Nasir Khan	N/Qasid	19/05/1982	-			Ineligible
2.	Malik Taj	Muhammad Umar Khan	N/Qasid	16/06/1986	Illiterate			-do-
3.	Khalid Khan-I	Arif Gul	N/Qasid	18/08/1987	Middle			-do-
4.	Mohabat Shah	Kabil Shah	N/Qasid	29/08/1988	Illiterate			-do-
5.	Muhammad Jailani	Dad Muhammad	N/Qasid	29/08/1988	SSC	339/850	3rd	Recommended for promotion
6.	Lal Zada	Sahib Zada	Naib Qasid	12/09/1988	Illiterate			Ineligible
7.	Munawar Shah	Rahim Shah	N/Qasid	26/10/1988	SSC	375/850	3rd	Recommended for promotion
8.	Fazle Khaliq	Abdul Khaliq	N/Qasid	14/11/1989	Illiterate			Ineligible
9.	Liaqat Ali	Misal Khan	N/Qasid	01/01/1990	Illiterate			-do-
10.	Wisal Khan-I	Gul Madin	N/Qasid	17/10/1991	Illiterate			-do-
11.	Khalid Khan-II	Ghulam Mohiuddin	N/Qasid	24/05/1992	Illiterate			-do-
12.	Izzat Gul	Samar Gul	Chowkidar	29.03.2004	Illiterate			-do-
13.	Abid Ali	Abdul Hakim	Chowkidar	25.06.2004	Illiterate			-do-
14.	Malik Aman	Muhammad Nisar	Chowkidar	04.07.2005	Illiterate			-do-
15.	Sajjad	Inam Gul	N/Qasid	07/04/2006	Illiterate			-do-
16.	Khan Sher	Dheran Uddin	N/Qasid	08/04/2006	Illiterate			-do-
17.	Hashim ali	Amir Muhammad	Chowkidar	09.01.2007	Illiterate			-do-
18.	Zahir Shah	Shakoor Muhammad	N/Qasid	13/03/2007	Illiterate			-do-
19.	Ajmeer Khan	Khushmir Khan	N/Qasid	09/05/2007	FA	427/850	2nd	Recommended for promotion
20.	Itbar Said	Awal Said	N/Qasid	09/05/2007	BA	452/850	2nd	

(Muhammad Adnan)
Assistant to Commissioner (Dev)
Mardan Division, Mardan (Member)

(Naik Muhammad)
Addl Deputy Commissioner (F&P)
Mardan (Member)

(Muhammad Abid Khan Wazir)
Deputy Commissioner, Mardan
(Chairman)



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Phone No: 0937-9230048-56 Fax No: 0937-9230303

Email: dcmardan0937@gmail.com

No 481 /DC(M)/EA-04

Dated Mardan the: 30/04/2020

(15)
"F"

OFFICE ORDER

Whereas, DC office, Mardan had 03 vacant posts of J/Clerks (BPS-11), which were to be filled in from amongst Class-IV employee under 33% quota, provided for in Board of Revenue notification No. 2074/Estt:I;II/135/SSRC, dated 23.01.2015; and

Whereas, to fill up the said posts, a meeting of the Departmental Promotion Committee (DPC) was held on 30.05.2019. To ascertain fitness of the Class-IV employees, a 100 marks criteria was set for evaluation/assessment of fitness of candidates: comprised of written and typing test, and Senior most Class-IV employees would have to be promoted as Junior Clerks, amongst the qualified candidates; and

Whereas, for written/typing test, a Sub Committee in the Chairmanship of AC, Mardan was constituted which had to carry out the said process and to submit its report to the DPC. The Committee accordingly submitted its report, and from amongst four successful candidates, the following three candidates (Class-IV employees) were promoted as Junior Clerks (BPS-11), from the seniority list:

1. Farzand Ali s/o Mohib Gul
2. Shakeel s/o Siraj Muhammad
3. Inayatullah s/o Musafar Khan; and

Whereas, Feeling aggrieved of the said process, Mr. Ajmir Khan (Naib Qasid) filed service appeal to Commissioner, Mardan Division Mardan, which was disposed of vide judgment dated 19.12.2019, set aside the said promotions/DPC and ordered to constitute a fresh Departmental Promotion Committee for promotion of eligible candidates on seniority cum fitness basis in light of APT Rules, 1989; and

Whereas, in pursuance of the said judgment, meeting of the Departmental Promotion Committee was convened on 28.01.2019, wherein it was decided to seek advice of Board of Revenue/Administrative Department regarding the following issues came out during the discussion:

1. In the judgment, Rule 7 sub Rule (2) of the APT Rules, 1989 has been quoted as: (i) Promotion to any post in grade below 16 shall not be subject to any test. The suitability of a candidate shall be determined on the basis of service record i.e. Seniority-cum-fitness". Since the said clause had been reflected from circular No. SORI(S&GAD)45-1/75, dated 11.02.1987, therefore, Board of Revenue was requested to inform whether the said circular was in place or replaced/amended/repealed; and whether it was applicable to the instant case or otherwise. The Assistant Secretary (Estt) Board of Revenue vide letter No.Esst:II/DPC/Mardan/5843, dated 17.02.2020 replied that "The provision in Para 2(1) of the letter dated 11.02.1987 is still intact".
2. Secondly, BOR was requested to clarify whether typing of 30 W.P.M was mandatory for promotion of Class-IV employees to the post of Junior Clerk or it was only for initial recruitment; which was replied to as "Para-2(1) of the letter dated 11.02.1987 provided that promotion to any post in grade below grade 16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of seniority cum fitness"

3. Thirdly, whether the condition of qualification of SSC second class was applicable to promotion of Class-IV, as well, or a candidate with 3rd division could also be promoted as Junior Clerk. The Assistant vide letter No. Estt: II/DPC/Mardan/9472, dated 16.03.2020 explained that " **thirty three percent by promotion on the basis of seniority cum fitness from amongst the Qasids & Naib Qasids including holders of other equivalent posts in the District concerned with two years service as such, who have passed secondary School Certificate Examination**".

In view of the forgoing facts & circumstances, a follow up meeting of the DPC was convened on 16.03.2020, wherein it was decided that the appointing authority would cancel the promotion order bearing No. 1323/DC(M)/EA-23, dated 12.06.2019.

Now, therefore, this office earlier order No. 1323/DC (M)/EA-23, dated 12.06.2019 is hereby cancelled, and the above-mentioned three promotees are reverted to their respective posts, forthwith.

u
**DEPUTY COMMISSIONER
MARDAN**

Endst No. & Date Even:

Copies forwarded to:

1. Commissioner, Mardan Division, Mardan.
2. Addl Commissioner, Mardan Division, Mardan.
3. Addl Deputy Commissioner (Rev/F&P), Mardan.
4. District Comptroller of Accounts, Mardan for necessary action.
5. Assistant Commissioner Takht Bhai/Mardan.
6. All the Addl Assistant Commissioners.
7. Accounts Officer, DC Office, Mardan for necessary action.
8. All the Tehsildars.
9. The Officials concerned.

u
**DEPUTY COMMISSIONER
MARDAN**

(17)
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OFFICE OF THE DEPUTY COMMISSIONER MARDAN

Ph #: 0937-9230048-56
Fnx No#: 0937-9230303
Email: dcwardan0937@gmail.com

No. 1323 /DC (M)/EA-23
Dated, Mardan the 12/06/2019

OFFICE ORDER

Consequent upon recommendation made by the Departmental Promotion Committee, in its meeting dated 30.05.2019, the following Naib Qasids (BP-03) are hereby promoted to the post of Junior Clerk (BPS-11) on regular basis with immediate effect, under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, read with Govt. of Khyber Pakhtunkhwa, Board of Revenue Notification No. 2074/Esit: 1/135/SSRC, dated 23.01.2015, with immediate effect.

S#	Name of Naib Qasid promoted to the post of J/Clerk
1	Farzand Ali s/o Mohib Gul
2	Shakeel s/o Siraj Muhammad
3	Inayatullah s/o Musafar Khan

The afore-mentioned officials shall be on probation for a period of one year (extendable) as envisaged in Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 15(1) of Khyber Pakhtunkhwa (Appointment, Promotion & Transfers) Rules, 1989.

Deputy Commissioner
Mardan

Endst No & Date Even:

Copies forwarded to:

1. The District Comptroller of Accounts, Mardan for necessary action, please.
2. Addl Deputy Commissioner, Mardan.
3. Accounts Officer, DC office, Mardan for necessary action.
4. Assistant Commissioner, Mardan/Takht Bhai/Katlang.
5. Officials concerned.

Deputy Commissioner
Mardan



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

Phone No: 0937-9230048-56 Fax No: 0937-9230303

Email: dcmardan0937@gmail.com

No 482 /DC(M)/EA-04

Dated Mardan the: 30 /04/ 2020

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OFFICE ORDER

Consequent upon recommendation made by the Departmental Promotion Committee, in its meeting dated 16.03.2020, the following Naib Qasids of this office are hereby promoted to the post of Junior Clerk (BPS-11) on regular basis with immediate effect, under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, read with Govt. of Khyber Pakhtunkhwa, Board of Revenue Notification No. 2074/Estt: I/135/SSRC, dated 23.01.2015, with immediate effect.

S#	Name of Naib Qasid promoted to the post of J/Clerk
1	Mr. Muhammad Jilani S/O Dad Muhammad
2	Mr. Munawar Shah S/O Rahim Shah
3	Mr. Ajmeer Khan S/O Khushmir Khan

The afore-mentioned officials shall be on probation for a period of one year (extendable) as envisaged in Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 15(1) of Khyber Pakhtunkhwa (Appointment, Promotion & Transfers) Rules, 1989.

Deputy Commissioner
Mardan

Endst No & Date Even:

Copies forwarded to:

1. The Commissioner, Mardan Division, Mardan.
2. Addl Deputy Commissioner (Rev/F&P), Mardan.
3. The District Comptroller of Accounts, Mardan for necessary action.
4. Accounts Officer, DC office, Mardan for necessary action.
5. Assistant Commissioner, Mardan/Takht Bhai/Katlang.
6. Officials concerned.

Deputy Commissioner
Mardan

42 **ESTA CODE [Establishment Code Khyber Pakhtunkhwa]**

II. Attached Departments/Offices in NWFP

- (1) Appointing Authority. ... Chairman
- (2) An officer to be nominated by the Administrative Departments concerned. ... Member
- (3) An officer to be nominated by the Appointing Authority. ... Member

3. It is requested to bring these instructions to the notice of all concerned for strict compliance.

(Authority: -SORI(S&GAD)4-1/75(Vol.II), dated 13th June,1993.)

PROCEDURE FOR SELECTION FOR PROMOTION/INITIAL RECRUITMENT

I am directed to say that under rule 7 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1975 appointment by promotion to posts in BPS-2 to BPS-16 shall be made on the recommendations of the appropriate Departmental Promotion Committee. Similarly, under rule 11 of the rules ibid, initial appointments to posts in BPS-1 to 15 shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. However, no criteria for selection has so far been prescribed.

2. In order to ensure a fair degree of selection, minimise the chances of discretion and favouritism, the Provincial Government have laid down the following criteria for selection for promotion vis-a-vis initial recruitment to the posts which are filled by the department concerned:

- (1) **Criteria for Selection for Promotion:**-Promotion to any post in a grade below Grade-16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of service record i.e. seniority-cum-fitness.

(II) **Criteria of Selection for Initial recruitment:**

(i) **For post in Grades 1 to 4:** No special criteria has been laid down and the committee concerned shall adopt its own method and procedure for selection.

(ii) **For posts in Grade-5 and above in all departments:**-In addition to the total marks allocated for a written competitive examination, if any held, the total marks will be 100 as per distribution given below:-

- (a) Prescribed qualification ... 70
- (b) Higher qualification ... 12
- (c) Experience ... 10
- (d) Interview ... 08

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ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 43

3. Para 2 above indicates only the general distribution of the marks. To enable the Administrative Departments to develop criteria of comparative grading of candidates within the above overall framework, S&GAD has done a model exercise (attached as Annexure) for guidance of all concerned.

4. I am accordingly directed to request you to kindly ensure that the aforesaid criteria for selection for promotion vis-a-vis initial recruitment to posts is adhered to strictly in filling the vacant posts in future.

(Authority: Circular letter No.SORI(S&GAD)45-1/75, dated 11.2.1987)

ANNEXURE

COMPARATIVE GRADING OF QUALIFICATION.

A. Minimum Prescribed Qualification.

1. For Non-Professional Posts.

		First	Second	Thlrd	Total Mark
		70	53	42	70
(i)	Matric	35	26	21	
(ii)	Matric	35	27	21	
	F.A/F.Sc.	23	17	14	
(iii)	Matric	23	17	14	
	F.A/F.Sc.	23	17	14	
	B.A/B.Sc	24	18	14	
(iv)	Matric	17	13	10	
	F.A/F.Sc	17	13	10	
	B.A/B.Sc	17	13	11	
	M.A/M.Sc	19	14	11	

2. For Professional Posts.

(i)	For four examination				
	1st Professional	17	13	10	
	2nd Professional	17	13	10	
	3rd Professional	17	13	10	
	Final	19	14	12	
(ii)	For three examination				
	1st Professional	23	17	14	
	2nd Professional	23	17	14	
	Final	24	19	14	
(iii)	For two examination				
	1st Professional	35	26	21	
	Final	35	27	21	

1. Annexure revised vide letter No.SORI(S&GAD)4-1/75(Vol.III) dated 26.5.2000.

P L D 2008 Supreme Court 769

Present: Abdul Hameed Dogar, C. J., Ijaz-ul-Hassan Khan and Ch. Ejaz Yousaf, JJ

FAZALI REHMANI---Appellant

Versus

CHIEF MINISTER, N.-W.F.P., Peshawar and others---Respondents

Civil Appeal No.1346 of 2007, decided on 19th June, 2008.

(On appeal from the judgment dated 19-4-2007 in Service Appeal No.831 of 2005 passed by the N.-W.F.P. Service Tribunal, Peshawar).

(a) North-West Frontier Province Service Tribunals Act (I of 1974)---

---S. 4(b)(i)---Promotion---Eligibility for promotion of a civil servant though can be subjected to judicial scrutiny by the Service Tribunal as it relates to terms and conditions of a civil servant yet, the question of fitness of a civil servant for promotion is barred from its jurisdiction under S.4(b)(i) of North-West Frontier Province Service Tribunals Act, 1974---When a civil servant was eligible for promotion but was ignored and other eligible person was promoted then his appeal before the Service Tribunal would be competent, while in the present case, appellant (aggrieved civil servant) had failed to show that the promoted civil servant was ineligible for promotion---Service Tribunal, in circumstances had rightly declined to interfere--- 'Eligibility for promotion' and 'fitness for promotion'---Distinction.

Muhammad Anis and others v. Abdul Haseeb and others PLD 1994 SC 539; Muhammad Iqbal v. Executive District Officer (Revenue) 2007 SCMR 682; Syed Abdul Qadir Shah v. Government of Punjab 1972 SCMR 323; Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others 1991 SCMR 1129 and Muhammad Akram and others v. The State and others 1996 SCMR 324 fol.

Muhammad Rehman Khan v. Chief Secretary, N.-W.F.P. and others 2004 PLC (C.S) 62; Abdul Ghafoor, Supervisor/Inspector, NHA v. National Highway Authority and others 2002 SCMR 574 and Zafarullah Baloch v. Government of Balochistan and others 2002 SCMR 1056 distinguished.

(b) Civil service---

---Promotion---'Eligibility for promotion' and 'fitness for promotion' are distinct and separate from each other--- Eligibility relates to the terms and conditions of service, whereas fitness for promotion is a subjective evaluation on the basis of objective criteria, where substitution for opinion of the competent authority is not possible by that of a tribunal or a court hence, neither eligibility to promotion can be equated with promotion nor prospects of promotion can be included in terms and conditions of service.

(c) Civil service---

---Promotion---Consideration for promotion is a right yet, the promotion itself cannot be claimed as of right.

(d) Civil service---

---Promotion to grade 20---Necessity of training course at the National Institute of Public Administration--- Exemption---Officers, who had served for one year as Head of NIPA/Specialized Training Institutions imparting training to officers in BPS-17 and above, are exempted from the training requirement of NIPA in view of Government of Pakistan Office memorandum No.10(5)91-CP-1, dated 8-5-1991.

(e) Civil service---

---Promotion---Non-selection posts and selection posts---Requirements---Where posts carrying basic pay scale 18 or below are non-selection posts, promotion to those posts is to be processed by Departmental Promotion Committees on the basis of seniority-cum-fitness, as per clause (1) of Heading II of the Guidelines for Departmental Promotion Committee/Central Selection Board (at p.234), SI.No.154, contained in the ESTACODE, 2000 (Edition). the posts in basic pay scale 19 or higher are selection posts and promotion to those posts are to be processed through

the Central Selection Board---In order to ensure that selection by these Boards does not amount to a mere elimination of the unfit, clause 2 of the said Guidelines further provided that the Establishment Division must place larger panel of eligible officers before the Boards depending on the availability of eligible officers in a cadre--- Clause 3 of the Guidelines required that for selection posts "quality and output of work" and "integrity" in all Annual Confidential Reports recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in Addendum to the Guidelines and those marks shall be a crucial factor in determining comparative merit of officers for promotion to selection posts.

(f) Civil service---

---Promotion---Post of pay scale 21---Requirements---Posts carrying basic pay scale 21, fall in senior management involving important policy-making or extensive administrative jurisdiction and therefore, in addition to the circulation value and variety of experience the incumbents must possess proven analytical competence, breadth of vision, emotional maturity and such other qualities as are required to determine the potential of successfully holding posts in top management and since the potential cannot be adjudged by mathematical formula, therefore, Selection Board is required to apply its collective wisdom to determine the same.

ESTACODE, 2000 Edn. Guidelines for Departmental Promotion, Cl. 6, at p.238 ref.

(g) Civil service---

---Promotion---Posts carrying basic pay scale 18 or below---Such promotion is to be made on the basis of seniority-cum-fitness, promotion in case of selection posts i.e. BPS-19 and above is to be made on the basis of "Fitness cum seniority" meaning thereby that in the earlier case i.e. BPS-18 and below, seniority would be considered first and fitness of the employee would be adjudged later, whereas, contrary thereto, in the case of selection posts i.e. BPS-19 and above, fitness of an employee would be adjudged first and the seniority would be considered later, for instance, if two equally fit employees are selected by the Board then senior amongst them would be given preference.

Muhammad Anis and others v. Abdul Haseeb and others PLD 1994 SC 539; Muhammad Iqbal v. Executive District Officer (Revenue) 2007 SCMR 682; Syed Abdul Qadir Shah v. Government of Punjab 1972 SCMR 323; Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others 1991 SCMR 1129; Muhammad Akram and others v. The State and others 1996 SCMR 324; Muhammad Rehman Khan v. Chief Secretary, N.-W.F.P. and others 2004 PLC (C.S.) 62; Abdul Ghafoor, Supervisor/Inspector, NHA v. National Highway Authority and others 2002 SCMR 574 and Zafarullah Balcoh v. Government of Balochistan and others 2002 SCMR 1056 ref.

(h) Civil Servants Act (LXXI of 1973)---

---S. 25(2)---Instructions contained in ESTACODE have the force and effect of rules, by virtue of S.25(2), Civil Servants Act, 1973.

Secretary to the Govt. Of the Punjab v. Abdul Hamid Arif and others 1991 SCMR 628 and Muhammad Yousaf and others v. Abdul Rashid and others 1996 SCMR 1297 fol.

Maazullah Barkandi, Advocate Supreme Court for Appellant.

Qaiser Rashid, Addl. A.G., N.W.F.P. for Respondents Nos.1-4.

Qazi M. Anwar, Senior Advocate Supreme Court for Respondent No.5.

Date of hearing: 19th June, 2008.

JUDGMENT

CH. EJAZ YOUSAF, J.---This appeal is directed against judgment dated 19-4-2007 passed by the N.-W.F.P. Service Tribunal, Peshawar, (hereinafter referred to as "the Tribunal"), whereby service appeal filed by the appellant against promotion of the respondent No.5 to BPS-21, was for lack of jurisdiction, dismissed with reference to section 4(b)(i) of the N.-W.F.P. Service Tribunals Act, 1974 (hereinafter referred to as the "Act").

2. Facts of the case, necessary for the disposal of instant appeal, briefly stated, are that the appellant as well as

respondent No.5 both were serving in BPS-20 (Executive Grade). Their promotion cases for filling one post in BPS-21 was placed before the Provincial Selection Board in its meeting held on 12-7-2005. Since service record of respondent No.5 was found comparatively better, therefore, he was recommended for promotion, though he was at S. No.2 in the seniority list, below the appellant, who was at S. No.1. A notification to the above effect was issued on 2-8-2005. The appellant filed review/representation before the respondent No.1, i.e. the Chief Minister, N.-W.F.P, Peshawar, under the rules, which was rejected on 24-9-2005. Resultantly, the appellant approached the N.-W.F.P. Service Tribunal through appeal No.831 of 2005 which was dismissed vide the impugned judgment, hence this appeal.

3. It has been contended by the learned counsel for the appellant that since very eligibility of the respondent No.5 for promotion to BPS-21, was challenged before the Service Tribunal therefore, the Tribunal could not have declined to exercise jurisdiction by bringing the matter under section 4(b)(i) of the Act, which was patently wrong. He added that since the appellant was the senior-most officer in BPS-20 and was also eligible in all respects for promotion to BPS-21, therefore, he could not have been deprived of legitimate right of his promotion without any cogent reason. It is further his grievance that respondent No.5's promotion to BPS-21 was also in violation of rules and regulations as he had not done the NIPA Course from the staff college, which was a mandatory requirement for promotion to grade 21; that since promotion of PCS (Executive Group) comes within the purview of non-selection post therefore, it was to be made on the basis of seniority-cum-fitness and thus the impugned order of respondent No.4 was against the law, rules and policy.

4. Qazi Muhammad Anwar, learned Sr. ASC, appearing for respondent No.5, on the other hand, while vehemently controverting the contentions raised by the learned counsel for the appellant, has submitted that question of eligibility for promotion of the respondent No.5 was never raised before the Tribunal and only his promotion to BPS-21 was challenged which being not within the jurisdiction of the N.-W.F.P. Service Tribunal, under section 4(b)(i) of the Act, the appeal filed by the appellant was rightly dismissed. He maintained that since the posts in grade 21 and above were selection posts, therefore, it could not have been filed on the basis of seniority-cum-fitness. While controverting the contention of the learned counsel for the appellant that respondent No.5 had not done the NIPA Course, he submitted that since respondent No.5 had served for one year as head of NIPA Specialized Training Institution, therefore, he was rightly exempted by the competent authority and thus was eligible for promotion to grade 21. Learned counsel added that appellant as well as respondent No.5 were considered by the Board and since appellant was not found fit for promotion he was superseded.

5. We have given our anxious consideration to the respective contentions of the learned counsel for the parties and have also perused the record of the case with their assistance, minutely.

6. As regard the first contention raised by the learned counsel for the appellant that since very eligibility of respondent No.5 for promotion to the next higher grade was disputed as compared to the appellant, therefore, the learned Tribunal could not have declined to exercise jurisdiction by bringing the matter under section 4(b) (i) of the Act, it may be pointed out here that eligibility for promotion and fitness for promotion are distinct and separate from each other. Eligibility relates to the terms and conditions of service, whereas fitness for promotion is a subjective evaluation on the basis of objective criteria, where substitution for opinion of the competent authority is not possible by that of a Tribunal or a Court hence, neither eligibility to promotion can be equated with promotion nor prospects of promotion can be included in terms and conditions of service. It is well settled that though eligibility for promotion of a civil servant can be subjected to judicial scrutiny by the Service Tribunal as it relates to terms and conditions of a civil servant yet, the question of fitness of a civil servant for promotion is barred from its jurisdiction under section 4(b) (i) of the N.-W.F.P. Service Tribunals Act, which reads as follows:--

"4. Appeal to Tribunals

(a) ...

(b) No appeal shall lie to a Tribunal against an order or decision of a departmental authority determining:

(i) the fitness or otherwise of a person to be appointed to a higher post or grade:

In a number of judgments, it has been repeatedly laid down by this Court that though the question of eligibility relates to the terms and conditions of service and therefore, would fall within domain of the Tribunal yet, the question of fitness of a civil servant for promotion is barred from the jurisdiction of the Tribunal. Reference in this regard may usefully be made to the following reported judgments:--

- (i) Muhammad Anis and others v. Abdul Haseeb and others (PLD 1994 SC 539)
- (ii) Muhammad Iqbal v. Executive District Officer (Revenue) (2007 SCMR 682)
- (iii) Syed Abdul Qadir Shah v. Government of Punjab (1972 SCMR 323)
- (iv) Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (1991 SCMR 1129)
- (v) Muhammad Akram and others v. The State and others (1996 SCMR 324)

No doubt it has also been, in some cases including (i) Muhammad Anis (supra), (ii) Muhammad Rehman Khan v. Chief Secretary, N.-W.F.P. and others (2004 PLC. (C.S) 62), (iii) Abdul Ghafoor, Supervisor/Inspector, NHA v. National Highway Authority and others (2002 SCMR 574), and (iv) Zafarullah Baloch v. Government of Balochistan and others (2002 SCMR 1056), laid down by this Court that when a civil servant was eligible for promotion but ignored and other eligible person was promoted then his appeal before the Service Tribunal would be competent, yet, in the instant case, since the appellant had failed to show that respondent No.5 was ineligible for promotion, therefore, the learned Tribunal had rightly declined to interfere with the order of the departmental authority. Needless to point out that though consideration for promotion is a right yet, the promotion itself cannot be claimed as of right. Record reveals that the cases of both the appellant as well as respondent No.5 were thoroughly considered by the Selection Board and since respondent No.5 was found fit for promotion, therefore, his name was recommended. The contention therefore, is devoid of force.

7. As to the next contention that since respondent No.5 had not done the NIPA course, therefore, he could not have been considered for promotion, it may be pointed out here that no doubt under the policy of the Federal as well as the Government of N.-W.F.P. contained in letter No.SOR-I(S and GAD)I-173/94, every officer of the All Pakistan Unified Grade has to attend a regular training course at the National Institute of Public Administration, before he is considered for promotion to a post in B-20 and likewise, officers are required to attend the specified course at the Pakistan Administrative Staff College, Lahore, yet in terms of letter No.10(5)91-CP-I, dated 8th May, 1991, certain officers are exempted from such training. It would be advantageous to have a glance at the letter in question which reads as follows:--

"Government of Pakistan
Cabinet Secretariat
Establishment Division

No.10(5)91-CP-I

Islamabad, the 8th May, 1991

OFFICE MEMORANDUM

PROMOTION POLICY-EXEMPTION FROM NIPA AND STAFF COLLEGE/NDC COURSE.

The undersigned is directed to refer to this Division's d.o. letter No.10(10)85-CP-I, dated the 15th May, 1985 on the above subject and to say that apart from those who have crossed the age of 56 years, training requirement of NIPA/PASC/NDC can only be waived for the following categories of officers:--

- (i) From promotion to BPS-20--those who have served on directing staff in BPS-19 for 2 years in NIPA, Staff College, NDC, Civil Services Academy and the specialized training institutions imparting training to officers in BPS-17 and above.
- (ii) For promotion to BPS-21--those who have served on directing staff in BPS-20 for two years in the Staff College, NDC, NIPA and Civil Services Academy or have served for one year as head of NIPA/specialized training institutions imparting training to officers in BPS-17 and above.

(Ashiq Hussain)
Section Officer (CP-I)
Tele:828610
1. All Ministries/Divisions,
Rawalpindi/Islamabad
2. All Chief Secretaries of

Provincial Governments."

A bare perusal of the above letter particularly latter part of clause (ii) indicates that those officers who had served for one year as Head of NIPA/specialized training institution imparting training to officers in BPS-17 and above, are exempted from the training requirement of NIPA, hence the respondent No.5 having served as such, his eligibility towards promotion was never under jeopardy. This contention too, therefore has no force.

8. Adverting to the next contention of the learned counsel for the appellant that, since promotion to PCS (EG) comes within the purview of non-selection post therefore, it had to be made on seniority-cum-fitness basis, it may be noted here that where posts carrying basic pay scale 18 or below as non-selection posts and promotion to those posts is to be processed by the Departmental Promotion Committees on the basis of seniority-cum-fitness, as per clause 1 of Heading II of the Guidelines for Departmental Promotion Committees/Central Selection Boards, (at page 234) under Sl. No.154, contained in the ESTACODE, 2000 Edition (hereinafter referred to as the "Code"), the posts in basic pay scale 19 or higher are selection posts and promotion to these posts are to be processed through the Central Selection Boards. In the order to, ensure that selection by these Boards does not amount to a mere elimination of the unfit it is further provided in clause 2 of the above guidelines that the Establishment Division must place a larger panel of eligible officers before the Board depending on the availability of eligible officers in a cadre. It is further the requirement of clause 3 thereof that, for selection posts "quality and output of work" and "Integrity" in all the ACRs recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in the Addendum and those marks shall be a crucial factor in determining comparative merit of officers for promotion to selection posts. Here it would be advantageous to have a glance at the above guidelines which reads as follows:--

"II. Promotions on Seniority-cum-Fitness Basis

1. Posts carrying basic pay scale 18 or below are non-selection posts. Promotions to these posts are to be processed by the DPCs on the basis of seniority-cum-fitness. Fitness would be assessed primarily on the officer's work in the lower post.

III. Promotion to Selection Posts.

1. Posts in basic pay scale 19 or higher are selection posts. Promotions to these posts are to be processed through the Central Selection Boards:

2. In order to ensure that selection by these Boards does not amount to a mere elimination of the unfit the Establishment Division shall place a larger panel of eligible officers before the Boards. Depending on the availability of eligible officers in a cadre, the number of officers to be included in the panel shall be as follows:

(a) for promotion to supervisory posts	A minimum of 2 officers for every vacancy.
(b) For promotion to middle and senior management posts.	A minimum of 3 officers for every vacancy.

3. For selection posts, entries under "quality and output of work": and "Integrity" in all the ACRs recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in the Addendum. These marks shall be a crucial factor in determining comparative merit of officers for promotion to selection posts."

Another relevant fact which cannot be lost sight of is that the posts carrying basic pay scale 21, against one of which the appellant lays a claim, fall in senior management, involving important policy-making or extensive administrative jurisdiction and therefore, in addition to the circulation value and variety of experience the incumbents must possess proved analytical competence, breadth of vision, emotional maturity and such other qualities as determine the potential for successfully holding posts in top management and since the potential cannot be adjudged by mathematical formula; therefore selection Board is required to apply its collective wisdom to determine the same. Clause 6 of the said guidelines at page 238 of the Code is explicit in this regard, which is reproduced herein below in extenso:--

"6. Posts carrying basic pay scale 21 fall in senior management involving important policy-making or extensive administrative jurisdictions. In addition to the circulation value and variety of experience the incumbents must

possess proven analytical competence, breadth of vision, emotional maturity and such other qualities as determine the potential for successfully holding posts in top management. This potential cannot be judged by mathematical formula. The Selection Board will have to apply its collective wisdom to determine the same. A civil Servant must fulfil the following conditions for promotion to senior management post:--

(a) Qualifying Service.--Possess 22 years service as an officer subject to the provisions contained in Establishment Division's O.M. No.1/9/80-R-II (A), dated 2-6-1983.

(b) Eligibility threshold.--Attain a minimum score of 70 marks in CRs in accordance with the formula given in the Addendum.

(c) Qualifications.-- As are prescribed by relevant recruitment rules.

(d) Relevance of Experience.--Possess experience relevant to the functions of the post being filled by promotion.

(e) "Quality and Output of Work" and "Integrity" marks calculated in accordance with the formula in the Addendum shall be a crucial factor in determining the comparative merit of an officer.

(f) Variety of Experience.--The Selection Board should give careful consideration to the nature of duties, duration and location of posts previously held by the officer. At this level, a proper assessment under the criterion may require some distinction between hard or taxing assignments (on account of work load or its complexity) viz-a-viz relatively routine duties particularly in the secretariat. Depending on the posts to be filled, an officer possessing well rounded experience with adequate exposure to difficult assignments should normally be preferred.

(8) Training.--should have successfully completed a regular course at the Pakistan Administrative Staff College / National Defence College. This requirement will be waived for officers who:

(i) have served as head of a training institution for at least one year; or

(ii) have served on the directing staff of a training institution for at least two years; or

(iii) have exceeded the age of 56 years.

(h) Top Management Potential.--Since officers promoted to this level may be called upon to hold independent charge of a Ministry/Division or to head a major corporation, the Board should satisfy itself about the officer's maturity, balance and ability to assume such top management positions even at short notice.

9. In the wake of above, it thus follows that where promotion to posts carrying basic pay scale 18 or below is to be made on the basis of seniority-cum-fitness, promotion in case of selection posts i.e. BPS-19 and above is to be made on the basis of "fitness-cum-seniority" meaning thereby that in the earlier case, i.e. BPS-18 and above seniority would be considered first and fitness of the employ would be adjudged later, whereas, contrary thereto, in the case of selection posts i.e. BPS-19 and above, fitness of an employee would be adjudged first and his seniority would be considered later, for instance, if two equally fit employees are selected by the Board then senior amongst them would be given preference. Needless to point out that since the instructions contained in the ESTACODE have the force and effect of rules, by virtue of subsection (2) of section 25 of the Civil Servants Act, 1973 as has been held by this Court in the cases of (i) Secretary to the Govt. of the Punjab v. Abdul Hamid Arif and others (1991 SCMR 628) and (ii) Muhammad Yousaf and others v. Abdul Rashid and others (1996 SCMR 1297), therefore, this contention too, has no force.

10. Upshot of the above discussion is that this appeal being misconceived in hereby dismissed.

22/1/2020

سہ منجانب

مورخہ:

مقدمہ:

دعویٰ:

جرم:

بنام:

Shakeel
Siddiqui

ریٹائرمنٹ ٹرسٹرز ڈان مردان

سروس اسٹاپ باجاعت تحریر آفندہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے بیرونی وجوہات دہی وکل کاروائی متعلقہ

آج کے مقام کیلئے امجد علی ایڈووکیٹ، سپریم کورٹ آف پاکستان (مردان)

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ

برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر

دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی کرنے کا

اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ

التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

المرقوم:

22 مارچ 2020ء

2020ء

العبد

گواہ

العبد

بمقام امجد علی ایڈووکیٹ کے لیے منظور ہے۔

Attest & Accept
Amjad Ali
Advocate Murad

امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان، ڈسٹرکٹ کورٹس، مردان

0321-9882434 0321-9870175

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No. Shakeel 533 of 20 20

Appellant/Petitioner
Additional Commissioner Mardan

Respondent
Additional Commissioner Mardan. Division Mardan.

Regd

Notice to: —

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... 1/5

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20 ..



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 533 of 20 20

Shakeel

Appellant/Petitioner

Additional Commissioner Mardan
Versus Respondent

Respondent No. 2

Deputy Commissioner Mardan

Regd

Notice to: -

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 18/8/2020 at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 1st

Day of July 20 20

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

S.B

Appeal No..... 533 of 20

20

Shakeel Appellant/Petitioner

Versus

Additional Commissioner Respondent

Respondent No.....

Regd

Notice to: -

Departmental Promotion Committee
through its Chairman Deputy

WHEREAS an appeal/petition under the provision of the North West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... at 8.00 A.M. If you wish to urge anything against the appellat/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of..... 20

July 20

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

533

20

Appeal No. Shakeel of 20

Appellant/Petitioner

Additional Commissioner

versus

Respondent

Fitness Test Committee through its
Chairman / Assistant Commissioner
Mardan.

Notice to: —

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated 1th

Given under my hand and the seal of this Court, at Peshawar this

Day of 20

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 533 of 20 20

Shakeel Appellant/Petitioner
Versus

Additional Commissioner Maydan Respondent

Respondent No. 5

Recd

Notice to: AJmeer Khan s/o Khushmish Khan
village Mayas Tehsil & Distt: Mayas
Naib Deputy Commissioner Office Mar

WHEREAS an appeal/petition under the provision of the North West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 18/7/20 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. _____ dated _____

Given under my hand and the seal of this Court, at Peshawar this 1st

Day of July 20 20

[Signature]
Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. S.B

No.

APPEAL No..... S33 of 20 20

Shakeel

Appellant/Petitioner

Read

Versus

Additional Commissioner Mardan

RESPONDENT(S)

Notice to Appellant/Petitioner

Shakeel Junior clerk Deputy

Commissioner Office Mardan

Resident CF Sowasyan (Tobu)

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 6/4/2021 at 9: am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

APPEAL No. *533* of 20 *20*

Shakeel

Appellant/Petitioner

Recd

Versus

Additional Commissioner Mardan.

RESPONDENT(S)

Notice to Appellant/Petitioner

counsel

Amjad Ali Mardan
Supreme court Advocate

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *6/9/2021* at *9. am.*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 533 of 20 20

Recd

Shakrel Appellant/Petitioner

Versus

Additional Commissioner Mardan Respondent

Respondent No. 1

Notice to:

Additional Commissioner Mardan
Division Mardan.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 6/4/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached.~~ Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 22/5

Day of Feb 20 21

(for Reply)



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 533 of 20 20

Shakeel Appellant/Petitioner

Versus

Additional Commissioner Mardan Respondent

Respondent No. 2

Notice to:

Deputy Commissioner Mardan.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 6/4/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.dated.....

Given under my hand and the seal of this Court, at Peshawar this 22.4.21

Day of Feb 20 21

(for Reply)

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. *S.B*

No.

Appeal No. *533* of 20 *20*

Shakool Appellant/Petitioner

Versus

Additional Commissioner Mardan Respondent

Respondent No. *6*

Notice to:

*Fitness Test Committee through its
Chairman/Assistant Commissioner
Mardan.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on *6/7/2021* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached.~~ Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this *20/5*

Day of *Feb* 20 *21*

(for Reply)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Appeal No. *533* of 20 *20*

Shakeel Appellant/Petitioner

Versus

Additional Commissioner Masdon Respondent

Respondent No. *3*

Recd

Notice to:

*Departmental Promotion Committee
through its chairman Deputy
Commissioner Masdon*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on *6/4/2021* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*22/2/21*

Day of.....*Feb*.....20 *21*

(for Reply)

[Signature]
Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.