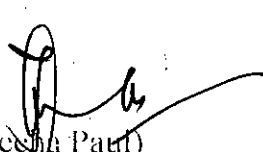



12th Oct, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Sagheer Musharraf, AD for official respondents No. 1 to 3 and counsel for private respondents No. 4 to 6 present.

2. After hearing the learned counsel for the appellant, learned Additional Advocate General for official respondents and learned counsel for private respondents, a consensus was developed that as the impugned seniority list dated 04.12.2019 was issued and notified without providing opportunity of hearing to the appellants, therefore, let this impugned seniority list be treated as tentative seniority list and department be directed to invite objections within thirty days from the date of this order from all the persons on the seniority list, where-after finalize list as soon as possible but not later than fifteen days thereafter. Disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 12th day of October, 2022.*


(Fareeha Parul)
Member(I)


(Kalim Arshad Khan)
Chairman

26th July 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Addl: AG alongwith Mr. Ahmad Yar Khan, AD for official respondents and junior to learned counsel for private respondents No. 5 and 6 present.

Learned counsel for private respondents No. 5 and 6 is not available. Learned counsel for the appellant t requested for extension of the interim injunction granted at the time of admission of appeal No. 4279/2020 of Khurshid Ali. Since all the matters are identical, therefore, stay granted at the time of admission of appeal is extended until orders to the contrary. To come up for arguments on 07.09.2022 before the D.B.



(Salah-Ud-Din)
Member (J)

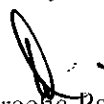


(Kalim Arshad Khan)
Chairman

07.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Sagheer Musharraf, AD for official respondents and private respondents No. 5 and 6 present.

Private respondents seeks adjournment on the ground that his learned counsel is not available today. Last opportunity is granted for arguments failing which the case will be decided without arguments. To come up for arguments on 12.10.2022 before D.B. Stay granted at the time of admission of appeal is extended until orders to the contrary.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

Execution Petition 3186/2020

12th Oct, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Saqheer Musharraf, AD for official respondents No. 1 to 3 and counsel for private respondents No. 4 to 6 present.

2. After hearing the learned counsel for the appellant, learned Additional Advocate General for official ^{respondents} and learned counsel for private respondents, a consensus was developed that as the impugned seniority list dated 04.12.2019 was issued and notified without providing opportunity of hearing to the appellants, therefore, let this impugned seniority list be treated as tentative seniority list and department be directed to invite objections within thirty days from the date of this order from all the persons on the seniority list, where-after ^{prompt} finalize the list as soon as ^{thereafter} but not later than fifteen days, Disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 12th day of October, 2022.*

(Farecha Paul)
Member(I)

(Kalim Arshad Khan)
Chairman

2009 Act

"A"

(Annex - 1)

THE ¹[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(²[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)

CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement.
2. Definitions.
3. Regularization of services of certain employees.
4. Determination of seniority.
- 4A. Overriding effect.
5. Repeal.

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011



**THE ³[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(⁴[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)**

[First published after having received the assent of the Governor of the ⁵[Khyber Pakhtunkhwa] in the Gazette of ⁶[Khyber Pakhtunkhwa] (Extraordinary), dated the 24th October, 2009]

**AN
ACT**

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.---(1) This Act may be called the ⁷[Khyber Pakhtunkhwa] Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the ⁸[Khyber Pakhtunkhwa] Public Service Commission;
- (aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;
- (b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁸Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (c) "Government" means the Government of the ⁹[Khyber Pakhtunkhwa];
- (d) "Government Department" means any department constituted under rule 3 of the ¹⁰[Khyber Pakhtunkhwa] Government Rules of Business, 1985, and does not include any section of a Department or an organization which is federally funded;
- (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
- (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions "ad hoc or contract appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the ¹¹[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (¹²[Khyber Pakhtunkhwa] Act No. XVIII of 1973).

3. **Regularization of services of certain employees.**---All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of seniority.**---(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

⁹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹⁰Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. **Overriding effect.**---Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. **Repeal.**---The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

24.09.2021

Junior to counsel for appellant present.

Javid Ullah learned A.A.G for official respondents present.
Private respondents No.4 to 6 present.

Former made a request for adjournment as senior counsel is not available today. Request is accorded. To come up for arguments on 29.11.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

8-3-22

*Due to retirement of the Hon'ble Chairman
the case is adjourned to come up for the
same as before on 27-6-22*

*ofsted
Reader*

27.06.2022

Appellant in person present. Mr. Muhammad Hussain, Assistant Director (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 4 present. Private respondent No. 5 in person present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 26.07.2022 before the D.B.




(Rozina Rehman)
Member (J)




(Salah-ud-Din)
Member (J)

25.06.2021

Appellant alongwith his counsel Mr. Ansar Ullah, Advocate, present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Private respondents No. 4 to 6 present and requested for adjournment on the ground that their counsel is busy in the august Supreme Court of Pakistan. Adjourned. To come up for arguments before the D.B on 02.08.2021.

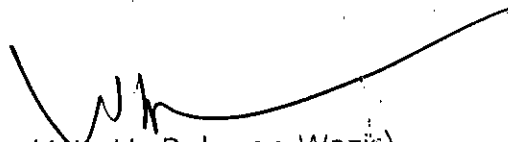

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

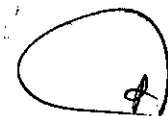

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

02.08:2021

Learned counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Private respondents No. 4 to 6 present and requested for adjournment on the ground that their counsel is being indisposed and unable to attend the Tribunal today. Last chance is given. To come up for arguments on 24.09.2021 before D.B.

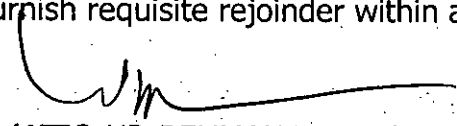

(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

28.01.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Ahmed Yar, Assistant Director for official respondent No. 1 to 3 and private respondents No. 4, 5 & 6 in person present.

Former requests for time to submit rejoinder to the reply(ies) submitted by the official as well as private respondents. Instant matter is adjourned for arguments on 26.02.2021 before D.B. The appellant may furnish requisite rejoinder within a fortnight.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)


(HAMID FAROOQ DURRANI)
CHAIRMAN

26.02.2021

Due to Pandemic of Covid-19, the case is adjourned to 29.03.2021 for the same.



Reader


29.03.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former submitted rejoinder with a request for adjournment; granted. To come up for arguments on 25/06/2021 before D.B.



(Atiq ur Rehman Wazir)
Member (E)

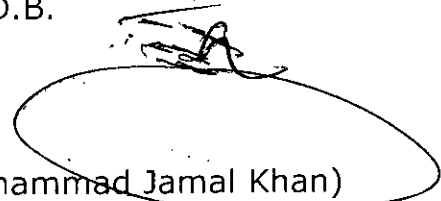

(Rozina Rehman)
Member (J)

13.10.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney for official respondents No. 1 to 3 and counsel for private respondents No. 4 to 6 are also present.

Appellant submitted that his counsel is not available today and requested for adjournment. Adjourned to 09.11.2020 on which to come up for rejoinder and arguments before D.B.

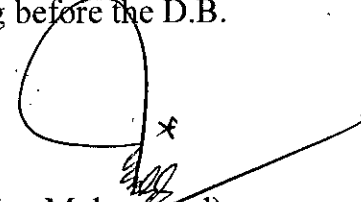

(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

09.11.2020

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents and private respondent No. 5 and 6 in person present.

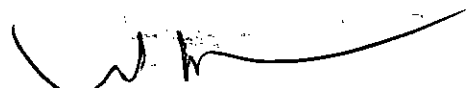
The Bar is observing general strike, therefore, the matter is adjourned to 18.01.2021 for hearing before the D.B.

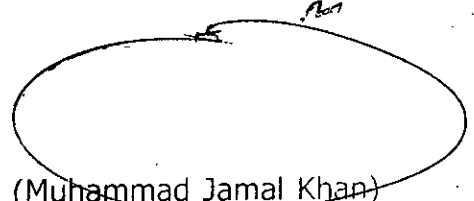

(Mian Muhammad)
Member (E)

18.01.2021

No one is present on behalf of appellant despite having been called time and again and last call was made on 03:05 P.M. Mr. Asif Masood Ali Shah learned Deputy District Attorney and Mr. Samiullah AD, for respondents are present.

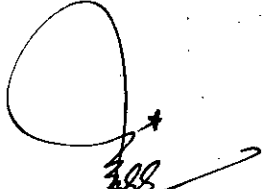
In the circumstances we deemed it appropriate to issue appellant and his respective counsel with notice for 28.01.2021. File to come up for arguments before D.B.


(Atiq-ur-Rehman Wazir)
Member (E)


(Muhammad Jamal Khan)
Member (J)

24.06.2020

Counsel for the appellant present. Addl:AG alongwith for official respondents No. 1 to 3 and counsel for private respondents No. 4 to 6 present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on main appeal as well as reply/arguments on application for suspension of the impugned seniority list on 08.07.2020 before S.B.


MEMBER

08.07.2020

Counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Ahmad Yar Assistant Director for official respondents No.1 to 3 present. Counsel for private respondent No.4 to 6 present.

Written reply on behalf of respondents submitted. To come up for rejoinder, if any, and arguments on 05.08.2020 before D.B.


Member (J)

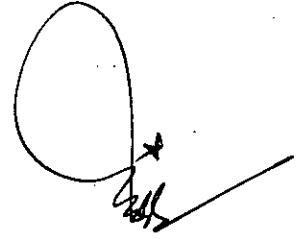
05.08.2020

Due to summer vacation case to come up for the same on 13.10.2020 before D.B.


Reader

02.06.2020

Learned counsel for the appellant present. Addl: AG for respondents present. Written reply not submitted. Learned AAG requested for adjournment. Fresh notices be issued to the respondents for submission of written reply/comments on main appeal as well as written reply on stay application on 16.06.2020 before S.B.



(MIAN MUHAMMAD)
MEMBER

16.06.2020

Counsel for the appellant and Mr. Riaz Ahmad Pindakheil, Assistant AG alongwith Mr. Sagheer Musharaf, Assistant Director on behalf of official respondents present. Syed Noman Ali Bukhari, Advocate on behalf of private respondents No. 5 & 6 present and submitted Vakalatnama. Learned counsel for private respondents No. 5 & 6 was asked to argue the application for suspension of the impugned seniority list submitted by the appellant but he requested for a short date for arguments on the same. Learned counsel for private respondents No. 5 & 6 is strictly directed to argue the suspension application on the next date positively. To come up for written reply/comments on main appeal as well as reply/arguments on application for suspension of the impugned seniority list on 24.06.2020 before S.B.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


07.05.2020

Learned counsel for the appellant present. Preliminary arguments heard.

It was contended by learned counsel for the appellant that the appellant was serving in Population Welfare Department as District Population Welfare Officer. It was further contended that as per seniority list dated 04.05.2018, the appellant was shown senior than private respondents No.5 and 6 but later on the respondent department without any notice to the appellant, prepared another seniority list dated 04.12.2019 wherein the respondents were shown senior to the appellant. It was further contended that the appellant filed departmental appeal on 20.12.2019 but the same was not responded, hence the present service appeal. It was further contended that the appellant and private respondent were appointed in the year 2009 and since that time, the appellant was shown senior to the private respondent but in the impugned seniority list dated 20.12.2019, the respondent department have illegally shown the private respondent senior to the appellant therefore the impugned seniority list is illegal and liable to rectification.

Contention raised by the learned counsel, need consideration. The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 18.05.2020 before S.B

Learned counsel for the appellant also submitted application for suspension of the impugned seniority list. Notice of the same be issued to the respondents for 18.05.2020.


(M. AMIN KHN KUNDI)
(MEMBER-J)

18.05.2020

Appellant alongwith his counsel present. None present on behalf of the respondents, therefore notice be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 02.06.2020 before S.B.


(M. AMIN KHN KUNDI)
(MEMBER-J)

Appellate
Security Deposited
Process Fee

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.-

3186

/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/04/2020	<p>The appeal of Muhammad Tariq Khan submitted today by Mr. Muhammad Zafar Tahirkheli, Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p><i>[Signature]</i> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>30.4.2020</u></p> <p><i>[Signature]</i> MEMBER</p>
	30.04.2020	<p>None is present on behalf of the appellant. Notices be issued to appellant and his counsel for preliminary argument on 07.05.2020 before S.B.</p> <p><i>[Signature]</i> (M. AMIN KHAN KUNDI) (MEMBER-J)</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. 3186 /2020

Muhammad Tariq Khan

Vs

Chief Secretary etc

=====

I N D E X

S.No	Particulars	Annexure	Pages
1	Memo of Petition		1-5
2	Application for Interim Relief		6
3	Impugned Seniority List	"A"	7-13
4	Departmental Appeal	"B"	14-16
5	Notification Dated 12-06-2009	"C"	17-20
6	Notification Dated 29-03-2010	"D"	21-22
7	Notification Dated 24-07-2018	"E"	23
8	Minutes of Meeting Dated 15-11-2019	"F"	24-28
9	Minutes of meeting dated 28-10-2019	"F1"	29-31
10	Service Appeals No. 223/224	"G"&"G1"	32-35
11	Orders Dated 12-11-2019 & 09-12-2019	"G2"	36
12	Notifications Dated 19-10-2017	"H"&"H1"	37-38
13	Notifications Dated 08-07-2019 & 12-07-2019	"I"&"I1"	39-40
13	Seniority List Dated 04-10-2017	"J"	41-50
14	Seniority listed dated 04-05-2018	"J1"	51-54
15	Vakalat nama		55

Peshawar, dated
20-04-2020


(MUHAMMAD ZAFAR TAHIRKHELI)
Advocate


(Ansar Ullah Khan)
Advocate



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT.
REGULATION WING

Dated: 05.12.2017

NOTIFICATION

No.SO(Policy)/E&AD/1-16/2017. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)I-3/2008 dated 28.1.2009, the following amendments shall be made, namely:-

AMENDMENTS

1. The following words (in italic form) shall be added after the word and dot "PER." appearing in the 3rd line of sub-para (a) of para IV:

"The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."

2. After sub-para (h) of para IV the following sub-para (i) shall be inserted:

"the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:

- (i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.
- (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
- (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
- (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy".

3. Para II (b) shall be substituted as follow:

"(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory."

4. The clause (i) of sub-para (a) of para V shall be deleted and the next below clause (ii) and (iii) shall be re-numbered as (i) and (ii). In sub-para (b) of Para V the word **three** shall be substituted with the word **"two"**.

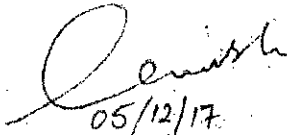
Sd/-

Secretary to Government of Khyber Pakhtunkhwa
Establishment Department

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.
11. The Registrar Peshawar High Court, Peshawar.
12. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
13. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
14. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.


05/12/17
(BEENISH IQBAL)
SECTION OFFICER (POLICY)

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. 3186 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2517

Muhammad Tariq Khan,
District Population Welfare Officer Nowshera.

Dated 21-4-2020

.....Appellant

VERSUS

1. Secretary, Population Welfare Department, Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Director General, Population Welfare Department, Khyber Pakhtunkhwa, Population Welfare Complex, Plot No. 18, Sector E6, Phase VII Hayatabad Peshawar.
3. Progress Review Committee, through its Chairman, Additional Secretary Population Welfare Department Civil Secretariat, Peshawar.
4. Mr. Kashif Fida, Assistant Director Admin (Representative of DG, PW) Population Welfare Complex, Plot No. 18, Sector E6, Phase VII Hayatabad Peshawar.
5. Mr, Sami Ullah, District Population Welfare Officer Charsadda.
6. Mr. Sana Ullah, Deputy District Population Welfare Officer, Charsadda.

.....Respondents

=====

**SERVICE APPEAL U/S 4 OF NWFP SERVICE TRIBUNAL ACT, 1974,
AGAINST THE IMPUGNED SENIORITY LIST DATED 04-12-2019 OF
ASSISTANT DIRECTORS / TPWO'S / DDPWO'S (NON TECH) / DDAO'S
(BPS-17) POPULATION WELFARE DEPARTMENT. (Annex "A"),
WHEREIN THE DEPARTMENTAL APPEAL OF THE
APPELLANT DATED 20-12-2019 (Annex "B") WAS NOT DECIDED
TILL THE LAPS OF STATUTORY PERIOD OF LIMITATION.**

=====

Filed to-day

Registrar

21/4/2020

PRAYER: Allowing the appeal by setting aside the impugned Seniority List dated 04-12-2019, and restoring the correct seniority of the appellant by placing him at serial No. 02 of the impugned Seniority List of Assistant Directors, Population Welfare Department Peshawar.

=====

RESPECTFULLY SHEWETH,

1. That the appellant being qualified and eligible was initially appointed as Assistant Director as Tehsil Population Welfare Officer (BPS-17) on ad-hoc basis, wherein the appellant was placed at S. No. 9 of the appointment order dated 12-06-2009. **(Copy Annexed "C")**
2. The appellant's services were regularized in pursuance of Regularization of Services Act No. XVI of 2009, notified on 29-03-2010, wherein the appellant was also placed at S. No. 9 of the list. **(Copy Annexed "D")**

3. That respondents No. 05 & 06 filed a service appeals No. 223/2018 and 224/2018, before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, wherein they requested for correction of the seniority list of Assistant Directors Population Welfare Officers, Population Welfare Department Peshawar, as it stood on 04-10-2017 and further requested that their names may be placed at S, No. 25 of the list.
4. That the matter remain sub-judice before the Hon'ble Service Tribunal and was fixed for final order on 09-12-2019. However before its logical conclusion, a Departmental Progress Review Committee was constituted vide letter dated 24-07-2018, wherein its meeting was held on 28-10-2019 followed by 15-11-2019 under the Chairmanship of Additional Secretary, Population Welfare Department Peshawar, wherein the departmental appeals of respondents No. 05 & 06 were arbitrarily accepted by a one sided decision. **(Copy Annexed "E" to "F1")**
5. That in pursuance of the findings of Progress Review Committee vide its minutes of meeting dated 15-11-2019, the impugned seniority list dated 04-12-2019 was issued, wherein both Mr. Sami Ullah and Sana Ullah were placed senior to the appellant without any logical explanation. Resultantly both the Service Appeals No. 223 & 224 / 2018 were withdrawn vide order dated 19-12-2019. **(Copy Annexed "G" "G1" & "G3")**
6. That in pursuance of the decision of the Progress Review Committee vide its minutes of meeting dated 15-11-2019, the impugned Seniority List dated 04-12-2019 (Annex "A") was issued. The Seniority List was challenged by the appellant through departmental appeal dated 20-12-2019 (Annex "B"), which was not decided by the respondent department till laps of statutory period of limitation.
7. Feeling aggrieved and finding no other remedy, the appellant has been constrained to approach the Hon'ble Service Tribunal for the redress of his grievance, inter-alia, on the following,

Grounds;

- a. The impugned Seniority List was issued in haste, without considering the material facts on record or issuing a prior notice to the appellant.

The impugned action being ultra-virus of the law and the rules, discriminatory, arbitrary, malafide and without lawful authority, it is liable to be set right by this Hon'ble Tribunal.
- b. It is worth mentioning that the entire process was conducted surreptitiously without even noticing the appellant. The seniority list as it stood on 04-10-2017 was illegally altered and the appellant was arbitrary placed junior to respondents No. 05 & 06, while placing him at serial No. 10 instead of his original seniority to position at serial No. 02.
- c. That the Progress Review Committee/Dispute Resolution Committee had completely exceeded its mandate and authority while granting the relief to respondents No. 05 & 06, during the pendency of their service appeals before the Hon'ble service tribunal. The dispute Resolution Committee was thus qorum non judice and had no authority to alter the Seniority List while the service appeals were pending adjudication.

d. That the appellant is serving as Additional Director BPS-17 and for resolving disputes of civil servants in **BPS- 16 & above**, a **Provincial** Dispute Resolution Committee was constituted under the Chairmanship of Additional Chief Secretary: P&D, vide notification dated 19-10-2017 detailed as under;

- | | |
|--|-----------|
| 1. Add 1: chief Secy: P&D Department | chairman |
| 2. Secretary Establishment Department | Member |
| 3. Secretary Finance Department | Member |
| 4. Secretary Law Department | Member |
| 5. Secretary of the concerned Department | Secretary |

That another committee under the Chairmanship of Administrative Secretary for resolving the matters relating to civil service in BPS-03 to 15 was also notified on 19-10-2017. The population welfare department acknowledged the notifications and constituted committee vide notification dated 12-07-2019, wherein the TOR's of the committee were settled as under;

- i. **To resolve court cases other than disciplinary matters related to the terms and conditions of Civil Servants in BS-03 to BS-15.**
- ii. **To review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and make appropriate recommendations to the Provincial Committee.**
(Copies Annexed "H" & "H1")

e. That the constitution of such committees detailed in notification dated 19-10-2017 was circulated to all Administrative Secretaries of Government Khyber Pakhtunkhwa vide letter dated 08-07-2019. In pursuance of notification dated 19-10-2017, Population Welfare Department constituted its own Dispute Resolution Committee vide notification dated 12-07-2019. **(Copies Annexed "I" & "I1")**

f. The clear mandate of the Dispute Resolution Committee constituted by the Population Welfare Department Peshawar was to resolve the disputes relating to terms and conditions of Civil Servants in BPS-03 to 15 only.

The services of the appellant, fall within the category of Civil Servants in **BPS-16 and above**, wherein the mandate of the Departmental Committee was to review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and **make appropriate recommendations to the Provincial Committee.**

g. The minutes of meeting dated 15-11-2019 regarding acceptance of departmental appeals of respondents No. 05 & 06 was thus not only illegal and unlawful, but was also beyond the mandate and competence of Departmental Committee, hence void ab-initio.

h. The decision of committee vide meeting held on 15-11-2019, was partial and the appellant was never called upon through any prior notice while on the other hand two pleaders from the complainants side appeared and assisted the committee. This shows the complete bias of the committee, which subjected the appellant to arbitrary treatment intentionally, with a malafide intent, subject to correction by the worthy Tribunal.

4

- i. That, above all, the term "**continuous officiation**" defined in section 4(2) of the Khyber Pakhtunkhwa (Regularization of Services Act, 2009) is a matter of interpretation of the Honorable Tribunal and the representative of the DG PWD, Mr. Kashif Fida, respondent No. 04 has failed to interpret the same.

Such statement of the DG PWD, Mr. Kashif Fida, respondent No. 04 has created serious doubts regarding his impartiality, calling for interference by the worthy Tribunal.

- j. That the date of appointment of the appellant vide the regularization act dated 12-06-2009 (Annex "D") is his actual date of continuous officiation, hence in such case age factor will be considered for seniority according to section 4(2) of the act, which was completely ignored.

- k. It is worth mentioning that the appellant is placed at S. No. 22 of the seniority list dated 04-10-2017. Similarly he was placed at S. No. 11 of the seniority list dated 04-05-2018. The officials placed at serial No. 1 to 09 of the seniority list date 04-05-2018 have already been promoted to next higher scale.

The appellant was required to be placed at S. No. 2 of the seniority list of Assistant Directors, Population Welfare Department, Khyber Pakhtunkhwa, but has been discriminated to accommodate the blue eyed. (**Copy Annexed "J" & "J1"**)

- l. The impugned seniority list dated 04-12-2019 is thus illegal, unlawful, collusive ineffective upon the rights of the appellant and subject to correction.

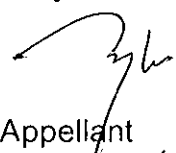
The impugned action is thus arbitrary, discriminatory, against the principles of equity law, justice and propriety, calling for correction of the appellant's original seniority circulated by seniority list date 04-10-2017.

The appellant seeks leave of the worthy Tribunal to be allowed to relay on additional ground at the time of final arguments.

Prayer:

In view of the above, it is, therefore, humbly requested that by accepting this department appeal the impugned seniority list dated 04-12-2019 may kindly be set aside and the original and correct seniority of the appellant may kindly be restored by placing him at serial No. 02 of the seniority list of Assistant Director Population and Welfare Department Peshawar.

Any other relief deemed appropriate may also be granted in addition to relief claimed above.


Appellant

Through,


(MUHAMMAD ZAFAR TAHIRKHELI)
Advocate

Peshawar, dated
11-04-2020


(Ansar Ullah Khan)
Advocate

Affidavit

I, the appellant, do hereby state on Oath that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT



(6)

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. _____/2020

Muhammad Tariq Khan

Vs

Chief Secretary etc

=====

APPLICATION FOR INTERIM RELIEF

Respectfully Sheweth

1. That the above titled appeal is being filed before this Hon'ble Tribunal, in which date of hearing is yet to be fixed.
2. That the contents of the accompanying appeal may kindly be read as part and parcel of the present petition.
3. The Applicant has got a good prima facie case on merits and is sanguine about his success.
4. The Respondent department has altered the Seniority List of Assistant Directors without any intimation or prior notice to the appellant / applicant.

That a PSB is scheduled for promotion to next higher scale in population welfare department, which would seriously jeopardize the appellant's future prospects to be promoted to next higher scale. The promotion on the basis of a faulty Seniority List would be based on prejudice and would cause irreparable harm to the applicant.

5. The balance of convenience lies in maintaining the status-quo order, while restraining the Selection Board to make further promotions on the basis of impugned Seniority List.

It is therefore, most humbly prayed that the PSB scheduled for promotion to next higher scale in population welfare department may kindly be suspended/postponed till the final settlement of the seniority of the appellant / application.

Peshawar, dated
11th April, 2020



Through,

Applicant,

(MUHAMMAD ZAFAR TAHIRKHELI)
Advocate

Affidavit

I, the Applicant, state on Oath that contents of the above application are true and correct to the best of my knowledge and belief, and nothing has been kept concealed from this Hon'ble Tribunal.

DEPONENT

ANNEXURE A



GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

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Dated Peshawar the 04th December, 2019

NOTIFICATION

No. SOE (PWD) 4-30/2019: In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rules 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, with approval of the competent authority, final seniority list of Assistant Directors / Tehsil Population Welfare Officers / DDPWOs (Non-Tech) / Deputy Demographers and Accounts Officer (BPS-17) Population Welfare Department Khyber Pakhtunkhwa as stood on 04/12/2019 is hereby notified / circulated for general information of all concerned:-

S. No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
1	Mr. Saeedur Rehman, AD/DDPWO/TPWO	M.A (Pol. Sc)	10.05.1970	Shangla	13.06.2009 (adhoc basis)	--	13.06.2009	Initial	DPW Office, Shangla	As per decision of the Departmental Progress Review Committee taken in its meeting held on 15-11-2019, the inter-se seniority of adhoc employees has been revised and determined on the basis of continuous officiation in service (date of joining / arrival and age factor where applicable) as per contents of Section-4(2) of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 and advices of the Law and Establishment Departments as

No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
										well as judgment dated 12/03/2019 of the Khyber Pakhtunkhwa Services Tribunal in case of Mr. Zawar Hussain in Service Appeal No. 56/2018.
2	Mr. Samiullah Khan, AD/DDPWO/TPWO	M.A (Pol. Sc)	02.07.1979	Peshawar	13.06.2009 (ad hoc basis)	--	13.06.2009	Initial	DPW Office, Charsadda	-do-
3	Ms. Sidra Nisar, Dy. Demographer	M.Sc (Stats)	21.02.1985	Peshawar	13.06.2009 (ad hoc basis)	--	13.06.2009	Initial	DPW Office, Charsadda	-do-
4	Mr. Arafat Khan Afridi, AD/DDPWO/TPWO	M.A (Pol. Sc)	13.05.1977	Khyber Agency	15.06.2009 (ad hoc basis)	--	15.06.2009	Initial	Agency PW Officer	-do-
5	Mr. Sana Ullah, AD/DDPWO/TPWO	M.A (Pol. Sc)	15.09.1980	Charsadda	15.06.2009 (ad hoc basis)	--	15.06.2009	Initial	DPW Office, Charsadda	-do-
6	Mr. Fazal Azeem, AD/DDPWO/TPWO	MBA	25.06.1983	Charsadda	15.06.2009 (ad hoc basis)	--	15.06.2009	Initial	DPW office, Charsadda	-do-
7	Mr. Shahid Khan, AD/DDPWO/TPWO	M.A (Sociology)	10.04.1984	Malakand	15.06.2009 (ad hoc basis)	--	15.06.2009	Initial	DPW Office, Malakand	-do-
8	Mr. Bilal Khan Afridi, AD/DDPWO/TPWO	MBA	15.10.1986	Khyber Agency	15.06.2009 (ad hoc basis)	--	15.06.2009	Initial	DPW Office, Kohistan	-do-
9	Mr. Amjad Ali Khan, AD/DDPWO/TPWO	MBA	15.09.1976	Peshawar	16.06.2009 (ad hoc basis)	--	16.06.2009	Initial	DPW Office, Mardan	-do-
10	Mr. Muhammad Tariq Khan, AD/DDPWO/TPWO	M.A (Anthropology)	28.02.1975	Nowshera	17.06.2009 (ad hoc basis)	--	17.06.2009	Initial	DPW Office, Nowshera	-do-
11	Mr. Khurshid Ali, AD/DDPWO/TPWO	M.P.A.	01.02.1976	Chitral	17.06.2009 (ad hoc basis)	--	17.06.2009	Initial	DPW Office, Chitral	-do-
12	Mr. Asghar Khan, AD/DDPWO/TPWO	M.A (History)	05.02.1980	Mardan	17.06.2009 (ad hoc basis)	--	17.06.2009	Initial	DPW Office, Dir (Upper)	-do-
13	Mr. Iftikhar Ahmad, Deputy Demographer	M.Sc (Stats)	20.3.1976	Peshawar	18.06.2009 (ad hoc basis)	--	18.06.2009	Initial	DPW Office, Karak	-do-
14	Mr. Asif Mehmood, AD/DDPWO/TPWO	M.Sc (Chemistry)	20.04.1977	Karak	18.06.2009 (ad hoc basis)	--	18.06.2009	Initial	TPWO DPW Office, Karak	-do-
15	Mr. Ayat Ullah, Dy. Demographer	MSc. (Stats.)	20.09.1975	Nowshera	19.06.2009 (ad hoc basis)	--	19.06.2009	Initial	DPW Office, Swabi	-do-
16	Ms. Ruby Hashim, AD/DDPWO/TPWO	M.A (Anthropology)	28.11.1981	Mohmand Agency	20.06.2009 (ad hoc basis)	--	20.06.2009	Initial	DG, PW Office, Peshawar	-do-

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S. No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
										well as judgment dated 12/03/2019 of the Khyber Pakhtunkhwa Services Tribunal in case of Mr. Zawar Hussain in Service Appeal No. 56/2018.
2	Mr. Samiullah Khan, AD/DDPWO/TPWO	M.A (Pol. Sc)	02.07.1979	Peshawar	13.06.2009 (adhoc basis)	--	13.06.2009	Initial	DPW Office, Charsadda	-do-
3	Ms. Sidra Nisar, Dy. Demographer	M.Sc (Stats)	21.02.1985	Peshawar	13.06.2009 (adhoc basis)	--	13.06.2009	Initial	DPW Office, Charsadda	-do-
4	Mr. Arafat Khan Afridi, AD/DDPWO/TPWO	M.A (Pol. Sc)	13.05.1977	Khyber Agency	15.06.2009 (adhoc basis)	--	15.06.2009	Initial	Agency PW Officer	-do-
5	Mr. Sana Ullah, AD/DDPWO/TPWO	M.A (Pol. Sc)	15.09.1980	Charsadda	15.06.2009 (adhoc basis)	--	15.06.2009	Initial	DPW Office, Charsadda	-do-
6	Mr. Fazal Azeem, AD/DDPWO/TPWO	MBA	25.06.1983	Charsadda	15.06.2009 (adhoc basis)	--	15.06.2009	Initial	DPW office, Charsadda	-do-
7	Mr. Shahid Khan, AD/DDPWO/TPWO	M.A (Sociology)	10.04.1984	Malakand	15.06.2009 (adhoc basis)	--	15.06.2009	Initial	DPW Office, Malakand	-do-
8	Mr. Bilal Khan Afridi, AD/DDPWO/TPWO	MBA	15.10.1986	Khyber Agency	15.06.2009 (adhoc basis)	--	15.06.2009	Initial	DPW Office, Kohistan	-do-
9	Mr. Amjad Ali Khan, AD/DDPWO/TPWO	MBA	15.09.1976	Peshawar	16.06.2009 (adhoc basis)	--	16.06.2009	Initial	DPW Office, Mardan	-do-
10	Mr. Muhammad Tariq Khan, AD/DDPWO/TPWO	M.A (Anthropology)	28.02.1975	Nowshera	17.06.2009 (adhoc basis)	--	17.06.2009	Initial	DPW Office, Nowshera	-do-
11	Mr. Khurshid Ali, AD/DDPWO/TPWO	M.P.A.	01.02.1976	Chitral	17.06.2009 (adhoc basis)	--	17.06.2009	Initial	DPW Office, Chitral	-do-
12	Mr. Asghar Khan, AD/DDPWO/TPWO	M.A (History)	05.02.1980	Mardan	17.06.2009 (adhoc basis)	--	17.06.2009	Initial	DPW Office, Dir (Upper)	-do-
13	Mr. Iftikhar Ahmad, Deputy Demographer	M.Sc (Stats)	20.3.1976	Peshawar	18.06.2009 (adhoc basis)	--	18.06.2009	Initial	DPW Office, Karak	-do-
14	Mr. Asif Mehmood, AD/DDPWO/TPWO	M.Sc (Chemistry)	20.04.1977	Karak	18.06.2009 (adhoc basis)	--	18.06.2009	Initial	TPWO DPW Office, Karak	-do-
15	Mr. Ayat Ullah, Dy. Demographer	MSc. (Stats.)	20.09.1975	Nowshera	19.06.2009 (adhoc basis)	--	19.06.2009	Initial	DPW Office, Swabi	-do-
16	Ms. Ruby Hashim, AD/DDPWO/TPWO	M.A (Anthropology)	28.11.1981	Mohmand Agency	20.06.2009 (adhoc basis)	--	20.06.2009	Initial	DG, PW Office, Peshawar	-do-

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S. No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
17	Mr. Muhammad Qasim, Dy. Demographer	M. Sc (Economics)	27.02.1982	Haripur	20.06.2009 (adhoc basis)	--	20.06.2009	Initial	DPW Office, Haripur	-do-
18	Mr. Muhammad Waqar Akhunzada, AD/DDPWO/TPWO	MBA	15.12.1983	Mohmand Agency	22.06.2009 (adhoc basis)	--	22.06.2009	Initial	DPW Office, Charsadda	-do-
19	Mr. Badshah Muhammad, Dy. Demographer	M.A (Sociology)	12.04.1977	Dir Lower	24.06.2009 (adhoc basis)	--	24.06.2009	Initial	DPW Office, Dir Lower	-do-
20	Mr. Fahad Sarwar, AD/DDPWO/ TPWO	M.A (Economics)	03.03.1978	Nowshera	24.06.2009 (adhoc basis)	--	24.06.2009	Initial	DPW Office, Nowshera	-do-
21	Mr. Bashir Muhammad, AD/DDPWO/TPWO	MBA	03.06.1982	Hangu	24.06.2009 (adhoc basis)	--	24.06.2009	Initial	DDPWO (N.T) DPW Office, Hangu	-do-
22	Mr. Bakhtiar, AD/DDPWO/TPWO	M.A	15.08.1964	Peshawar	21.06.1983	18.05.2006	13.01.2010	Promotee	DPWO Dir Upper	The officer was promoted as Assistant Director / DDPWO (NT) / TPWO (BPS-17). on regular basis vide Notification No. SOE(PWD)4-27/07/PC/ Vol-IV dated 13-01-2010.
23	Mr. Eid-ur-Rehman, Dy. Demographer	M.Sc (Sociology)	14.02.1975	Karak	25.06.2010	--	25.06.2010	Initial	DPW Office, Lakki Marwat.	Seniority fixed as per merit order of Khyber Pakhtunkhwa Public Service Commission vide letter No. NWFP-PSC-SR-VI/51126 dated 31.10.2009.
24	Mr. Amin Ullah, Dy. Demographer	M. Sc (Sociology)	10.04.1979	Karak	25.06.2010	--	25.06.2010	Initial	Instructor RTI Peshawar	-do-
25	Mr. Niaz Ahmad, Dy. Demographer	M. Sc (Sociology)	06.04.1976	Karak	25.06.2010	--	25.06.2010	Initial	DPW Office, Kohat	-do-
26	Mr. Rashid Ahmad, AD/DDPWO/TPWO	M.A	20.04.1981	Lakki Marwat	25.06.2010	--	25.06.2010	Initial	On Deputation to IPC Department	Seniority fixed as per order of merit furnished by Khyber Pakhtunkhwa Public Service Commission vide letter No. NWFP-PSC-SR-VI/53315 dated 11-11-2009.

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S. No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
27	Mr. Jehan Badshah, AD/DDPWO/TPWO	MBA	10.01.1979	Dir Lower	25.06.2010	--	25.06.2010	Initial	DPW Office, Dir Upper	Seniority fixed on the basis of order of merit furnished by Khyber Pakhtunkhwa Public Service Commission vide letter No. NWFP.PSC SR-VI/5331 dated 11/11/2009.
28	Mr. Muhammad Ashfaq, AD/DDPWO/TPWO	M.A		Abbottabad	31.10.2011	--	31.10.2011	Initial	DPW Office, Peshawar	-do-
29	Mr. Sadiq Alam, AD/DDPWO/TPWO	MBA	01.01.1983	Malakand	31.10.2011	--	31.10.2011	Initial	DPW Office, Malakand	-do-
30	Mr. Umar Farooq, AD/DDPWO/TPWO	MBA	25.03.1983	Nowshera	31.10.2011	--	31.10.2011	Initial	DPW Office, Nowshera	-do-
31	Mr. Abdul Qadeer, AD/DDPWO/TPWO	M.A	01.05.1975	S.W. Agency	31.10.2011	--	31.10.2011	Initial	DPW Office, Hangu	-do-
32	Mr. Noor Hakim, AD/DDPWO/TPWO	M.A	13.05.1980	S.W. Agency	31.10.2011	--	31.10.2011	Initial	DPW Office, Bannu	-do-
33	Mr. Jehan Zeb Khan, AD/DDPWO/TPWO	MPA	05.05.1979	S.W. Agency	31.10.2011	--	31.10.2011	Initial	DPW Office, DIK.	-do-
34	Mr. Noor Muhammad, AD/DDPWO/TPWO	M.A (Pol. Sc)	15.08.1970	S.W. Agency	31.10.2011	--	31.10.2011	Initial	Instructor, RTI Abbottabad	-do-
35	Mr. Sagheer Musharraf, AD/DDPWO/TPWO	M.A (Pol. Sc)	01.01.1978	Mansehra	31.10.2011	--	31.10.2011	Initial	PHQr, Peshawar	-do-
36	Mr. Izaz Ahmad Jan, AD/DDPWO/TPWO	M.A (Sociology)	09.04.1962	Charsadda	02.04.1988 02.07.1997 (absorbed in PWD)	17.08.2009	13.08.2011	Promotee	RTI, Peshawar	The officers promoted from BPS-16 to BPS-17 vide Notification SOE(PWD)4-1/2011/4675083 dated 13/08/2011.
37	Mr. Muhammad Yousaf, Dy. Demographer	M.A (Economics)	05.01.1974	D.I Khan	05.09.2000	17.08.2009	13.08.2011	Promotee	DPW Office, D.I Khan	-do-
38	Mr. Kashif Fida, AD/DDPWO/TPWO	M.Sc (Hon)	17.05.1974	Peshawar	05.09.2000	17.08.2009	13.08.2011	Promotee	PHQr, Peshawar.	-do-

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S. No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
39	Mr. Mujeebullah Khan, Dy. Demographer	MPA	08.02.1976	D. I Khan	15.03.2001	17.08.2009	13.08.2011	Promotee	TPWO, Kulachi	-do-
40	Mr. Waheed Khan, AD/DDPWO/TPWO	M.A (Pol. Sc) M.A (Islamiyat) M.A (History)	20.08.1972	Bannu	01.09.2000	09.09.2009	11.11.2015	Promotee	DPW Office, Bannu	The officer promoted to BPS-17 vide Notification No. SOE(PWD)4-42/2015/PC dated 11-11-2015.
41	Mr. Shah Farooq, Dy. Demographer	M.Sc (Economics)	15.04.1986	Khyber Agency	11.02.2016	--	11.02.2016	Direct	DPW Office, Mardan.	--
42	Mr. Abdul Salam, AD/DDPWO(NT)/TPWO	M.Com	02.09.1973	Peshawar	01.09.2000	09.09.2009	08.11.2017	Promotee	AD(RH), DG Office, Peshawar	The officers promoted to BPS-17 vide Notification No. SOE(PWD)4-42/2015-16/DPC dated 08-11-2017.
43	Mr. Amin Khan, AD/DDPWO(NT)/TPWO	B.Com	01.02.1976	Peshawar	01.09.2000	09.09.2009	08.11.2017	Promotee	AD (PC&T) DG Office, Peshawar	-do-
44	Mr. Muhammad Kashif Khan, AD/DDPWO(NT)/TPWO	M.A (Economics)	21.07.1977	Nowshera	01.09.2000	22.07.2010	08.11.2017	Promotee	Accounts Officer, DG Office, Peshawar	-do-
45	Mr. Shahid Murad, AD/DDPWO(NT)/TPWO	B. Com, M.A (Urdu)	04.01.1972	Nowshera	02.09.2000	22.07.2010	08.11.2017	Promotee	DPW Office, Peshawar	-do-
46	Mr. Shah Zeb, AD/DDPWO(NT)/TPWO	MBA	14.03.1986	Mohmand Agency	17.12.2012	17.12.2012	08.11.2017	Promotee	TPW Office, Takhtbhai	-do-
47	Mr. Saleem Ullah Khan, AD/DDPWO(NT)/TPWO	MBA	15.09.1987	Tank	12.12.2012	12.12.2012	08.11.2017	Promotee	TPW Office, Tank	-do-
48	Mr. Zia-ul-Haq, AD/DDPWO(NT)/TPWO	M.A	30.10.1976	Karak	23.07.2005	19.12.2013	08.11.2017	Promotee	DPW Office, Karak	-do-
49	Mr. Shahab Ahmed, AD/DDPWO(NT)/TPWO	M.Sc	11.04.1976	Swabi	23.07.2005	19.12.2013	08.11.2017	Promotee	TPW Office, Swabi	-do-
50	Mr. Afsar Khan, AD/DDPWO(NT)/TPWO	M.A (Economics)	11.04.1976	Charsadda	13.08.2004 (contract) 23.07.2005 (Regular)	19.12.2013	08.11.2017	Promotee	Dy. Demographer, DPW Office, Charsadda.	-do-

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5. No.	Name of Officer	Qualification	Date of Birth	Domicile	Date of first entry into Govt. Service	Date of apptt: / Promotion in BPS-16	Regular appointment in present grade		Present place of posting.	Remarks
							Present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	8	9	10	11
51	Mr. Muhammad Tariq, AD/DDPWO(NT)/TPWO	B.Sc	05.01.1977	Khyber Agency	13.08.2004 (contract) 23.07.2005 (Regular)	19.12.2013	08.11.2017	Promotee	AD(M&E), DG Office, Peshawar	-do-
52	Mr. Adnan Saeed AD/DDPWO(NT)/TPWO	MBA	31.12.1986	Charsadda	16.06.2015	16.06.2015	13.12.2018	Promotee	DPW Office, Charsadda.	

-sd-

SECRETARY

GOVT. OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Dated Peshawar the 04th December, 2019

Endst: No. SOE (PWD) 4-30/2019/ 772-76

Copy forwarded to the: -

1. Secretary Establishment, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Director General Population Welfare Department, Khyber Pakhtunkhwa, Peshawar with the request to circulate the said seniority list amongst all concerned.
3. PSO to Chief Secretary, Govt. of Khyber Pakhtunkhwa.
4. PS to Secretary, Govt. of KPK, PWD, Peshawar.
5. Master file.

TRUE COPY

SECTION OFFICER (ESTT)
Phone No. 091-9223623

To

Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel.

Subject: Departmental Appeal / Representation Against Impugned Seniority List Dated 04.12.2019 Of Assistant Directors / TPWO'S / DDPWO's (Non Tech) / DDAO's (Bps-17) Population Welfare Department.

Respected Sir,

Muhammad Tariq Khan, District Population Welfare Officer, Population Welfare Office Nowshera, the appellant, submits most respectfully the following for your kind consideration and favour of acceptance:-

1. That the appellant being qualified and eligible was initially appointed as Assistant Director as Tehsil Population Welfare Officer (BPS-17) on ad-hoc basis, wherein the appellant was placed at S. No. 9 of the appointment order dated 12-06-2009.
2. The appellant services were regularized in pursuance of Regularization of Services Act No. XVI of 2009, notified on 29-03-2010, wherein the appellant was also placed at S. No. 9 of the list.
3. That since his appointment, the appellant has served the department honestly and diligently to the utmost satisfaction of his superiors. Neither complaint of any sort was filed against him nor was he served with any adverse remarks during entire period of his service.
4. That Mr. Sana Ullah and Sami Ullah, Deputy District Population Welfare Officers, filed a departmental appeals followed by service appeals No. 223/2018 and 224/2018, filed on 16-02-2018, wherein they requested the Hon'ble Tribunal for correction of the seniority list of Assistant Directors Population Welfare Officers, Population Welfare Department Peshawar, as it stood on 04-10-2017 and further requested that their names may be placed at S, No. 25 of the list.
5. That the matter remain sub-judice before the Hon'ble Service Tribunal and was fixed for final order on 09-12-2019. However before its logical conclusion, a meeting of Departmental Progress Review Committee was held on 15-11-2019 under the Chairmanship of Additional Secretary, Population Welfare Officer, Population Welfare Department Peshawar, Population Welfare Department Peshawar, wherein the departmental appeals of Mr. Sana Ullah and Sami Ullah were arbitrarily accepted by a one sided decision.
6. That in pursuance of the findings of Progress Review Committee vide its minutes of meeting dated 15-11-2019, the impugned seniority list dated 04-12-2019 was issued, wherein both Mr. Sami Ullah and Sana Ullah were placed senior to the appellant without any logical explanation.

It is worth mentioning that the entire process was conducted surreptitiously without even noticing the appellant. The seniority list as it stood on 04-10-2017 was illegally altered and the appellant was arbitrary placed junior to Mr. Sami Ullah and Sana Ullah, while placing him at serial No. 10 instead of his original seniority to position at serial No. 02.

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- 8. That the Progress Review Committee/Dispute Resolution Committee had completely exceeded its mandate and authority while granting the relief to Mr. Sami Ullah and Sana Ullah during the pendency of their service appeals before the Hon'ble service tribunal.
- 9. That the appellant is serving as Additional Director BPS-17 and for resolving disputes of civil servants in **BPS- 16 & above**, a **Provincial** Dispute Resolution Committee was constituted under the Chairmanship of Additional Chief Secretary: P&D, vide notification dated 19-10-2017 detailed as under;

1. Add 1: chief Secy: P&D Department	chairman
2. Secretary Establishment Department	Member
3. Secretary Finance Department	Member
4. Secretary Law Department	Member
5. Secretary of the concerned Department	Secretary

That another committee under the Chairmanship of Administrative Secretary for resolving the matters relating to civil service in BPS-03 to 15 was also notified on 19-10-2017. The population welfare department acknowledged the notifications and constituted committee vide notification dated 12-07-2019, wherein the TOR's of the committee were settled as under;

- i. **To resolve court cases other than disciplinary matters related to the terms and conditions of Civil Servants in BS-03 to BS-15.**
- ii. **To review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and make appropriate recommendations to the Provincial Committee.**

10. The clear mandate of the Dispute Resolution Committee constituted by the Population Welfare Department Peshawar was to resolve the disputes relating to terms and conditions of Civil Servants in BPS-03 to 15 only.

The services of the appellant, fall within the category of Civil Servants in BPS-16 **and above**, wherein the mandate of the Departmental Committee was to review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and **make appropriate recommendations to the Provincial Committee.**

11. The minutes of meeting dated 15-11-2019 regarding acceptance of departmental appeals of Sana Ullah and Sami Ullah is thus not only illegal and unlawful, but is beyond the mandate and competence of Departmental Committee, hence void ab-initio.

12. The decision of committee vide meeting held on 15-11-2019, was partial and no presentation of the other party (appellant) was called upon for discussion through any prior notice while on the other hand two pleaders from the complainants side appeared and assisted the committee. This shows the complete bias of the committee, which subjected the appellant to arbitrary treatment intentionally, with a malafide intent, subject to correction by the worthy authority.

13. That, above all, the term "**continuous officiation**" defined in section 4(2) of the Khyber Pakhtunkhwa (Regularization of Services Act, 2009) is a matter of interpretation of the Honorable Tribunal and the representative of the DG PWD, Mr. Kashif Fida has failed to interpret the same.

Such statement of the DG PWD, Mr. Kashif Fida has created serious doubts regarding his impartiality, calling for interference by the worthy authority.

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14. That the date of appointment of the appellant vide the regularization act dated 12-06-2009 is his actual date of continuous officiation, hence in such case age factor will be considered for seniority according to section 4(2) of the act, which was completely ignored.
15. It is worth mentioning that the officials placed at serial No. 1 to 6 of the seniority list date 04-10-2017 have already been promoted to next higher scale, while the appellant has been discriminated and subjected to arbitrary treatment to accommodate the blue eyed.
16. The impugned seniority list dated 04-12-2019 is thus illegal, unlawful, collusive ineffective upon the rights of the appellant and subject to correction.

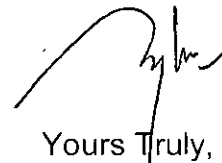
The impugned action is thus arbitrary, discriminatory, against the principles of equity law, justice and propriety, calling for correction of the appellant's original seniority circulated by seniority list date 04-10-2017.

The appellant seeks leave of the worthy authority to be allowed the opportunity to heard in person.

In view of the above, it is, therefore, humbly requested that by accepting this department appeal the impugned seniority list dated 04-12-2019 may kindly be set aside and the original and correct seniority of the appellant may kindly be restored by placing him at serial No. 02 of the seniority list of Assistant Director Population and Welfare Department Peshawar.

It is further requested that the PSB scheduled for promotion to next higher scale in population welfare department may kindly be suspended/postponed till the final settlement of the seniority of the appellant.

Dated
20-12-2019


Yours Truly,

Muhammad Tariq Khan,
District Population Welfare
Officer, Population Welfare
Office Nowshera.


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Dated Peshawar the, 12th June, 2009.

NOTIFICATION.

NO.SDE(PWD) 4-34/07/KC/Vol-II- Consequent upon the recommendations of the Departmental Selection Committee (DSC), the Competent Authority is pleased to appoint the following Assistant Directors / Tehsil Population Welfare Officers / Deputy District Population Welfare Officers (N.T) / Agency Population Welfare Officers (BPS-17) on adhoc basis with immediate effect in the Population Welfare Department, NWFP for a period of one year or till the arrival of selectees of NWFP Public Service Commission, whichever is earlier subject to the terms & condition mentioned here under:-

S.No.	Name of Candidates with Father's name
1	Amjid Ali Khan S/O Taj Muhammd Khan
2	Shahid Khan S/O Faridullah Khan
3	Fahad Sarwar S/O Ahmad Sarwar
4	Sana Ullah S/O Rahim Gul
5	Ruby Hashim D/O Muhammad Hashim
6	Arafat Khan Afridi S/O Noor Khan Afridi
7	Bilal Khan Afridi S/o Shah Mehmood Afridi
8	Munammad Waqar Akhuzada S/O Muhammad Sryar Akhuzada
9	Muhammad Tariq Khan S/O Muhammad Hasham
10	Asghar Khan S/O Gul Sad Burg
11	Fazal Azeem S/O Aziz Ahmed Khan
12	Sami Ullah Khan S/O Amin Ullah Khan
13	Khurshid Ali S/O Zar Muhammad Khan
14	Ahmed Ali Khan S/O Farman Ullah Khan
15	Saeed ur Rahman S/O Muhammad Ayaz
16	Asif Mehmood S/O Khan Zada
17	Bashir Muhammad S/O Khan Saeed
18	Capt. Malik Tanveer S/O Malik Muhammad Akram

Diary No. 296
B. No.
Dated 12/6/09
Initial K. Ghulam

ADG (PW)
O. A. S.
17/6/09

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2. Their appointment is subject to the following terms & conditions:
 - a. The appointment of the above named candidates against Assistant Director / TPWO / DDPWO (N.T) / Agency Population Welfare Officer posts is purely on adhoc basis for a period of one year or till the arrival of NWFP Public Service Commission nominees whichever is earlier.
 - b. The candidates will sign an agreement on stamp paper with the Population Welfare Department, NWFP Peshawar (employer). The services of the employees will be governed under the terms & condition mentioned in such agreement.
 - c. Their salary is subject to execution of agreement deed containing the terms & condition of the employment on adhoc basis.

17/6/09

(18)

- d. Their services will be liable to termination without assigning any reason during the currency of the agreement. In case of resignation one month prior notice will be required, otherwise their one month pay plus usual allowance will be forfeited.
- e. The appointees shall join their posts within fifteen (15) days of the issuance of this order otherwise the appointment order will stand cancelled.
- f. They shall provide Medical Fitness Certificate from the Medical Superintendent of the DHQ Hospital concerned before joining service.
- g. Being adhoc employees, in no way they will be treated as Civil Servants and in the case their performance is found un-satisfactory or found committed any mis-conduct, their service will be terminated with the approval of competent authority without adopting the procedure provided in North West Frontier Province (E&D) Rules, 1973 or North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 which will not be challengeable in NWFP Service Tribunal / any court of Law.
- h. They shall be held responsible for the losses accruing to the Government due to their carelessness or in-efficiency and shall be recovered from them.
- i. Their appointment is specific facility based and non-transferable during currency of agreement period.
- j. They will get pay in BPS-17 plus usual allowances as admissible under the rules.
- k. They will neither be entitled to any pension or gratuity for the service rendered by them nor they will contribute towards GP Fund or CP Fund.
- l. This Order / Notification shall not confer any right on them for regularization of their service against the posts occupied by them or any other regular posts in the Department.
- m. They will not be posted against administrative posts with Drawing and Disbursing powers utmostly.
- n. No TA/DA will be allowed to them for joining the post.
- o. Charge reports should be submitted to all concerned.

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3. Consequent upon their appointment as Assistant Directors / Tehsil Population Welfare Officers / Deputy District Population Welfare Officers (N.T) / Agency Population Welfare Officers (RPS-17) they are here by posted as under:-

S.No	Name of recruitee	Proposed Place of posting	Remarks
1	Amjid Ali Khan S/O Muhammad Khan	TPWO DPWO Haripur	Against vacant post
2	Shahid Khan S/O Farid Ullah Khan	Deputy Demographer in DPWO Malakand	Vice No.19
3	Fahad Sarwar S/O Ahmad Sarwar	DDPWO (N.T), DPW Office, Bunair.	Against vacant post
4	Sana Ullah S/O Rahim Gul	TPWO, DPW Office, Charsadda	-do-
5	Ruby Hashim D/O Muhammad Hashim	DDPWO (N.T), DPW Office, Kohat.	-do-
6	Bilal Khan Afridi S/o Shah Mehmood Afridi	DDPWO (N.T), DPW Office, Nowshera	-do-
7	Muhammad Waqar Akhunzada S/O Muhammad Sayiar Akhunzada	DDPWO (N.T), DPW Office, Karak	-do-
8	Muhammad Tariq Khan S/O Muhammad Hasham	DDPWO (N.T), DPW Office, Mardan	-do-
9	Asghar Khan S/O Gul Sad Burg	TPWO, DPW Office, Swabi	-do-
10	Fazal Azeem S/O Aziz Ahmed Khan	DDPWO (N.T), DPW Office, Abbottabad	-do-
11	Sami Ullah Khan S/O Amin Ullah Khan	DDPWO (N.T), DPW Office, Swabi	-do-
13	Khurshid Ali s/o Zar Muhammad Khan	DDPWO (N.T), DPW Office, Chitral	-do-
13	Ahmed Ali Khan S/O Farman Ullah Khan	DDPWO (N.T), DPW Office, Dir (Lower)	-do-
14	Saeed ur Rahman S/O Muhammad Ayaz	DDPWO (N.T), DPW Office, Shangla	-do-
15	Asif Mehmood S/O Khan Zada	TPWO, DPW Office, Karak.	-do-
16	Bashir Muhammad S/O Khan Saeed	DDPWO (N.T), DPW Office, Hangu	-do-
17	Capt. Malik Tanveer S/O Malik Muhammad Akram	DDPWO (N.T), DPW Office, Battagram	-do-
18	Mr. Khalil-ur-Rehman, Accountant (B-16) adjusted against the post of Dy: Demographer (B-17) DPW Office Malakand	Transfer and adjusted against the post of Dy: Demographer (B-17) DPW Office, Dir (Lower).	-do-

4. Posting orders in respect of Mr. Arafat Khan Afridi S/O Noor Khan Afridi at S.No.6 at

Para-1 above in FATA will be notified with the approval of the competent authority later on.

5. If the terms & conditions mentioned at Pra-2 above are acceptable to them, they should report for duty to the concerned District Population Welfare Officers within fifteen (15) days otherwise the appointment order will stand cancelled.

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Endst: NO.SOE(PWD) 4-34/07/KC/Vol-II.

Dated Peshawar the, 12th June, 2009.

Copy forwarded for information & necessary action to the:-

1. Secretary (A&C), FATA Secretariat Warsak Road, Peshawar.
2. Accountant General, NWFP, Peshawar.
3. Accountant General, PR Sub office, Peshawar.
4. Director General, Population Welfare, NWFP, Peshawar. He should furnish a certificate within thirty (30) days after issue of this Notification to the effect that have join the posts or otherwise.
5. District Accounts Officers, Malakand, Haripur, Buner, Charsadda, Kohat, Nowshera, Karak, Mardan, Swabi, Abbottabad, Chitral, Dir (Lower), Shangla, Hangu and Battagram.
6. District Population Welfare Officers, Malakand, Haripur, Buner, Charsadda, Kohat, Nowshera, Karak, Mardan, Swabi, Abbottabad, Chitral, Dir (Lower), Shangla, Hangu and Battagram. They should check original certificates / degrees of the concerned appointees before handing over charge.
7. Deputy Director, Population Welfare FATA.
8. P.S to Chief Secretary, NWFP, Peshawar.
9. P.S. to Minister for Population Welfare, NWFP, Peshawar.
10. P.S to Secretary, Population Welfare, NWFP, Peshawar.
11. Officers concerned.
12. Personal files of officers concerned.

(USMAN SHAH)

SECTION OFFICER (ESTT)

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Dated Peshawar the March 29, 2010

NOTIFICATION.

NO.SOE(PWD)4-34/09 : - In pursuance of the NWFP Employees (Regularization of Services) Act, No. XVI of 2009 and with the approval of the competent authority, the services of the following Assistant Directors/Tehsil Population Welfare Officers/Deputy District Population Welfare Officers (N.Tech)/Agency Population Welfare Officers and Deputy Demographers (BS-17) appointed on adhoc basis in Population Welfare Department, are hereby regularized with effect from 24.10.2009.

S.NO.	Name of Officer	Present place of posting
1.	Mr. Amjid Ali Khan	TPWO, Haripur
2.	Mr. Shahid Khan	Deputy Demographer Malakand
3.	Mr. Fahad Sarwar	DDPWO (N.Tech) DPW Office, Bunir
4.	Mr. Sana Ullah	TPWO, DPW Office, Charsadda
5.	Ms. Ruby Hashim	DDPWO (N.Tech) DPW Office, Kohat
6.	Mr. Arafat Khan Afridi	DDPWO (NT) DPW Office Karak
7.	Mr. Bilal Khan Afridi	DDPWO (N.Tech) DPW Office, Nowshera
8.	Mr. Muhammad Waqar Akhunzada	DDPWO (N.Tech) DPW Office, Charsadda
9.	Mr. Muhammad Tariq Khan	DDPWO (N.Tech) DWP Office, Nowshera
10.	Mr. Asghar Khan	TPWO, DWP Office, Swabi
11.	Mr. Fazal Azeem	DDPWO (N.Tech) DPW Office, Abbottabad
12.	Mr. Sami Ullah Khan	DDPWO (N.Tech) DPW Office, Swabi
13.	Mr. Khurshid Ali	DPWO (N.Tech) DPWO, Chitral
14.	Mr. Ahmed Ali Khan	DDPWO (N.Tech) DPW Office, Dir (Lower)

16.	Mr. Asif Mehmood	TPWO, DPW Office, Karak
17.	Mr. Bashir Muhammad	DDPWO (N.Tech) DPW Office, Han
18.	Mr. ftikhar Ahmad	Deputy Demographer DPW Office, Karak
19.	Ms. Sidra Nisar	Deputy Demographer DPW Office, Bunir
20.	Mr. Akbar Ali Khan	Deputy Demographer DPW Office, Bannu
21.	Mr. Ayat Ullah	Deputy Demographer DPW Office, Kohat
22.	Mr. Badshah Muhammad	Deputy Demographer DPW Office, Dir (Lower)
23.	Mr. Muhammad Qasim	Deputy Demographer DPW Office, Hanpur

SECRETARY TO GOVT OF NWFP
POPULATION WELFARE DEPARTMENT

Endst:- NO.SOE(PWD) 4-34/09/493-503 Dated the March 29, 2010

Copy forwarded for information and necessary action to the:-

1. Secretary (A&C) FATA Secretariat Warsak Road Peshawar.
2. Accountant General, NWFP Peshawar
3. Director General, Population Welfare, NWFP Peshawar with the request to get their antecedents and academic certificates verified from the concerned quarters and report to this Department for record please.
4. All District Population Welfare Officers in NWFP
5. All District Accounts Officers in NWFP
6. PS to Minister for Population Welfare, NWFP Peshawar.
7. PS to Secretary Population Welfare Department
8. Officers concerned
9. Manager, Govt Printing & Stationery Department, Peshawar for publication in the next official gazette.
10. Personal files of the officers
11. Master file

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[Handwritten Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

ANNEXURE E

Dated Peshawar the 24th July, 2018

NOTIFICATION

No. SOE (PWD) 4-9/2017/General: - In pursuance of Para-4(a) of the Notification No. SO (Policy)1-41/2018 dated 26-03-2018, Departmental Progress Review Committee (DPRC) is hereby notified in order to streamline working of litigation sections and make an efficient environment therein both internally and externally with the following Terms of References (TORs):-

- | | |
|--|----------|
| 1. Additional Secretary, Population Welfare Deptt: KP. | Chairman |
| 2. Dy. Secretary (Admn), PWD. | Member |
| 3. Section Officer (Estt), PWD / SO (Litigation). | Member |
| 4. Mr. Sagheer Musharraf, AD (Lit), PWD. | Member |

TORs

- To conduct quarterly performance review of the litigation cases of the department and that of the attached formations in terms total number of cases at different courts, progress made in cases, issues and the line of action adopted;
- To recommend action to the next higher authority against the officer / official on account of poor performance and negligence of duty in a case or cases;
- To review cases for possible resolution / settlement at the Committee's level or by means of negotiation with complainant / litigant to withdraw his case or cases accordingly;
- To furnish minutes / reports of the quarterly meeting to Law Department regularly.

SECRETARY
POPULATION WELFARE DEPARTMENT
KHYBER PAKHTUNKHWA

Endst: No. SOE(PWD)4-9/2017/General/3986-20 Dated: Peshawar the 24th July, 2018

Copy to information & necessary action to the: -

- Secretary, Govt. of KP, Establishment Department, Peshawar.
- Secretary to Govt. of KP, Finance Department, Peshawar.
- Secretary to Govt. of KP, Law Department, Peshawar.
- Director General Population Welfare Department, KPK, Peshawar.
- PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.

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SECTION OFFICER (ESTT)

MINUTES OF THE DEPARTMENTAL PROGRESS REVIEW COMMITTEE MEETING HELD ON 15/11/2019 UNDER THE CHAIRMANSHIP OF ADDITIONAL SECRETARY, POPULATION WELFARE DEPARTMENT REGARDING PENDING COURT CASES

A meeting of the Departmental Progress Review Committee was held on 28/10/2019 under the Chairmanship of Mr. Dildar Muhammad, Additional Secretary, Population Welfare Department to discuss the joint application submitted by Mr. Sami Ullah, DPWO, Charsadda and Mr. Sanaullah, DDPWO, Charsadda objecting final seniority list of Assistant Directors/ TPWOs / DDPWOs (NT) Dy. Demographers and Accounts Officer (BPS-17) issued on 04/10/2017. Minutes of the said meeting were circulated vide (Annexure-I).

2. In continuation of first meeting, another meeting of the DPRC convened on 15-11-2019 at 1100 hours under the Chairmanship of Additional Secretary, Population Welfare Department. The following attended the meeting: -

- | | |
|---|--------------------------|
| (i) Mr. Dildar Muhammad, Additional Secretary, PWD | In Chair |
| (ii) Mr. Pir Muhammad Mehsud, Dy. Secretary, PWD | Member |
| (iii) Mr. Rahim Gul, Section Officer (Estt), PWD, KP. | Member |
| (iv) Mr. Sagheer Musharraf, Asstt: Director (Lit), PW, KP | Member |
| (v) Mr. Kashif Fida, Asstt: Director(Admn), PW, KP | Representative of DG, PW |

3. The meeting started with recitation of the Holy Quraan and the Chairman asked Section Officer (Establishment) to apprise the agenda. The litigants Mr. Sami Ullah, DPW Officer, Charsadda and Mr. Sanaullah, DDPWO, Charsadda were also called upon to appear before the Committee who attended the proceedings. The Chairman asked them to put forth their plea before proper proceedings in the matter at the forum who stated that:-

- i) Population Welfare Department made 22 adhoc appointments against the post of Asstt Director / Dy Demographer (BPS-17) on need basis in June 2009. They were not included in the seniority list of the cadre due to adhoc employees. Upon promulgation of Khyber Pakhtunkhwa (Regularization of Services Act, 2009, all Provincial Government Departments regularized services of their adhoc employees and fixed their inter-se seniority from the date of continuous officiation in service (date of joining/arrival) as provided in Section 4(2) of the Act ibid.
- ii) In pursuance of Section 4(2) of the said Act, the Population Welfare Department circulated a tentative seniority list of the cadre on 08-04-2015 determining the inter-se seniority of adhoc (regularized) employees on the basis of continuous officiation in service (date of joining/arrival) and age factor where applicable on the analogy of other departments.
- iii) Contrary to the above, after a lapse of more than two years, the Population Welfare Department issued final seniority list of the respective cadre on 04/10/2017 determining the inter-se seniority of the adhoc employees on the basis of age instead of continuous officiation in service. The instant seniority list has not only dismayed and frustrated the adhoc (regularized) employees but also in

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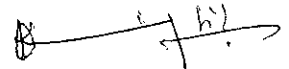
violation of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2009.

- iv) Resultantly, they filed a Service Appeal in the Khyber Pakhtunkhwa Service Tribunal against the final seniority list of the cadre issued on 04-10-2017, which is subjudice in the Khyber Pakhtunkhwa Services Tribunal.
- v) They are ready to withdraw the same if their inter-se seniority is determined as per Section-4(2) of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2009 i.e. on the basis of joining of service in light of the advices of the Law and Establishment Departments.

4. The Chairman asked the representative of the Director General Population Welfare and Section Officer (Establishment) Population Welfare Department to examine the final seniority list issued on 04-10-2017 (**Annex-II**) and tentative seniority list circulated amongst all the members of the same service / cadre on 08/04/2015 (**Annex-III**).

5. Accordingly, the seniority lists were examined in detail and it is found that the tentative seniority list already circulated on 08-04-2015 was prepared according to Section-4(2) of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2009 i.e. on the basis of joining of service and date of birth where applicable in light of advices of the Law and Establishment Departments vide (**Annex-IV & V**) respectively. The relevant portions of advices of Law Department and Establishment Department are reproduced as under: -


"The Law Department advised that in accordance with sub-section 2 of Section 4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009, the inter-se seniority of the Employees, whose services are regularized under this Act within the same service or cadre shall be determined on the basis of the continuous officiation in such service and cadre provided that if the date of continuous officiation in the case of two or more Employees is the same, the Employee older in age shall rank senior to the other one. The fore referred provision of law clearly provides for determination of seniority on the basis of date of continuous officiation. The provision with regard to older age will be applicable in the eventuality, when the date of continuous officiation of two or more Employee is the same, and not in all cases;



The Establishment Department advised that Section-4(2) of the Khyber Pakhtunkhwa Employees (Regulation of Services) Act, 2009 is very clear on the issue and the issue may be settled accordingly".

6. So it is proved that the final seniority list of the cadre issued on 04/10/2017 by the Department on the basis of age was not in line with Section-4(2) of the Khyber Pakhtunkhwa Employees (Regulation of Services) Act, 2009 and advices of the Law and Establishment Departments.

7. In addition to the above, the representative of Director General Population Welfare, Khyber Pakhtunkhwa has further pointed out that the Directorate General Population Welfare recruited staff on adhoc basis and their seniority was determined and


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D-26 (26)

issued on the basis of age instead of date of continuous officiation. One Mr. Zawar Hussain aggrieved of the same and challenged that seniority in the Khyber Pakhtunkhwa Services Tribunal through Service Appeal No. 56/2018 (**Annex-VI**). The Services Tribunal decided the case in favour of Mr. Zawar Hussain (litigant) vide (**Annex-VII**). The relevant portion of the judgment is reproduced as under: -

“Respondents in order to properly interpret the relevant section of Act for determination of seniority took up the case with the Establishment Department for advice, the said department vide letter No. SOR-V(E&AD)/4-31/2017 dated 17-08-2017 advised to settle the issue in the light of Section 4(2) of the said Act. However, this advice was not followed to recast the impugned seniority list in the light of the relevant section of the aforementioned act.

As a sequel to above, the appeal is accepted and the impugned orders dated 15-11-2017 and 28-12-2017 are set aside”.

Representative of the Director General Population Welfare, Khyber Pakhtunkhwa further added that there is a clear Judgment of the Khyber Pakhtunkhwa Services Tribunal, Peshawar against the Administrative Department and the Scrutiny Committee of Law Department also declared the case unfit for filing of CPLA in the Supreme Court of Pakistan as referred to above. In compliance to the above Mr. Zawar Hussain promoted from the post of Statistical Assistant (BPS-12) to the post of Statistical Investigator, Monitoring & Evaluation Officer (BPS-16) on regular basis vide office order No. 4(5)/2019/HR/Admn dated 28-08-2019 (**Annex-VIII**). As such the objected seniority of Assistant Directors / TPWOs / DDPWOs (NT) Dy. Demographers and Accounts Officer (BPS-17) is required to be revised in light of Section-4(2) of the Khyber Pakhtunkhwa (Regularization of Services) Act, 2009 and advices of the Law and Establishment Departments.

D-26 (26)

8. The Deputy Secretary (Admn), Population Welfare Department observed that an anomaly has been created, as the officers who fall at the right places in the tentative seniority list dated 08-04-2015 and then changed them in the final seniority list issued on 04/10/2017. Their names, dates of joining in service and positions of seniority in respect of adhoc employees should be mentioned visible / highlighted in a tabulated form, so as to enable the Committee to take a concrete decision in this regard.

9. The Section Officer (Establishment) Population Welfare Department has presented the required information before the Committee as per observations of the Deputy Secretary (Admn), Population Welfare Department in a tabulated form as under reflecting the seniority against each officer in the relevant column:-

TRUE COPY

S#	Name of officer	Position in tentative seniority dated 08/04/2015	Position in final seniority dated 04/10/2017	Date of joining	Date of birth
1	2	3	4	5	6
1	Mr. Saeedur Rehman	23	21	13-06-2009	10-05-1970
2	Mr. Sami Ullah, AD	24	32	13-06-2009	02-07-1979
3	Ms. Sidra Nisar	25	41	13-06-2009	21-02-1985
4	Mr. Ahmad Ali	26	26	15-06-2009	21-03-1976
5	Mr. Arafat Khan Afridi	27	30	15-06-2009	13-05-1977
6	Mr. Sanaullah, AD	28	34	15-06-2009	15-09-1980
7	Mr. Fazal Azeem	29	38	15-06-2009	25-06-1983
8	Mr. Shahid Khan	30	40	15-06-2009	10-04-1984
9	Mr. Bilal Khan Afridi	31	42	15-06-2009	15-10-1986
10	Mr. Amjid Ali Khan	32	27	16-06-2009	15-09-1976
11	Mr. Muhammad Tariq, AD	33	22	17-06-2009	28-02-1975
12	Mr. Khurshid Ali	34	24	17-06-2009	01-02-1976
13	Mr. Asghar Khan	35	33	17-06-2009	05-02-1980
14	Mr. Iftikhar Ahmad	36	25	18-06-2009	20-03-1976
15	Mr. Asif Mehmood	37	29	18-06-2009	20-04-1977
16	Mr. Ayat Ullah	38	23	19-06-2009	20-09-1975
17	Ms. Robi Hashim	39	35	20-06-2009	28-11-1981
18	Mr. Muhammad Qasim	40	36	20-06-2009	27-02-1982
19	Mr. Muhammad Waqar Akhunzada	41	39	22-06-2009	15-12-1983
20	Mr. Badshah Muhammad	42	28	24-06-2009	12-04-1977
21	Mr. Fahad Sarwar	43	31	24-06-2009	03-03-1978
22	Mr. Bashir Muhammad	44	37	24-06-2009	03-06-1982

10. As per above comparison of both the Seniority Lists, the officers at S. No. 2 (Litigant), 3, 5, 6 (Litigant), 7, 8, & 9 are the aggrieved names affected due to misinterpretation of Section-4(2) of the Act ibid despite clear advices of Law & Establishment Departments. Section Officer (Establishment) Population Welfare Department added that Tentative Seniority List of Asstt: Director / TPWO / DDPWO (NT) / Dy. Demographer and Accounts Officer (BPS-17) as stood on 26-06-2019 was forwarded to Secretary Establishment Department for approval on 22-07-2019, which was returned with the remarks that the seniority list is subjudice and final seniority list can be issued only with a certificate from the Administrative Department that the seniority list is not subjudiced in any law court etc. (Annex-IX).

11. In light of the above mentioned discussion, it was unanimously decided that:-

- Seniority list of Assistant Directors / TPWOs / DDPWOs (NT) / Dy. Demographers and Accounts Officer (BPS-17) issued by the Population Welfare Department vide Notification No. SOE(PWD)4-30/2012/Vol-II/1425-31 dated 04-10-2017 may be revised as per positions mentioned in Para-9 above against column No. 3 (tentative seniority list dated 08-04-2015) as per contents of Section-4(2) of the

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D-11 (28)

Khyber Pakhtunkhwa Employees (Regulation of Services) Act, 2009 and advices of the Law and Establishment Departments as well as Judgment dated 12-03-2019 of the Khyber Pakhtunkhwa Services Tribunal in the case of Mr. Zawar Hussain in Service Appeal No. 56/2018.

- ii. The litigants were asked to provide an Affidavit on a stamp paper to this Department for withdrawal of Service Appeal No. 224 of 2018 – Sami Ullah V/S Chief Secretary, Khyber Pakhtunkhwa and others subjudiced in the Khyber Pakhtunkhwa Services Tribunal, who agreed for doing the needful.
- iii. The dispute regarding errors in the final seniority list issued on 4/10/2017 of the concerned cadre will be corrected in the light of Section 4(2) of the Khyber Pakhtunkhwa Employees (Regulation of Services) Act, 2009 and interpretations/advices of the Law and Establishment Departments for safe administration of justice.

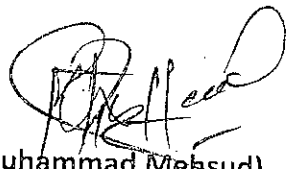
12. Meeting ended with vote of thanks from and to the chair.



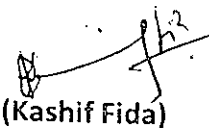
(Sagheer Musharraf)
Assistant Director (Lit)
Directorate General PW, KP
(Member)



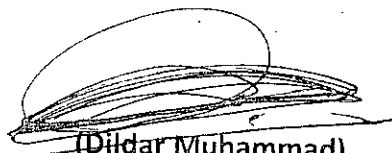
(Rahim Gul)
Section Officer (Estt),
Population Welfare Department
(Member)



(Pir Muhammad Mehsud)
Deputy Secretary (Admn)
Population Welfare Department
(Member)



(Kashif Fida)
Assistant Director (Admn)
Representative of Directorate General PW,
Khyber Pakhtunkhwa



(Dildar Muhammad)
Additional Secretary
Population Welfare Department
(Chairman)

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(29)

**MINUTES OF THE DEPARTMENTAL PROGRESS REVIEW COMMITTEE MEETING HELD
ON 28-10-2019 UNDER THE CHAIRMANSHIP OF ADDITIONAL SECRETARY, POPULATION
WELFARE DEPARTMENT REGARDING PENDING COURT CASES**

In pursuance of Provincial Litigation Policy, 2018 notified vide No. SO(Policy)/1-4/2018 dated 26-03-2018, this Department constituted the following Departmental Progress Review Committee in order to streamline working of Litigation Sections and make an efficient environment therein both internally as well as externally vide Notification No. SOE(PWD)4-9/2017/General dated 24/07/2018:-

- | | |
|--|-----------------|
| 1. Additional Secretary, Population Welfare Deptt: KP. | Chairman |
| 2. Dy. Secretary (Admn), PWD. | Member |
| 3. Section Officer (Estt), PWD / SO (Litigation). | Member |
| 4. Mr. Sagheer Musharraf, AD (Lit), PWD. | Member |

2. A meeting of the Departmental Progress Review Committee was held under the Chairmanship of Additional Secretary, Population Welfare Department on 28/10/2019 to discuss the pending court cases relating to Population Welfare Department in various Courts of Law. The following attended the meeting: -

- | | |
|---|-----------------|
| 1. Mr. Dildar Muhammad, Additional Secretary, PWD | In Chair |
| 2. Mr. Pir Muhammad Mehsud, Dy. Secretary, PWD | Member |
| 3. Mr. Rahim Gul, Section Officer (Estt), PWD, KP. | Member |
| 4. Mr. Sagheer Musharraf, Asstt: Director (Lit), PW, KP | Member |

3. The meeting started with the name of Allah Almighty. The Chairman asked the Section Officer (Establishment / Litigation) of this Department to highlight the aims and objectives of the meeting. Section Officer (Establishment / Litigation) informed that there are the following two agenda items to be discussed in the meeting:-

- i. Fresh Departmental Progress Review Committee meeting regarding pending court cases may be held under the Chairmanship of Additional Secretary, Population Welfare Department in light of the Law Department advice vide letter No. SO(G)/LD/19-3/Honorarium/PWD/19117-19 dated 16-10-2019 (Annex-I);
- ii. Service Appeal No. 224 of 2018 – Sami Ullah V/S Chief Secretary, Khyber Pakhtunkhwa and others filed (Annex-II) against seniority list issued vide No. SOE(PWD)4-30/2012/Vol-II/1425-31 dated 04-10-2017 (Annex-III).

4. As far as agenda item No. (i) is concerned, in this regard Deputy Secretary (Admn), Population Welfare Department has informed that previously a meeting of the committee held on 30-08-2019 under his Chairmanship as Additional Secretary Population Welfare Department was on leave wherein it was pointed that 05 cases are subjudiced in the Supreme Court of Pakistan, 20 cases in Peshawar High Court and its Benches, 145 cases in Khyber Pakhtunkhwa Service Tribunal, 05 cases in District Courts and 03 cases in Anti-Corruption Court of Population Welfare Department to be pursued.

5. All the above mentioned court cases were discussed one by one and it was found that no such case is worth decision by the Departmental Progress Review Committee due to its nature and status contrary to the mandate of the said Committee except the agenda No. (ii).

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6. The Deputy Secretary (Admn), Population Welfare Department asked the Section Officer (Estt); Population Welfare Department to brief the meeting on the status of the joint appeal submitted by Mr. Sami Ullah Khan, DPWO, Charsadda and Mr. Sanallah, DDPWO, Charsadda on the disputed seniority list issued on 04/10/2017 (Annex-IV).

7. The Section Officer (Estt), Population Welfare Department apprised the meeting that upon promulgation of Khyber Pakhtunkhwa (Regularization of Services Act, 2009, all Provincial Government Departments regularized services of their adhoc employees and determined their inter-se seniority from the date of continuous officiation in service (date of joining / arrival) as provided in Section 4(2) of the Act ibid.

8. In pursuance of Section 4(2) of the said Act, the Population Welfare Department circulated a tentative seniority list of the cadre on 08-04-2015 determining the inter-se seniority of adhoc (regularized) employees on the basis of continuous officiation in service (date of joining / arrival) (Annex-V).

9. Contrary to above, the Population Welfare Department issued a final seniority list of the respective cadre on 4/10/2017 determining the inter-se seniority of the adhoc employees on the basis of age instead of continuous officiation in service against the advices of Law Department (Annex-VI) and Establishment Department (Annex-VII).

10. In a similar Service Appeal No. 56/2018 titled Zawar Hussain V/S Govt. of Khyber Pakhtunkhwa Secretary Population Welfare Department, the Khyber Pakhtunkhwa Service Tribunal accepted the appeal on the grounds that respondents in order to properly interpret the relevant section of Act for determination of seniority took up the case with the Establishment Department for advice. The said department vide letter No. SOR-V(E&AD)/4-31/2017 dated 17-08-2017 advised to settle the issue in the light of Section 4(2) of the said act. However, this advice was not followed by the respondents. Case of the appellant seems genuine and respondents were required to recast the impugned seniority list in the light of the relevant section of the aforementioned act (Annex-VIII). The judgment of the Khyber Pakhtunkhwa Service Tribunal was also placed before the Scrutiny Committee for fitness of the case for filing of CPLA in the apex court or otherwise and as per decision of the Scrutiny Committee, Law Department, it was decided to comply with the orders of the Khyber Pakhtunkhwa Service Tribunal in accordance with law (Annex-IX).

11. After threadbare discussion, it was unanimously decided that:-

- i. Let the Law Courts be decided the pending cases relating to Population Welfare Department due to its nature and status contrary to the mandate of the said Committee except the agenda item No. (ii);


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ii. As regard the Service Appeal No. 224 of 2018 – Sami Ullah V/S Chief Secretary, Khyber Pakhtunkhwa and others, the litigants and a senior officer from the Directorate General Population Welfare may be asked to attend the office of Additional Secretary, Population Welfare Department to discuss the subject issue within fortnight in order to settle the issue of disputed seniority list of the cadre due to the reasons that the Establishment Department will not accept working paper for promotion of the cadre for placing before the PSB for consideration, which is already pending in Population Welfare Department for finalization by the Competent Authority.

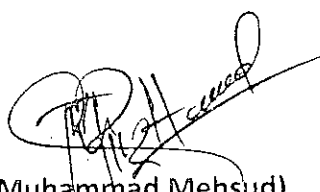
12. Meeting ended with vote of thanks from and to the chair.



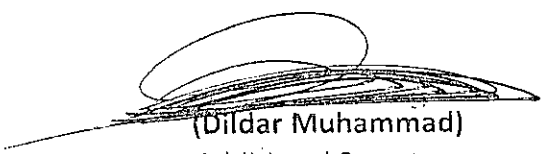
(Sagheer Musharraf)
Assistant Director (Lit)
Directorate General PW, KP
(Member)



(Rahim Gul)
Section Officer (Estt),
Population Welfare Department
(Member)



(Pir Muhammad Mehsud)
Deputy Secretary (Admn)
Population Welfare Department
(Member)



(Dildar Muhammad)
Additional Secretary
Population Welfare Department
(Chairman)

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 223 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 231

Dated 16-2-2018

Mr. Sana Ullah, District Population Welfare Officer,
Charsadda.

(Appellant)

VERSUS

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Population Welfare Department, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
3. The Director General Population Welfare Department Government of Khyber Pakhtunkhwa, Peshawar.
4. Mr. Muhammad Tariq Khan, District Population Welfare Officer, Nowshera.
5. Mr. Ayatullah, District Population Welfare Office, Swabi.
6. Mr. Khurshid Ali, District Population Welfare Office, Chitral.
7. Mr. Iftikhar Ahmad, Deputy Demographer, District Population Welfare Office, Hangu.
8. Mr. Amjad Ali Khan, District Population Welfare Office, Nowshera.
9. Mr. Badshah Muhammad, District Population Welfare Office, Dir Lower.
10. Mr. Asif Mehmood, Tehsil Population Welfare Office, Karak.
11. Mr. Fahad Sarwar, District Population Welfare Office, Nowshera.
12. Mr. Asghar Khan, District Population Welfare Office, Nowshera.

(Respondents)

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(3)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE FINAL SENIORITY LIST DATED 04.10.2017 WHEREIN THE APPELLANT HAS BEEN SHOW WRONGLY AT SR. No. 34 OF THE LIST AND AGAINST NOT ACTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT WHICH WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD 90 DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT MAY BE DIRECTED TO CORRECTLY DRAW THE SENIORITY LIST AND CORRECTLY MENTION THE NAME OF THE APPELLANT PROPERLY AT SR. 25 BY DECLARING THE IMPUGNED SENIORITY LIST AS INCORRECT AND WRONGLY DRAWN AND AGAINST THE SPIRIT OF SECTION 4 KHYBER PAKHTUNKHW REGULARIZATION OF SERVICE ACT, 2009. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Population Welfare Department in BS-17 on adhoc/contract basis and was subsequently regularized into service after promulgation of the Khyber Pakhtunkhwa Regularization of Service Act, 2009. (Copy of the Act is attached as annexure-A.)
2. That after the regularization of the appellant the respondent department had issued a tentative list in the year 2015 wherein the appellant was at Sr. No. 28. (Copy of the tentative list is attached as annexure-B).
3. That when the issue of seniority was raised for the first time, the department was compelled to seek advice from the Law Department which in clear terms responded that clearly *Employees regularized under Regularization Act of 2009, the seniority is to be determined in accordance with sub-section-2 of section-4 of the Act and their*


TRUE COPY

ANNEXURE 91

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 224 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 232

Dated 16-2-2018

Mr. Samiullah, District Population Welfare Officer,
Charsadda.

(Appellant)

VERSUS

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Population Welfare Department, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
3. The Director General Population Welfare Department Government of Khyber Pakhtunkhwa, Peshawar.
4. Mr. Muhammad Tariq Khan, District Population Welfare Officer, Nowshera.
5. Mr. Ayatullah, District Population Welfare Office, Swabi.
6. Mr. Khurshid Ali, District Population Welfare Office, Chitral.
7. Mr. Iftikhar Ahmad; Deputy Demographer, District Population Welfare Office, Hangu.
8. Mr. Ahmad Ali Khan, District Population Welfare Office, Dir Lower.
9. Mr. Amjad Ali Khan, District Population Welfare Office, Nowshera.
10. Mr. Badshah Muhammad, District Population Welfare Office, Dir Lower.
11. Mr. Asif Mehmood, Tehsil Population Welfare Office, Karak.
12. Mr. Arafat Khan Afridi, Agency Population Welfare Officer, *Khyber Agency*
13. Mr. Fahad Sarwar, District Population Welfare Office, Nowshera.

Filed today

Registrar
16/2/18

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(Respondents)

35

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE FINAL SENIORITY LIST DATED 04.10.2017 WHEREIN THE APPELLANT HAS BEEN SHOW WRONGLY AT SR. No. 32 OF THE LIST AND AGAINST NOT ACTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT WHICH WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD 90 DAYS.


PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT MAY BE DIRECTED TO CORRECTLY DRAW THE SENIORITY LIST AND CORRECTLY MENTION THE NAME OF THE APPELLANT PROPERLY AT SR. 22 BY DECLARING THE IMPUGNED SENIORITY LIST AS INCORRECT AND WRONGLY DRAWN AND AGAINST THE SPIRIT OF SECTION 4 KHYBER PAKHTUNKHW REGULARIZATION OF SERVICE ACT, 2009. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Population Welfare Department in BS-17 on adhoc/contract basis and was subsequently regularized into service after promulgation of the Khyber Pakhtunkhwa Regularization of Service Act, 2009. (Copy of the Act is attached as annexure-A.)
2. That after the regularization of the appellant the respondent department had issued a tentative list in the year 2015 wherein the appellant was at Sr. No. 24. (Copy of the tentative list is attached as annexure-B).
3. That when the issue of seniority was raised for the first time, the department was compelled to seek advice from the Law Department which in clear terms responded that clearly *Employees regularized under Regularization Act of 2009, the seniority is to be determined in accordance with sub-section-2 of section-4 of the Act and their seniority shall be determined on the basis of their continuous*


19/11/2017


ANNEXURE

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12.11.2019

Counsel for the appellant present. Asst: AG alongwith Mr. Sagheer Musharraf, AD for official respondents no. 1 to 3 and counsels for private respondents no. 4,6,7,8,10 and 11 present. Arguments heard. To come up for order on 09.12.2019 before D.B.


Member


Member

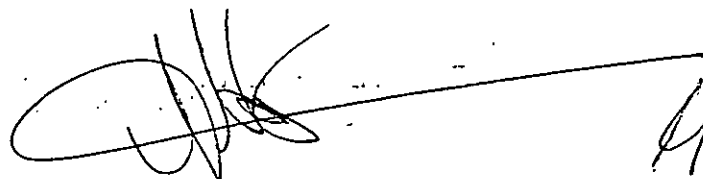
09.12.2019

Appellant in person present. Asst: AG alongwith Mr. Sagheer Musharraf, AD for official respondents no. 1 to 3 present. This case was heard by this Tribunal on 12.11.2019 and fixed for order today. However, vide application dated 05.12.2019, learned counsel for the appellant apprised that his legitimate grievances have been redressed at departmental level and requested for withdrawal of the instant service appeal.

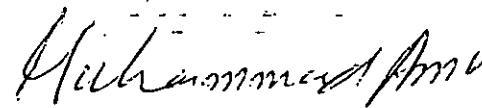
Application is allowed and the appeal in hand is therefore, dismissed, as withdrawn. File be consigned to the record room.

ANNOUNCED:

09.12.2019



(AHMAD HASSAN)
MEMBER



(M.AMIN KHAN KUNDI)
MEMBER


TRUE COPY



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)
Dated Peshawar the October 19, 2017

ANNEXURE

NOTIFICATION

NO.SO(Policies)/E&AD/2-1/2017 The following Provincial Dispute Resolution Committee is constituted with immediate effect: -

- | | |
|--|-----------|
| 1. Addl: Chief Secy: P&D Department | Chairman |
| 2. Secretary Establishment Department | Member |
| 3. Secretary Finance Department | Member |
| 4. Secretary Law Department | Member |
| 5. Secretary of the concerned Department | Secretary |

TORs of the Committee

1. To consider the recommendations of the Departmental Committees for Dispute Resolution in cases of civil servants in BS-16 and above and take appropriate decisions for their settlement.
2. In case of observations, the Committee may refer a case back within 15 days of its receipt.

Chief Secretary,
Khyber Pakhtunkhwa

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Addl: Chief Secretary, Govt. of Khyber Pakhtunkhwa, P & D Department.
2. Addl: Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. The Military Secretary to Governor, Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Heads of Attached Departments in Khyber Pakhtunkhwa.
10. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
11. All DCs in Khyber Pakhtunkhwa and Political Agents in FATA.
12. The Registrar Peshawar High Court, Peshawar.
13. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
14. The Registrar, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
15. Special Secretaries / Additional Secretaries / Deputy Secretaries and Section Officers, Administration Department.

BEENISH IQBAL

SECTION OFFICER (POLICIES)

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GOVERNMENT OF ~~ANNEXURE~~ H/A
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

Dated Peshawar the October 19, 2017

NOTIFICATION

NO.SO(Policies)/E&AD/2-1/2017 The following Standing Departmental Committee for Dispute Resolution is constituted with immediate effect: -

- | | |
|--|-----------|
| 1. Administrative Secretary | Chairman |
| 2. Additional Secretary/Deputy Secretary of the Department | Member |
| 3. Head of the attached Deptt: concerned | Member |
| 4. Section Officer (Litigation) | Secretary |

TORs of the Committee

- 1) To resolve court cases other than disciplinary matters related to the terms & conditions of Civil Servants in BS-03 to BS-15.
- 2) To review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 & above and make appropriate recommendations to the Provincial Committee.

Chief Secretary,
Khyber Pakhtunkhwa

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Addl: Chief Secretary, Govt. of Khyber Pakhtunkhwa, P & D Department.
2. Addl: Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. The Military Secretary to Governor, Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Heads of Attached Departments in Khyber Pakhtunkhwa.
10. All Autonomous/Semi-Autonomous Bodies in Khyber Pakhtunkhwa.
11. All DCs in Khyber Pakhtunkhwa and Political Agents in FATA.
12. The Registrar Peshawar High Court, Peshawar.
13. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
14. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
15. All Special Secretaries / Additional Secretaries / Deputy Secretaries and Section Officers in Establishment & Administration Department.

B. Iqbal
19/10/17
(BEENISH IQBAL)
SECTION OFFICER (POLICIES)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(JUDICIAL WING)

No. SO(Lit-I)E&AD/1-1/2019
Dated: Peshawar, the 08.07.2019

ANNEXURE



7998
9-7-19

All the Administrative Secretaries to
Govt. of Khyber Pakhtunkhwa,
Peshawar.

Subject: - PROGRESS REPORT OF PROVINCIAL DISPUTE RESOLUTION
COMMITTEE AND STANDING DEPARTMENTAL COMMITTEE.

Dear Sir,

I am directed to refer to the subject noted above and to state that this department vide Notifications of even number dated 19.10.2017 had constituted the subject committees for resolution of disputes with specific TORs mentioned therein (copies enclosed for ready reference).

It is, therefore, requested to intimate the progress made so far by your respective departments in resolution of disputes as per TORs and also intimate the recommendations, if any, for perusal of the Provincial Dispute Resolution Committee within a week time positively, please.

(Encl: As Above)

Yours faithfully,

(IFTIKHAR-UD-DIN)
Section Officer (Litigation-II)

Endst: of Even No. & Date:

Copy forwarded to the:

1. P.S to Secretary, Establishment Department.
2. P.S to Special Secretary, Establishment Department.
3. P.S to Additional Secretary (Judicial), Establishment Department.
4. P.A to Deputy Secretary (Judicial), Establishment Department.

Section Officer (Litigation-II)

Please put up

*2
9-7-19*

*DP
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10-7-19
16/7/19*

D-Drive S.O (Lit-II) Office Work (Letters for I&NA)

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GOVERNMENT OF KHYBER PAKHTUNKHWA **ANNEXURE**
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

Dated Peshawar the 12th July, 2019

NOTIFICATION

No. SOE (PWD) 4-9/2019/General/Vol-III: In pursuance of Establishment Department, Khyber Pakhtunkhwa Notification No. SO (Policies)/E&AD/2-1/2017 dated 19-10-2017, the following Standing Departmental Committee for Dispute Resolution is hereby notified with immediate effect:-

- | | |
|--|-----------|
| 1. Secretary, Population Welfare Deptt: Khyber Pakhtunkhwa | Chairman |
| 2. Additional Secretary / Dy. Secretary, Population Welfare Deptt: | Member |
| 3. Director General Population Welfare, Khyber Pakhtunkhwa. | Member |
| 4. Section Officer (Estt) / (Lit) Population Welfare Deptt: | Secretary |

TORs of the Committee

- i. To resolve court cases other than disciplinary matters related to the terms and conditions of Civil Servants in BS-03 to BS-15;
- ii. To review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and make appropriate recommendations to the Provincial Committee.

-sd-

SECRETARY

POPULATION WELFARE DEPARTMENT
KHYBER PAKHTUNKHWA

Endst: No. SOE (PWD) 4-9/2019/General/Vol-III/ ²²⁰⁻⁰⁹ Dated: Peshawar the 12th July, 2019

Copy to the: -

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, P&D Department.
2. Secretary, Govt. of KP, Establishment Department, Peshawar w/r to Notification as referred to above.
3. Registrar, Peshawar High Court, Peshawar.
4. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
6. Director General Population Welfare Department, KPK, Peshawar.
7. PS to Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
8. PA to Additional Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
9. PA to Dy. Secretary (Admn), Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.

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SECTION OFFICER (ESTT)

GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Dated Peshawar the 04th October, 2017

NOTIFICATION:-

No. SOE (PWD) 4-30/2012/Vol-II:- In pursuance of Section-8 of KP, Civil Servants Act, 1973 read with Rules 17 of KP Civil Servants (Appointment, Promotion & Transfer) rules, 1989, with the approval of Competent Authority, final seniority list of Assistant Directors/ Tehsil Population Welfare Officers/ DY District Population Welfare Officers (Non-letch) & Deputy Demographers (BPS-17) Population Welfare, Khyber Pakhtunkhwa as stood on 04-10-2017 is hereby notified/ circulated for general information.

S. No.	Name of Officer	Qualification	Date of birth	Domicile	Date of apptt/promotion in BPS-16	Regular Appointment in present grade		Present place of posting	Remarks
						In BS-17	Method of recruitment		
1	2	3	4	5	6	7	8	9	10
1	Mr. Sohail Imran AD/DDPWO/TPWO	M.Sc (Stats)	30.12.1975	Abbottabad	--	23.07.05	Initial	DPW Officer, Torghar	His contract appointment has been regularized w-e-f 23-07-2005 under NWFP Civil Servants (Amendment) Act, 2005.
2	Mr. Izzat Khan AD/DDPWO/TPWO	M.A (Pol.Sc)	15.04.1972	Bunner	--	23.07.05	Initial	Agency PWO Khyber Agency	-do-
3	Mr. Shammar Rehman Dawar AD/DDPWO/IPWO	M.A (Pol.Sc)	15.05.1977	N.W Agency	--	23.07.05	Initial	By transfer to Local Govt. Department	-do-
4	Mr. Saif ur Rehman AD/DDPWO/IPWO	M.B.A. (Marketing)	15.04.1970	Abbottabad	--	23.07.05	Initial	DPW Officer, Kohistan	-do-
5	Mr. Israr Muhammad Khan AD/DDPWO/IPWO	M.Sc (Stats)	03.01.1974	Lakki Marwat	--	12.01.04	Initial	DPW Officer, Karak	He was recommended for appointment on contract basis along with his batch mates at S.No. 01 to 07 by the PSC but being already in regular Govt. service, he was appointed on regular basis under circular letter No. SOR-VI(E&AD) 1-13/2003 dated 16-04-2003 and seniority fixed in accordance with the order of merit assigned by the PSC as provided under Rule 17 (1) (a) of NWFP Civil Servants (APT) Rules, 1989.

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S. No.	Name of Officer	Qualification	Date of birth	Domicile	Date of apptt/promotion in BPS-16	Regular Appointment in present grade		Present place of posting	Remarks
						In BS-17	Method of recruitment		
6	Mr. Asad Ali Shah AD/DDPWO/TPWO	M.B.A.	03.05.1977	Swat	--	23.07.05	Initial	DPW Office, Swat	His contract appointment has been regularized w-e-f 23-07-2005 under NWFP Civil Servants (Amendment) Act, 2005.
7	Mr. Ayaz Mehmood AD/DDPWO/TPWO	M.A. (Social Work)	27.11.1971	Abbottabad	--	23.07.05	Initial	DPW Office Kohistan	-do-
8	M. Basit Saeed, Deputy Demographer	M.A (Socialogy)	29.08.1980	Mansehra	--	23.07.05	Initial	DPW office, Charsadda	-do-
9	Mr. Khalid Mehmood Deputy Demographer	M.A.(Econ)	30.04.1971	Lakki Marwat	--	23.07.05	Initial	On deputation to Education Deptt	His contract appointment has been regularized w-e-f 23-07-2005 under NWFP Civil Servants (Amendment) Act, 2005.
10	Mr. Hussain Ahmed Deputy Demographer	M.Sc.	03.09.1977	Mardan	--	23.07.05	Initial	DPW Office, Mardan	-do-
11	Mr. Asif Malik Deputy Demographer	M.Sc	29.09.1979	Nowshera	--	23.07.05	Initial	DPW Office, Mardan	-do-
12	Miss. Kausar Jabeen Deputy Demographer	M.A.(Econ)	08.06.1978	Haripur	--	23.07.05	Initial	DPW Office, Peshawar	-do-
13	Mr. Janat Gul Deputy Demographer	M.A. (Stats)	06.11.1972	Peshawar	--	23.07.05	Initial	DC Office, Peshawar	-do-
14	Mr. Sadiq ur Rehman Deputy Demographer	M.Sc(Stats)	10.04.1975	Karak	--	23.07.05	Initial	DPW Office, Karak	-do-
15	Mr. Sajjad Ahmed Deputy Demographer	M.Sc (Stats)	20.04.1975	Malakand	--	23.07.05	Initial	DPW Officer, Buner	-do-
16	Mr. Tahir Ishaq, AD/DDPWO/TPWO	B.A.	01.04.1962	Mansehra	12/09/05	15/04/09	Promotion	DPW Office Abbottabad	--
17	Mr. Zoaq Akhtar, AD/DDPWO/TPWO	M.A.(Econ)	08.06.1962	Mansehra	12/09/05	15/04/09	Promotion	DPW Office Mansehra	--
18	Mr. Gul Hassan, AD/DDPWO/TPWO	B.A.	01.06.1961	Abbottabad	12/09/05	15/04/09	Promotion	DDPWO, Abbottabad	--
19	Mr. Taj Mohammad Deputy Demographer	M.A.(Econ)	16.04.1966	Mohmand Agency	12/09/05	15/04/09	Promotion	DDPWO, Buner	--

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S. No.	Name of Officer	Qualification	Date of birth	Domicile	Date of apptt/promotion in BPS-16	Regular Appointment in present grade		Present place of posting	Remarks
						In BS-17	Method of recruitment		
20	Mr. Nasim Ullah Deputy Demographer	M.A (Econ)	24.04.1966	Mohmand Agency	12/09/05	15/04/09	Promotion	DPW Office, Peshawar	
21	Mr. Saeed-ur- Rehman, AD/DDPWO/TPWO	M.A(Pol.Sc)	10.05.1970	Shangla	--	24.09.09	Initial	DPW Office, Shangla	Adhoc appointments regularized vide promulgation of Ordinance i.e. 24/09/2009.
22	Muhammad Tariq Khan, AD/DDPWO/TPWO	M.A. (Anthropology)	28.02.1975	Nowshera	--	24.09.09	Initial	DPW Office, Nowshera	-do-
23	AyatUllah, Deputy Demographer	M.Sc(Stats)	20.09.1975	Nowshera	--	24.09.09	Initial	DPW Office, Swat	-do-
24	Khurshid Ali, AD/DDPWO/TPWO	M.P.A.	01.02.1976	Chitral	--	24.09.09	Initial	DPW Office, Chitral	-do-
25	Iftikhar Ahmad, Deputy Demographer	M.Sc(Stats)	20.03.1976	Peshawar	--	24.09.09	Initial	DPWO, Hangu	-do-
26	Ahmed Ali Khan, AD/DDPWO/TPWO	M.A. (Sociology)	21.03.1976	Dir (L)	--	24.09.09	Initial	DPW Office, Dir (Lower)	-do-
27	Amjad Ali Khan AD/DDPWO/TPWO	MBA	15.09.1976	Peshawar	--	24.09.09	Initial	DPW Office, Nowshera	-do-
28	Badshah Muhammad, Deputy Demographer	M.A (Sociology)	12.04.1977	Dir (L)	--	24.09.09	Initial	DPW Office, Dir(L)	-do-
29	Asif Mehmood, AD/DDPWO/TPWO	M.Sc (Chemistry)	20.04.1977	Karak	--	24.09.09	Initial	TPWO DPW Office Karak	-do-
30	Arafat Khan Afridi, AD/DDPWO/TPWO	M.A. (Pol.Sc)	13.05.1977	Khyber Agency	--	24.09.09	Initial	Agency PW Officer	-do-
31	Fahad Sarwar AD/DDPWO/TPWO	M.A(Econ)	03.03.1978	Nowshera	--	24.09.09	Initial	DPW Office, Nowshera	-do-
32	Samiullah Khan, AD/DDPWO/TPWO	M A (Pol.Sc)	02.07.1979	Peshawar	--	24.09.09	Initial	DPW Officer, Charadda	-do-
33	Asghar Khan, AD/DDPWO/TPWO	M.A History/Pol.Sc	05.02.1980	Mardan	--	24.09.09	Initial	DPW Officer Dir Upper	-do-

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S. No.	Name of Officer	Qualification	Date of birth	Domicile	Date of apptt/promotion in BPS-16	Regular Appointment in present grade		Present place of posting	Remarks
						In BS-17	Method of recruitment		
34	Sana Ullah AD/DDPWO/TPWO	M.A (Pol.Sc)	15.09.1980	Charsadda	--	24.09.09	Initial	DPW office, Charsadda	-do-
35	Ruby Hashim, AD/DDPWO/TPWO	M.A Anthropology	28.11.1981	Moh: Agency	--	24.09.09	Initial	DG Office Peshawar	-do-
36	Muhammad Qasim, Deputy Demographer	M.Sc(Econ)	27.02.1982	Haripur	--	24.09.09	Initial	DPW Office, Haripur	-do-
37	Bashir Muhammad, AD/DDPWO/TPWO	MBA	3.6.1982	Hangu	--	24.09.09	Initial	DPW Office, Hangu	-do-
38	Fazal Azeem, AD/DDPWO/TPWO	MBA	25.06.1983	Charsadda	--	24.09.09	Initial	DPW Office, Charsadda	-do-
39	M.Waqar Akhunzada, AD/DDPWO/TPWO	MBA	15.12.1983	Moh: Agency	--	24.09.09	Initial	DPW office, Charsadda	-do-
40	Shahid Khan AD/DDPWO/TPWO	M.A (Sociology)	10.04.1984	Malakand	--	24.09.09	Initial	DPW Officer, Malakand	-do-
41	Sidra Nisar, Deputy Demographer	M.Sc(Stats)	21.02.1985	Peshawar	--	24.09.09	Initial	DPW office, Charsadda	-do-
42	Bilal Khan Afridi, AD/DDPWO/TPWO	MBA	15.10.1986	Khyber Agency	--	24.09.09	Initial	DPW Office, Kohistan	-do-
43	Eid-ur-Rehman, Deputy Demographer	M.Sc Sociology	14/02/1975	Karak	--	25.06.10	Initial	DPW Office, D.I.Khan	Seniority placed as per merit order of PSC, KPK vide their recommendation letter No. NWFP- PSC-SR-VI/51126 dated 31-10-2009
44	Amin Ullah, Deputy Demographer	M.Sc Sociology	10/04/1979	Karak	--	25.06.10	Initial	DPW Office, Kohistan	-do-
45	Niaz Ahmad, Deputy Demographer	M.Sc Sociology	06/04/1976	Karak	--	25.06.10	Initial	DPW Office, Kohistan	-do-

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S. No.	Name of Officer	Qualification	Date of birth	Domicile	Date of apptt/promotion in BPS-16	Regular Appointment in present grade		Present place of posting	Remarks
						In BS-17	Method of recruitment		
46	Rashid Ahmad, AD/DDPWO(N.T)/TPWO	M.A (Political Science)	20/04/1981	Lakki Marwat	--	25.06.10	Initial	on Deputation IPC Department	-do-
47	Jehan Badshah, AD/DDPWO(N.T)/TPWO	MBA	10/01/1979	Dir (L)	--	25.06.10	Initial	DPW Office, Dir (Upper)	-do-
48	Muhammad Ashfaq, AD/DDPWO(N.T)/TPWO	M.A (Political Science)	02/04/1973	Abbottabad	--	31.10.11	Initial	DPW Office, Peshawar	-do-
49	Sadiq Alam, AD/DDPWO(N.T)/TPWO	MBA	01/01/1983	Malakand	--	31.10.11	Initial	DPW Office, Malakand	-do-
50	Umer Farooq, AD/DDPWO(N.T)/TPWO	MBA	25/03/1983	Nowshera	--	31.10.11	Initial	DPW Office, Nowshera	-do-
51	Abdul Qadeer, AD/DDPWO(N.T)/TPWO	M.A (Political Science)	01/05/1975	S.W.Agency	--	31.10.11	Initial	DPW Office, Hangu	-do-
52	Noor Hakim, AD/DDPWO(N.T)/TPWO	M.A (Political Science)	13/05/1980	S.W.Agency	--	31.10.11	Initial	DPW Office, Bannu	-do-
53	Jehanzeb Khan, AD/DDPWO(N.T)/TPWO	MPA	05/05/1979	S.W.Agency	--	31.10.11	Initial	DPW Officer, Tank	-do-
54	Noor Muhammad, AD/DDPWO(N.T)/TPWO	M.A (Pol.Sc)	15/08/1970	S.W.Agency	--	31.10.11	Initial	RTI, Abbottabad	-do-
55	Sagheer Musharraf, AD/DDPWO(N.T)/TPWO	M.A (Pol.Sc)	01/01/1978	Mansehra	--	31.10.11	Initial	DG Office, Peshawar	-do-
56	Mr. Bakhtiar Khan, AD/DDPWO(N.T)/TPWO	M.A (Pashto)	15.08.1964	Peshawar	18-05-2006	13.01.10	Promotion	DPW Office, Charsadda	Date of their promotion was subsequent to PSC recommendation of the officers from S.No. 46 to 55
57	Habib-ur-Rehman Sandeela AD/DDPWO(N.T)/TPWO	Matric	13.03.1961	D.I.Khan	13-08-2003	13.01.10	Promotion	DPW Office, Mansehra	
58	Izaz Ahmad Jan, AD/DDPWO(N.T)/TPWO	MA, Sociology	09.04.1962	Charsadda	17.08.2009	13.08.11	Promotion	RTI, Peshawar	
59	Muhammad Yousaf, Deputy Demographer	MA, Economics	05.01.1974	D.I.Khan	17.08.09	13.08.11	Promotion	DPW Office, Tank	

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Sl. No.	Name of Officer	Qualification	Date of birth	Domicile	Date of apptt/promotion in BPS-16	Regular Appointment in present grade		Present place of posting	Remarks
						In BS-17	Method of recruitment		
60	Kashif Fida, AD/DDPWO(N.T)/TPWO	M.Sc (Hon)	17.05.1974	Peshawar	17.08.09	13.08.11	Promotion	DG Office, Peshawar	--
61	Mujeebullah, Deputy Demographer	MPA	08.02.1976	D.I.Khan	17.08.09	13.08.11	Promotion	TPWO, Kulachi, D.I.Khan	--
62	Shah Farooq Deputy Demographer	MS Economics	15.04.1986	Khyber Agency	08.02.2016	08.02.16	Initial	DPW Office Hangu	

SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Dated Peshawar the 04th October, 2017

No. SOE (PWD) 4-30/2012/Vol-II

/1425-31

Copy forwarded to the: -

1. Director General, Population Welfare Department Peshawar.
2. All District Population Welfare Officers in Khyber Pakhtunkhwa.
3. PS to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
4. PS to Secretary Establishment, Govt. of Khyber Pakhtunkhwa Peshawar.
5. PS to Secretary Population welfare Department, Govt. of Khyber Pakhtunkhwa Peshawar.
6. PS to Advisor to CM for PWD, Khyber Pakhtunkhwa Peshawar.
7. Master File.

SECTION OFFICER (Establishment)

Phone No. 091-9223623

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Name of Officer	Qualification	Date of birth	Domicile	Date of first entry into Govt. service	Lower Grade (BPS-16)	present grade (BPS-17)	Method of recruitment	Date of Regularization	Present place of posting	Remarks
2	3	4		5	6	8	9	10	11	12
Mr. Shahad Imran AD/DDPWO/TPWO	M.Sc (Stats)	30.12.1975	Abbottabad	12.01.2004 Contract		12.01.2004	Direct	23.07.2005	District W/O, Haripur	His contract appointment has been regularized w-e-f 23-07-2005 under NWFP Civil Servants (Amendment) Act, 2005.
Mr. Ghaz Khan AD/DDPWO/TPWO	M.A.(Pol.Sc)	15.04.1972	Buner	12.01.2004 Contract	--	12.01.2004	Direct	23.07.2005	Agency Population Welfare Officer Khyber agency	-do-
Mr. Shamsur Rehman Dawar AD/DDPWO/TPWO	M.A.(Pol.Sc)	15.05.1977	N.W Agency	12.01.2004 Contract	--	12.01.2004	Direct	23.07.2005	D.P.W Officer, Swat	-do-
Mr. Saifur Rehman AD/DDPWO/TPWO	M.B.A. (Marketing)	15.04.1970	Abbottabad	12.01.2004 Contract	--	12.01.2004	Direct	23.07.2005	D.P.W.O, Abbottabad	-do-
Mr. Faraz Muhammad Khan AD/DDPWO/TPWO	M.Sc (Stats)	03.01.1974	L.Marwat	12.01.2004 Contract	--	12.01.2004	Direct	12.01.2004	D.P.W.O, L.Marwat	He was recommended for appointment on contract basis along with his batch mates at S. No. 08 to 25 by the PSC but being already in regular Govt. service, he was appointed on regular basis under circular letter No. 508-VI(C&AD) I/12/2003 dated 16.04.2003 and seniority fixed in accordance with the order of merit assigned by the PSC as provided under Rule 17 (1) (a) of NWFP Civil Servants (APT) Rules, 1989
Mr. Asad Ali Shah AD/DDPWO/TPWO	M.B.A.	03.05.1977	Swat	12.01.2004 Contract	--	12.01.2004	Direct	23.07.2005	District Population Welfare Officer Swat	His contract appointment has been regularized w-e-f 23.07.2005 under NWFP Civil Servants (Amendment) Act, 2005.
Mr. Ayaz Nighmoor AD/DDPWO/TPWO	M.A. (Social Work)	27.11.1971	Abbottabad	12.01.2004 Contract	--	12.01.2004	Direct	23.07.2005	District P.W.O, Abbottabad	-do-
Muhammad Rasit Saeed, Deputy Demographer	M.A (Sociology)	29.08.1980	Mansehra	27.03.2004 contract	--	27.03.2004	Direct	23.07.2005	D.P.W officer, Mansehra	-do-
Mr. Khalid Mehmood Deputy Demographer	M.A.(Econ)	30.04.1971	L.Marwat	16.08.2004 contract	--	16.08.2004	Direct	23.07.2005	Deputy Demographer	-do-
Mr. Anwarullah Khan Deputy Demographer	M.Sc (Econ)	21.07.1977	S.W.Agency	16.08.2004 contract	--	16.08.2004	Direct	23.07.2005	District Peshawar	-do-
Mr. Hussain Ahmed Deputy Demographer	M.Sc.	03.09.1977	Mardan	27.03.2004 contract	--	27.03.2004	Direct	23.07.2005	District Mardan	His contract appointment has been regularized w-e-f 23.07.2005 under NWFP Civil Servants (Amendment) Act, 2005.
Mr. Asad Malik Deputy Demographer	M.Sc	29.09.1979	Nowshera	16.08.2004 contract	--	16.08.2004	Direct	23.07.2005	District Peshawar	His contract appointment has been regularized w-e-f 23.07.2005 under NWFP Civil Servants (Amendment) Act, 2005
Mr. Faraz Libera Deputy Demographer	M.A (Econ)	08.06.1978	Haripur	27.03.2004 contract	--	27.03.2004	Direct	23.07.2005	District Peshawar	-do-

Assistant Director (Admin)
Population Welfare Department
Khyber Pakhtunkhwa, Peshawar

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1	2	3	4	5	6	8	9	10	11	12
Qualification	Date of birth	Domicile	Date of first entry into Govt service	Lower Grade (BPS-16)	present grade (BPS-17)	Method of recruitment	Regularization			
Mr. Iqbal Gul Deputy Demographer Mr. Sadique Rehman Deputy Demographer	M.A. (Stats)	Peshawar	16.08.2004 contract		16.08.2004	Direct	23.07.2005	PHD, Peshawar		-do-
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.Sc (Stats)	Karak	16.08.2004 contract		16.08.2004	Direct	23.07.2005	DPW Officer, Karak		His contract appointment has been regularized w-e-f 23-07-2005 under NWFP Civil Servants (Amendment) Act, 2005.
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.Sc	Malakand	27.03.2004 contract		27.03.2004	Direct	23.07.2005	DPW Officer, Buner		-do-
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.Sc.	Mardan	31.08.1980	26-09-1997 join PWD	17/08/2006	Promotee	17/08/2006	DPW Office, Du (Upper)		
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	B.A.	Mansehra	10.7.1986	12/09/2005	09-08-2007 acting basis	Promotee	15/04/2009	DPW Office Mansehra		
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.A.(Econ)	Mansehra	24.3.1990	12/09/2005	09-08-2007 acting basis	Promotee	15/04/2009	DPW Office Mansehra		
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	B.A.	Abbotabad	30.1.1983	12/09/2005	09-08-2007 acting basis	Promotee	15/04/2009	DPW Office, Abbotabad		
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.A.(Econ)	Moh: Agency	25.04.1994	12/09/2005	09-08-2007 acting basis	Promotee	15/04/2009	DPW Office, Buner		
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M A (Econ)	Moh. Agency	29.10.1988	12/09/2005	09-08-2007 acting basis	Promotee	15/04/2009	PHD, Peshawar		
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M A (Pol.Sc)	Shangha	13.06.2009 (Adhoc basis)		13.06.2009 (Adhoc basis)	Direct	24.10.2009	DPW Officer, Shangha		Seniority placed on the basis of their continuous adhoc appointment and subsequently Regularized their services vide notification No.SOI(PWD)4/34/2009 dated 21.01.2010 w.e.f. Commencement of the Act XVI of 2009 dated 24.10.2009
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M A (Pol.Sc)	Peshawar	13.06.2009 (Adhoc basis)		13.06.2009 (Adhoc basis)	Direct	24.10.2009	DPW Officer, Charsadda		do
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.Sc(Stats)	Peshawar	13.6.2009 (Adhoc basis)		13.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Charsadda		do
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M.A. (Sociology)	Dir (L)	15.6.2009 (Adhoc basis)		15.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Officer, Malakand		do
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M A. (Pol Sc)	Khyber Agency	15.6.2009 (Adhoc basis)		15.6.2009 (Adhoc basis)	Direct	24.10.2009	Agency PW Officer		do
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M A (Pol Sci)	Charsadda	15.6.2009 (Adhoc basis)		15.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Charsadda		do
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	MBA	Charsadda	15.6.2009 (Adhoc basis)		15.6.2009 (Adhoc basis)	Direct	24.10.2009	PHD, Peshawar		do
Mr. Sajjad Ahmed Deputy Demographer Mr. Gulat Khan, Deputy Demographer Mr. John Ehsan, AD/DPWO/TPWO Mr. Ziaq Akhtar, AD/DPWO/TPWO Mr. Gul Hassan, AD/DPWO/TPWO Mr. Taj Mohammad Deputy Demographer Mr. Nasim Ullah Deputy Demographer Muhammad Rehman, AD/DPWO/TPWO	M A (Sociology)	Malakand	15.6.2009 (Adhoc basis)		15.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Malakand		do


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DPWO (Admin) Charsadda

1	2	3	4	5	6	8	9	10	11	12
Name of Officer	Qualification	Date of Birth	Origin	Into Govt. service	(P.S. No)					
Bite Khan Afridi, AD/DDPWO/IPWO	MBA	15.10.1986	Khyber Agency	15.6.2009 (Adhoc basis)	--	15.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Kohistan	-do-
Arjad Ali Khan AD/DDPWO/IPWO	MBA	15.09.1976	Peshawar	16.6.2009 (Adhoc basis)	--	16.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Nowshera	-do-
Muhammad Tariq Khan, AD/DDPWO/IPWO	M.A.(Anthrology)	28.02.1976	Nowshera	17.6.2009 (Adhoc basis)	--	17.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Nowshera	-do-
Farooq Ali, AD/DDPWO/IPWO	M.P.A.	01.02.1976	Chitral	17.6.2009 (Adhoc basis)	--	17.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Chitral	-do-
Wajid Khan, AD/DDPWO/IPWO	M.A(History)	05.02.1980	Mardan	17.6.2009 (Adhoc basis)	--	17.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Chitral	-do-
Hukmat Ahmad, Deputy Demographer	M.Sc(Stats)	20.03.1976	Peshawar	18.6.2009 (Adhoc basis)	--	18.6.2009 (Adhoc basis)	Direct	24.10.2009	DPWO, Hangu	-do-
Ayat Mehmood, AD/DDPWO/IPWO	M.Sc.(Chemistry)	20.04.1977	Karak	18.6.2009 (Adhoc basis)	--	18.6.2009 (Adhoc basis)	Direct	24.10.2009	DPWO DPW Office Karak	-do-
Ayat Ullah, Deputy Demographer	M.Sc(Stats)	20.09.1975	Nowshera	19.6.2009 (Adhoc basis)	--	19.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Nowshera	-do-
Fahmy Hashim, AD/DDPWO/IPWO	M.A (Anthropology)	28.11.1981	Moh: Agency	20.6.2009 (Adhoc basis)	--	20.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Hangu	-do-
Muhammad Qasim, Deputy Demographer	M.Sc(Econ)	27.02.1987	Haripur	20.6.2009 (Adhoc basis)	--	20.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Charsadda	-do-
Muhammad Waqar Akhuzada, AD/DDPWO/IPWO	MBA	15.12.1993	Moh: Agency	22.6.2009 (Adhoc basis)	--	22.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office Dir(I)	-do-
Farid Jaleel Muhammad, Deputy Demographer	M.A (Sociology)	12.04.1977	Dir (L)	24.6.2009 (Adhoc basis)	--	24.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, Nowshera	-do-
Farooq Farooq, AD/DDPWO/IPWO	M.A(Econ)	03.03.1978	Nowshera	24.6.2009 (Adhoc basis)	--	24.6.2009 (Adhoc basis)	Direct	24.10.2009	DDPWO(N.T) DPW Office Hangu	-do-
Farooq Muhammad, AD/DDPWO/IPWO	MBA	3.6.1982	Hangu	24.6.2009 (Adhoc basis)	--	24.6.2009 (Adhoc basis)	Direct	24.10.2009	DPW Office, D.I.Hangu	-do-
Farooq Rehman, Deputy Demographer	M.Sc Sociology	14/02/1975	Karak	25.06.2010	--	25.06.2010	Direct	25.06.2010	DPW Office, Charsadda	-do-
Farooq Ullah, Deputy Demographer	M.Sc Sociology	10/04/1979	Karak	25.06.2010	--	25.06.2010	Direct	25.06.2010	DPW Office, Charsadda	-do-


 Assistant Director (Adm)
 Population
 Khyber Pakhtunkhwa
 Peshawar.

Promoted as per merit of PSC, KPK
 with their recommendation letter No.
 DPW/PSC SR-VJ/51126 dated 31-10-
 2009 and as per Act XVI of 2009 dated
 24.10.2009.

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Name of Officer	Qualification	Date of birth	Domicile	Date of first entry into Govt. service	Lower Grade (BPS-16)	present grade (BPS-17)	Method of recruitment	Date of Regularization	11	12
	3	4		5	6	8	9	10		
Nisar Ahmad, Deputy Demographer Rashid Ahmad, AD/DIPWO(N.T)/TPWO	M.Sc Sociology	06/04/1976	Karak	25.06.2010	--	25.06.2010	Direct	25.06.2010	DIPWO Office, Kohat	-do-
	M.A	20/04/1981	L.Marwat	25.06.2010	--	25.06.2010	Direct	25.06.2010	on Deputation IPC Department	Seniority placed as per merit of PSC, KPK vide their recommendation letter No. NWFP-PSC-SR-VI/53315 dated 11-11- 2009 and as per Act XVI of 2009 dated 24.10.2009
	MBA	10/01/1979	Dir (L)	25.06.2010	--	25.06.2010	Direct	25.06.2010	DIPWO Office, Dir (Lower)	-do-
Indira Baid Jale, AD/DIPWO(N.T)/TPWO	M.A		Abbottabad	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Peshawar	-do-
Mohammad Asifq, AD/DIPWO(N.T)/TPWO	MBA	01/01/1983	Malakand	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Malakand	-do-
Usheeq Alam, AD/DIPWO(N.T)/TPWO	MBA	25/03/1983	Nowshera	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Nowshera	-do-
Umar Farooq, AD/DIPWO(N.T)/TPWO	M.A	01/05/1975	S.W.Agency	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Hangu	-do-
Abdul Qadeer, AD/DIPWO(N.T)/TPWO	M.A	13/05/1980	S.W.Agency	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Bannu	-do-
Noua Hakim, AD/DIPWO(N.T)/TPWO	MPA	05/05/1979	S.W.Agency	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Tank	-do-
Behan Zeb Khan, AD/DIPWO(N.T)/TPWO	M.A (Pol.Sc)	15/08/1970	S.W.Agency	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Office, Bannu	-do-
Tham Muhammad, AD/DIPWO(N.T)/TPWO	M.A (Pol.Sc)	01/01/1978	Mansehra	31.10.2011	--	31.10.2011	Direct	31.10.2011	DIPWO Peshawar	-do-
Shaher Musharraf, AD/DIPWO(N.T)/TPWO	M.A	15.08.1964	Peshawar	21.6.1983	18/05/2006	13/01/2010	Promotee	13.01.2010	DIPWO Peshawar	Seniority placed as per Act XVI of 2009 dated 24.10.2009
Faris Bakhtiar, AD/DIPWO(N.T)/TPWO	MA, Sociology	09.04.1962	Charsadda	2.4.1988 2.7.1997 (absorbed in pwd)	17.08.2009	13.08.2011	Promotee	13.08.2011	DIPWO Peshawar	-do-
Faraz Ahmad, AD/DIPWO(N.T)/TPWO	M.A Pashto	13.3.1957	Swat	15.05.1985	17.08.2009	13.08.2011	Promotee	13.08.2011	DIPWO Office, Swat	-do-
Farida Ali, AD/DIPWO(N.T)/TPWO	MA, Economics	05.01.1974	D.I.khan	05/09/2000	17.08.2009	13.08.2011	Promotee	13.08.2011	DIPWO Office, Tank	-do-
Muhammad Yousaf, Deputy Demographer	M.Sc (Hon)	17.5.1974	Peshawar	05.09.2000	17.08.2009	13.08.2011	Promotee	13.08.2011	DIPWO Peshawar	-do-
Farid Uddin, AD/DIPWO(N.T)/TPWO	MPA	08.02.1976	D.I.Khan	15/03/2001	17.08.2009	13.08.2011	Promotee	13.08.2011	DIPWO, Kulachi	-do-
Faris Ullah, Deputy Demographer										

Assistant Director
 Population Welfare Department
 Peshawar.

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL POPULATION WELFARE DEPARTMENT**

Dated Peshawar the 04/07.2018

OFFICE ORDER

3080-85

No. 4(15)/2017/Admn: In pursuance of Section-08 of KP, Civil Servants Act, 1973 read with Rules 17 of KP Civil Servants (Appointment, Promotion & Transfer) rules 1989, with the approval of Competent Authority, updated provisional seniority list of Assistant Directors/Tehsil Population Welfare Officers/Dy. District Population Welfare Officers, Instructor (Non-Tech) & Deputy Demographers (BPS-17) Population Welfare, Khyber Pakhtunkhwa as stood on 14.02.2018 is hereby notified / circulated for general information.

S.No.	Name of Officer	Qualification	Date of birth	Domicile	Date of first entry into Govt. service	Date of apptt/ promotion in BPS-16	Regular appointment in present grade		Present place of posting	Remarks
							present grade (BPS-17)	Method of recruitment		
1	2	3	4	5	6	7	9	10	12	13
1	Mr. Janat Gul Deputy Demographer	M.A. (Stats)	06.11.1972	Peshawar	16.08.2004	--	23.07.2005	initial	PHQr, Peshawar	His contract appointment has been regularized w-e-f 23-07-2005 under NWFP Civil Servants (Amendment) Act, 2005.
2	Mr. Sadiqur Rehman Deputy Demographer	M.Sc(Stats)	10.04.1975	Karak	16.08.2004 contract	--	23.07.2005	initial	DPW Officer, Karak	-do-
3	Mr. Sajjad Ahmed Deputy Demographer	M.Sc.	20.04.1975	Malakand	27.03.2004 contract	--	23.07.2005	initial	DPW Officer, Bunner	-do-
4	Asmat Ullah, Instructor NT	MA	11.09.1963	D.I.Khan	28.08.2006	28.08.2006	28.08.2006	initial	DPw Opffice, Lakki Marwat	--
5	Mr. Tahir Ishaq, AD/DDPWO/TPWO	B.A.	01.04.1962	Mansehra	10.7.1986	12/09/2005	15/04/2009	Promotee	DPW Office Mansehra	--
6	Mr. Zoaq Akhtar, AD/DDPWO/TPWO	M.A.(Econ)	08.06.1962	Mansehra	24.3.1990	12/09/2005	15/04/2009	Promotee	DPW Office Mansehra	--
7	Mr. Gul Hassan, AD/DDPWO/TPWO	B.A.	01.06.1961	Abbottabad	30.1.1983	12/09/2005	15/04/2009	Promotee	DDPWO, Abbottabad	--
8	Mr. Taj Mohammad Deputy Demographer	M.A.(Econ)	16.04.1966	Moh: Agency	25.04.1994	12/09/2005	15/04/2009	Promotee	DDPWO, Bunner	--
9	Mr. Nasim Ullah Deputy Demographer	M.A (Econ)	24.04.1966	Moh: Agency	29.10.1988	12/09/2005	15/04/2009	Promotee	PHQr, Peshawar	--
10	Saeedur Rehman, AD/DDPWO/TPWO	M.A(Pol.Sc)	10.05.1970	Shangla	13.06.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Officer, Shangla	Adhoc appointments regularized vide promulgation of Ordinance i.e. 24.09.2009
11	Mhammad Tariq Khan, AD/DDPWO/TPWO	M.A.(Anthology)	28.02.1975	Nowshera	17.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Officer, Nowshera	-do-
12	Ahmed Ali Khan, AD/DDPWO/TPWO	M.A. (Sociology)	21.03.1975	Dir (L)	15.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Officer, Malakand	-do-

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13	Ayat Ullah, Deputy Demographer	M.Sc(Stats)	20.09.1975	Nowshera	19.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Swabi	-do-
14	Khurshid Ali, AD/DDPWO/TPWO	M.P.A.	01.02.1976	Chitral	17.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Chitral	-do-
15	Iftikhar Ahmad, Deputy Demographer	M.Sc(Stats)	20.03.1976	Peshawar	18.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPWO, Hangu	-do-
16	Amjad Ali Khan AD/DDPWO/TPWO	MBA	15.09.1976	Peshawar	16.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Nowshera	-do-
17	Badshah Muhammd, Deputy Demographer	M.A (Sociology)	12.04.1977	Dir (L)	24.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office Dir(L)	-do-
18	Asif Mehmood, AD/DDPWO/TPWO	M.Sc (Chemistry)	20.04.1977	Karak	18.6.2009 (Adhoc basis)	--	24.10.2009	initial	TPWO DPW Office Karak	-do-
19	Arafat Khan Afridi, AD/DDPWO/TPWO	M.A. (Pol.Sc)	13.05.1977	Khyber Agency	15.6.2009 (Adhoc basis)	--	24.10.2009	initial	Agency PW Officer	-do-
20	Fahad Sarwar AD/DDPWO/TPWO	M.A(Econ)	03.03.1978	Nowshera	24.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Nowshera	-do-
21	Samiullah Khan, AD/DDPWO/TPWO	M.A (Pol.Sc)	02.07.1979	Peshawar	13.06.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Officer, Charsadda	-do-
22	Asghar Khan, AD/DDPWO/TPWO	M.A(History)	05.02.1980	Mardan	17.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Officer, Chitral	-do-
23	Sana Ullah AD/DDPWO/TPWO	M.A (Pol.Sc)	15.09.1980	Charsadda	15.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW office, Charsadda	-do-
24	Ruby Hashim, AD/DDPWO/TPWO	M.A (Anthropology)	28.11.1981	Moh: Agency	20.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Charsadda	-do-
25	Muhammad Qasim, Deputy Demographer	M.Sc(Econ)	27.02.1982	Haripur	20.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Haripur	-do-
26	Bashir Muhammad, AD/DDPWO/TPWO *	MBA	03.06.1982	Hangu	24.6.2009 (Adhoc basis)	--	24.10.2009	initial	DDPWO(N.T) DPW Office Hangu	-do-
27	Fazal Azeem, AD/DDPWO/TPWO	MBA	25.06.1983	Charsadda	15.6.2009 (Adhoc basis)	--	24.10.2009	initial	PHQR, Peshawar	-do-
28	Muhammad Waqar Akhuzada, AD/DDPWO/TPWO	MBA	15.12.1983	Moh: Agency	22.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW office, Charsadda	-do-
29	Shahid Khan AD/DDPWO/TPWO	M.A (Sociology)	10.04.1984	Malakand	15.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Malakand	-do-
30	Sidra Nisar, Deputy Demographer	M.Sc(Stats)	21.02.1985	Peshawar	13.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW office, Charsadda	-do-
31	Bilal Khan Afridi, AD/DDPWO/TPWO	MBA	15.10.1986	Khyber Agency	15.6.2009 (Adhoc basis)	--	24.10.2009	initial	DPW Office, Kohistan	-do-
32	Eid-ur-Rehman, Deputy Demographer	M.Sc Sociology	14/02/1975	Karak	25.06.2010	--	25.06.2010	initial	DPW Office, D.I.Khan	Seniority placed as per merit of PSC, KPK vide their recommendation letter No. NWFP-PSC-SR-VI/51126 dated 31-10-2009
33	Amin Ullah, Deputy Demographer	M.Sc Sociology	10/04/1979	Karak	25.06.2010	--	25.06.2010	initial	DPW office, Charsadda	-do-
34	Niaz Ahmad, Deputy Demographer	M.Sc Sociology	06/04/1976	Karak	25.06.2010	--	25.06.2010	initial	DPW Office, Kohat	-do-
35	Rashid Ahmad, AD/DDPWO(N.T)TPWO	M.A	20/04/1981	L.Marwat	25.06.2010	--	25.06.2010	initial	on Deputation IPC Department	-do-
36	Jehan Badshah, AD/DDPWO(N.T)/TPWO	MBA	10/01/1979	Dir (L)	25.06.2010	--	25.06.2010	initial	DPW Office, Dir (Lower)	-do-

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37	Muhammad Ashfaq, AD/DDPWO(N.T)/TPWO	M.A		Abbottabad	31.10.2011	--	31.10.2011	initial	DPW Office, Peshawar	-do-
38	Sadiq Alam, AD/DDPWO(N.T)/TPWO	MBA	01/01/1983	Malakand	31.10.2011	--	31.10.2011	initial	DPW Office, Malakand	-do-
39	Umer Farooq, AD/DDPWO(N.T)/TPWO	MBA	25/03/1983	Nowshera	31.10.2011	--	31.10.2011	initial	DPW Office, Nowshera	-do-
40	Abdul Qadeer, AD/DDPWO(N.T)/TPWO	M.A	01/05/1975	S.W.Agency	31.10.2011	--	31.10.2011	initial	DPW Office, Hangu	-do-
41	Noor Hakim, AD/DDPWO(N.T)/TPWO	M.A	13/05/1980	S.W.Agency	31.10.2011	--	31.10.2011	initial	DPW Office, Bannu	-do-
42	Jehan Zeb Khan, AD/DDPWO(N.T)/TPWO	MPA	05/05/1979	S.W.Agency	31.10.2011	--	31.10.2011	initial	DPW Office, Tank	-do-
43	Noor Muhammad, AD/DDPWO(N.T)/TPWO	M.A (Pol.Sc)	15/08/1970	S.W.Agency	31.10.2011	--	31.10.2011	initial	DPW Office, Bannu	-do-
44	Sagheer Musharraf, AD/DDPWO(N.T)/TPWO	M.A (Pol.Sc)	01/01/1978	Mansehra	31.10.2011	--	31.10.2011	initial	PHQr, Peshawar	-do-
45	Mr. Bakhtiar, AD/DDPWO(N.T)/TPWO	M.A.	15.08.1964	Peshawar	21.6.1983	18/05/2006	13.01.2010	Promotee	PHQr, Peshawar	Date of their promotion was subsequent to PSC recommendation of the officers from S.No.34 to 43
46	Habib-ur-Rehman Sandeela AD/DDPWO(N.T)/TPWO	Matric	13.03.1961	D.I.Khan	17.11.1982	13.08.2003	13.01.2010	Promotee	DPW Office, Haripur	--
47	Izaz Ahmad, AD/DDPWO(N.T)/TPWO	MA, Sociology	09.04.1962	Charsadda	2.4.1988 2.7.1997 (absorbed in pwd)	17.08.2009	13.08.2011	Promotee	RTI, Peshawar	--
48	Muhammad Yousaf, Deputy Demographer	MA, Economics	05.01.1974	D.I.Khan	05/09/2000	17.08.2009	13.08.2011	Promotee	DPW Officer, Tank	--
49	Kashif Fida, AD/DDPWO(N.T)/TPWO	M.Sc (Hon)	17.5.1974	Peshawar	05.09.2000	17.08.2009	13.08.2011	Promotee	PHQr, Peshawar	--
50	Mujeebullah, Deputy Demographer	MPA	08.02.1976	D.I.Khan	15/03/2001	17.08.2009	13.08.2011	Promotee	TPWO, Kulachi	--
51	Shah Farooq, Dy: Demographer	MSc (Economics)	15.04.1986	Khyber Agency	08.02.2016	08.02.2016	08.02.2016	initial	DPW Office, Hangu	--
52	Mr. Abdul Salam	M.Com	02.09.1973	Peshawar	01.09.2000	09.09.2009	08.11.2017	Promotee	AD(RH), DG Office, Peshawar	--
53	Mr. Amin Khan	B.Com	01.02.1976	Peshawar	01.09.2000	09.09.2009	08.11.2017	Promotee	PS to DG	--
54	Mr. M. Kashif Khan	M.A (Economics)	21.07.1977	Nowshera	01.09.2000	22.07.2010	08.11.2017	Promotee	Accounts Officer, DG Office, Peshawar	--
55	Mr. Shahid Murad	B.Com, M.A (Urdu)	04/01/1972	Peshawar	02.09.2000	22.07.2010	08.11.2017	Promotee		--
56	Mr. Saleem Ullah Khan	MBA	15/09/1987	Tank	12.12.2012	12.12.2012	08.11.2017	Promotee	TPWO, Tank	--
57	Shah Zeb	MBA	14.03.1986	Moh:Agency	17/12/2012	17.12.2012	08.11.2017	Promotee	TPWO, Takhtbhae	--
58	Afsar Khan	M.A(Econ)	11/04/1976	Charsadda	13.08.2004 (contract) 23.7.2005 (Regular)	23.7.2005	08.11.2017	Promotee	Dy: Demographer, DPW Office, Charsadda	--

TRUE COPY

15.7

59	Muhammad Tariq	B.Sc	05/01/1977	K.Agency	13.08.2004 (contract) 23.7.2005 (Regular)	23.7.2005	08.11.2017	Promotee	AD(M&E) DG Office, Peshawar	
60	Shahab Ahmed	M.Sc	11.04.1976	Swabi	23.07.2005	23.7.2005	08.11.2017	Promotee	TPWO, Swabi	
61	Ziaul Haq	M.A.	30/10/1976	Karak	23.07.2005	23.7.2005	08.11.2017	Promotee	DPW Office, Karak	

(DIRECTOR GENERAL)
GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Copy forwarded to the:-

- 1 All District Population Welfare Officers, Principal RTIs, Peshawar, Abbottabad & Malakand in Khyber Pakhtunkhwa.
- 2 PS to Secretary Establishment, Govt: of Khyber Pakhtunkhwa.
- 3 PS to Secretary, Population Welfare Department, Govt: of Khyber Pakhtunkhwa, Peshawar.
- 4 PA to Advisor to CM for PWD, Khyber Pakhtunkhwa, Peshawar.
- 5 All Ads/TPWOs/DDPWOs (NT)/Instructor (NT) & Dy: Demographer BPS-17 that if any objection/ommission found may be sent* this office within the stipulated time of 30 days.
- 6 Master File.

(Hidayat Khan)
Deputy Director (Admn)

Admn

TRUE COPY

VAKALATNAMA

In the Court of

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Service Appeal No. _____ of 2019

Petitioner
Plaintiff
Applicant
Appellant
Complainant

Muhammad Tariq Khan

Decree-Holder

VERSUS

Respondent
Defendant
Opponent
Accused

Govt. etc

Judgment-Debtor


I / We Muhammad Tariq Khan the above noted Appellant do hereby appointed and constitute, **Muhammad Zafar Tahirkheli & Ansar Ullah Khan, Advocates High Court**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.


The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

Dated 11-04 -2020

Office **ATIQ LAW ASSOCIATES,**
87, Al-Falah Street, Besides State Life Building,
Peshawar Cantt, Phone: 091-5279529
E-mail : zafartk.advocate@gmail.com



Client


M. Zafar Tahirkheli

Attested & Accepted (Advocates)

Ansar Ullah Khan

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 3186/2020

Muhammad Tariq Khan VS

Chief Secretary, Govt: of KPK etc.

.....

**PARAWISE REPLY/COMMENTS ON BEHALF OF
RESPONDENTS NO. 5 & 6.**

**RESPECTFULLY SHEWETH,
PRELIMINARY OBJECTIONS**

1. That the appellant has got no locus standi to file the instant appeal.
2. That no discrimination/injustice has been done to the appellant.
3. That the instant appeal is bad in the eye of law.
4. That the appellant has not come to this Tribunal with cleaned hands.
5. The appeal is based on distortion of facts and is not tenable in eye of law.
6. That the appellant has been estopped by his own conduct to file the appeal.
7. The present service appeal is based upon malicious/vexations and frivolous grounds.
8. That the service appeal is based on conjecture and surmises.
9. That the Service appeal is not maintainable its present from.
10. That the service appeal is bad due to mis-joinder and non-joinder of the parties.
11. That according to the law seniority list is to be determined on the basis of arrival (continuous officiation) not from the date not from the date of appointment or from Regularization date.
12. That all the proceeding regarding seniority has been conducted in accordance with the prevailing law.
13. That the appellant has filed the present service appeal contrary to Law and facts.
14. That the appellant has cancelled material facts from this Tribunal.

ON FACTS:

1. Denied for the want of knowledge.
2. Not related to the replying respondent.
3. Para No. 3 of the appeal is correct.
4. Para No. 4 of the appeal is correct to the extent that appeal of the respondent No. 5 and 6 were subjudice before the Honorable Service Tribunal however before the final order by the Tribunal, Departmental review committee was constituted and the matter

relating to the seniority list dated 04.10.2017 was reviewed as such in light of the decision of the review committee respondent No. 5 & 6 withdrawn their appeals. It is worth mentioning that review committee decided the seniority list in light of S of the Khyber Pakhtunkhwa (Employees Regularization of Services Act, 2009). Moreover such seniority list was duly approved by the competent forum. Further it is added that the seniority list all the cadre are determined on the basis of continuous of officiation which was evident from the different seniority of different cadre so the Department rightly determined the seniority of the replying respondent. **Copy of the seniority list, letter dated 28.11.2016 & Regularization Act 2009 are attached as Annexure-A, B & C.**

5. Para No. 5 is incorrect the seniority list dated 04.12.2019 were issued after due consideration in light of Section-4 (2) of the Khyber Pakhtunkhwa (Employees Regularization of Service Act, 2009 and all the seniority list as mentioned in above Para were determined on the basis of continuous of officiation/date of joining according to Section-4(2) of the Khyber Pakhtunkhwa (Employees Regularization of Service Act, 2009.
6. Denied for the wants of knowledge.
7. Para No. 7 is legal need no reply.

GROUND.

- A. **Para-A** is incorrect. The seniority list was prepared in accordance with Section-4(2) of Regulation Act, 2009, after due consideration of material facts on record. There is no legal bar on the authority to give notice to any one, while considering the seniority list. Furthermore the seniority was prepared in accordance with Section-4 (2) of Khyber Pakhtunkhwa (Employees Regularization Act, 2009. Read with the judgment dated 12.03.2019 of this Honorable Service Tribunal in Service Appeal No. 56/2018 Title Zawar Hussain Khan Versus Secretary Population Welfare Department Khyber Pakhtunkhwa Peshawar (**Annexure-D**). Moreover as mentioned in above Para-4 of the reply.
- B. **Para-B** is incorrect. In such like proceeding there is no needs to give notices to appellant or to anyone else. The rest of the para is already replied in Para-A above. Moreover the matter of seniority list is concerned there is no need of notices to be issued anyone because the seniority list always circulated annually amongst the all employees so

if anyone feeling aggrieved he has remedy to file the appeal against the said seniority list.

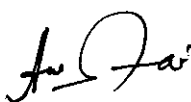
- C. Para-C is incorrect. Progress Review Committee/ Dispute Resolution Committee were the competent authority for grant relief to respondent No. 5 & 6 in accordance with the provision of Section-4(2) of the Khyber Pakhtunkhwa (Employees Regularization Act, 2009. There is no legal bar on the departmental committee to constrain them not to review the seniority list. The committee has been given the power/mandate to consider such like court cases.
- D. Para-D is incorrect. The appellate is serving as Assistant Director not as an Additional Director.
- E. Para-E is incorrect. The departmental committee is constituted in line with the Establishment Department KP instructions vide Notification No. SO (Policies)/E&AD/2-1/2017 Dated 19.10.2017.
- F. Para-F is correct. The said procedure was followed by the department.
- G. Para-G is incorrect. The minutes of the meeting dated 15/11/2019 was forward to the competent forum vide letter No. SOE(PWD)4-109/DPR/532-36 dated 20.11.2019 (**Annexure-E**).
- H. Para-H is incorrect. As per TORs of the committee duly circulated by Establishment Department Govt. of KPK vide notification dated 26.03.2018, the committee is supposed to made negotiation with complainant to withdraw his cases accordingly, hence no need call others therefore the action was taken in line with the policy of Government.
- I. Para-I is incorrect. The term "Continuous Officiation" has already been defined by the law, Parliamentary Affairs & Human Rights Department Govt of Khyber Pakhtunkhwa vide letter No. SO (OP-II)/LDS-I/2012—Vol-III-26384-86 dated 28.11.2016 (**Annex-C**). And Govt. of Khyber Pakhtunkhwa Establishment & Admin: Department (Regulations Wing) Letter No. SOR-V(E&AD)4-31/2017 dated 17.08.2017 (**Annex-D**) and the Honorable Tribunal vide decision Honorable Service Tribunal in Service Appeal No. 56/2018 Title Zavar Hussain Khan Versus Secretary Population Welfare Department Khyber Pakhtunkhwa Peshawar. Moreover as mentioned in the Para-4 of the reply.

- J. Para-J is incorrect. The matter has already been clarified by the concerned quarter and decision of this Honorable Tribunal as explained above at Para-I. Moreover date of Continuous Officiation is joining date i.e from the date respondents and appellant join & start their duties.
- K. Para-K is incorrect. The seniority list has been corrected as per advise of the Law, Parliamentary Affairs & Human Rights Department Govt of Khyber Pakhtunkhwa vide letter No. SO(OP-II)/LD/S-1/2012-Vol-III-26384-86 dated 28.11.2016 and Govt. of Khyber Pakhtunkhwa Establishment & Admn: Department (Regulation Wing) letter No. SOR-V(E&AD)4-31/2017 dated 17.08.2017 as well as this Honorable Tribunal as explained in Para-I.
- L. Para-L is incorrect. The seniority list is correct according to the prevailing Law and prepared by the lawful authority and no discrimination has been effected upon any one's right.

It is therefore most humbly prayed that the appeal of the appellant may be dismissed being devoid of merit with costs.

Respondents No. 5 & 6

THROUGH:

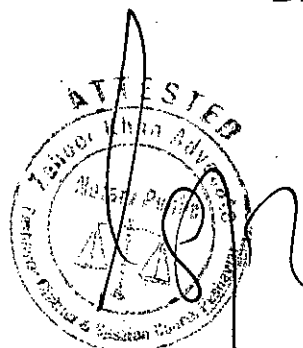

(M. ASIF YOUSAFZAD)
ADVOCATE SUPREME COURT
OF PAKISTAN.

& 
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed that the contents of this Parawise Comments are true and correct and nothing has been concealed.


DEPONENT



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

Service Appeal No. 3186 /2020

Muhammad Tariq Khan V/S

The Govt: of KPK etc.

**REPLY TO APPLICATION FOR INTERIM RELIEF ON
BEHALF OF RESPONDENT NO. 5 & 6.**

RESPECTFULLY SHEWETH:

1. No comments.
2. No comments.
3. Incorrect. The appeal of the appellant is devoid of merit and liable to be dismissed.
4. Incorrect the Department issued impugned seniority list is according to law and section-4(2) of the Khyber Pakhtunkhwa (Employees Regularization of Services Act, 2009).
5. Incorrect in case when varies of rules has been challenged so according to Supreme Court Judgment in such cases. Now status quo shall be granted.

It is therefore most humbly prayed that the stay application of the appellant may be dismissed being devoid of merit.

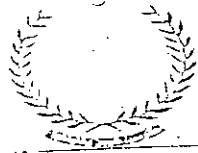
RESPONDENT NO. 5 & 6

THROUGH:

**(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.**

&

**(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT**



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2019

GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(AGENDA ITEM NO. 27)

SERVICE APPEAL NO. 56/2018 TITLED ZAWAR HUSSAIN KILAN VS GOVERNMENT OF
KHYBER PAKHTUNKHWA SECRETARY POPULATION WELFARE DEPARTMENT AND
OTHERS.

A meeting of the Scrutiny Committee was held on 17.04.2019 at 12:00 hours in the office of Additional Secretary (Opinion) Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of appeal / CPLA in the Supreme Court of Pakistan. AAG Mr. Wajid Ali Shah was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa.


The Chairman of the Committee invited the representatives of Population Welfare Department. Saleer Mushtarrif, AD (Lit) alongwith Mr. Zulfiqar, Supdt to apprise the Committee about the background of the case which they did accordingly and stated that the appellant filed the subject service appeal challenging the seniority list 2017 in which the appellant's was brought to serial No. 10 while private respondents No. 3 to 6 are shown senior to the appellant. The Khyber Pakhtunkhwa Service Tribunal held that respondents are required to recast the impugned seniority list in the light of the relevant section. The Tribunal accepted the appeal and set aside the impugned orders dated: 15.11.2017 and 28.12.2017 vide judgment dated: 20.03.2019. Now, the Department intended to file CPLA against the judgment on the following grounds:

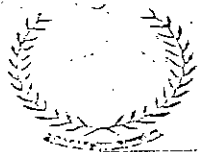
GROUND(S):

The grounds as proffered by the representative of the Department were that the Court has ignored the record and material facts placed before it. The Scrutiny Committee raised a query that the Khyber Pakhtunkhwa Service Tribunal has sent the case to administrative department for examination upon which the representative replied that the administrative department will examine the case of the appellant in the light of the judgment of the Khyber Pakhtunkhwa Service Tribunal.

DECISION:

In view of above it was decided with consensus that the subject case may be returned to the representative Department with remarks to comply with Service Tribunal order in accordance with law.


ABID JAMAL
DEPUTY SOLICITOR



2019
72

GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(AGENDA ITEM NO. 27)

SERVICE APPEAL NO. 56/2018 TITLED ZAWAR HUSSAIN KHAN VS GOVERNMENT OF
KHYBER PAKHTUNKHWA SECRETARY POPULATION WELFARE DEPARTMENT AND
OTHERS.

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2. The Chairman of the Committee invited the representatives of Population Welfare Department, Saleer Musharraf, AD (Lit) alongwith Mr. Zulfiqar, Supdt to apprise the Committee about the background of the case which they did accordingly and stated that the appellant filed the subject service appeal challenging the seniority list 2017 in which the appellant's was brought to serial No. 10 while private respondents No. 3 to 9 were shown senior to the appellant. The Khyber Pakhtunkhwa Service Tribunal held respondents are required to recast the impugned seniority list in the light of the relevant section. It accepted the appeal and set aside the impugned orders dated: 15.11.2017 and 28.12.2017 vide judgment dated: 20.03.2019. Now, the Department intended to file CPLA against the judgment on the following grounds:

GROUND:

3. The grounds as proffered by the representative of the Department were that the Court has ignored the record and material facts placed before it. The Scrutiny Committee raised a query that the Khyber Pakhtunkhwa Service Tribunal has sent the case to administrative department for examination upon which the representative replied that the administrative department will examine the case of the appellant in the light of the judgment of the Khyber Pakhtunkhwa Service Tribunal.

DECISION:

4. In view of above it was decided with consensus that the subject case may be returned to the Administrative Department with remarks to comply with Service Tribunal order in accordance with law.


ABID JAMAL
DEPUTY SOLICITOR



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

(Annex IV)

No. SO(OP-II)/LD/5-1/2012-VOL-III 2-6384-85
DATED: PESH: THE 28 NOV, 2016

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Population Welfare Department.

Subject: DETERMINATION OF SENIORITY.

Dear Sir,

I am directed to refer to your Department letter No.SOE(PWD) 4-30/ 2012/ Vol-II/ 3074-76 dated 24.11.2016 on the subject noted above and to state that in accordance with sub-section 2, of section 4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009, the inter se seniority of the Employees, whose services are regularized under this Act within the same service or cadre shall be determined on the basis of the continuous officiation in such service and cadre provided that if the date of continuous officiation in the case of two or more Employees is the same, the Employee older in age shall rank senior to the other one.

2. The fore referred provision of law clearly provides for determination of seniority on the basis of date of continuous officiation. The provision with regard to older age will be applicable in the eventuality, when the date of continuous officiation of two or more Employees is the same, and not in all cases.

Yours Faithfully,

Section Officer (Opinion-II)

Endst: of even No. & date.

Copy is forwarded to P.S to Secretary Law Department.

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FINAL SENIORITY LIST OF STATISTICAL ASSISTANTS BPS-12 POPULATION WELFARE DEPARTMENT, KHYBER PAKHTUNKHWA AS ON 03-04-2017

Sr. No.	Name	Qualification	Date of birth	Domicile	Date of joining Govt. Service	Lower Grade	Present Grade	Date of joining the PW Deptt.	Regular	Posting	Remarks
1	Hameed Ali	M.Sc.	10/04/1975	Abbottabad	29.12.2006	29.12.2006	29.12.2006	29.12.2006	29.12.2006	DPWO Battagram	
2	Akhter Hussain	M.A (P. Science)	01/01/1960	Charsadda	22.2.1986	22.2.1986	22.2.1986	12.8.2008	Regular	PHQr Peshawar	Absorbed!
3	Nazar Ali	BSc	04/01/1981	Chitral	6.5.2009	6.5.2009	6.5.2009	6.5.2009	24.10.2009	DPW Office Chitral	
4	Zawar Hussain	BSc	18/03/1986	Mardan	6.5.2009	6.5.2009	6.5.2009	6.5.2009	24.10.2009	DPW Office Mardan	Adhoc appointed has been regularized w.e.l
5	Khair Muhammad Afridi	BSc	02/05/1978	Khyber Agency	7.5.2009	7.5.2009	7.5.2009	7.5.2009	24.10.2009	DPW Office Hangu	24.10.2009 under
6	Shafeeq Alam	M.Sc	04/01/1982	Mohmand	7.5.2009	7.5.2009	7.5.2009	7.5.2009	24.10.2009	DPW Office Malakand	Prov't. Assembly Secretariat KPK Act No. XVI of 2009
7	Haiz Nasir Khan	MSc (Stats) MBA (Finance)	04/01/1984	Charsadda	7.5.2009	7.5.2009	7.5.2009	7.5.2009	24.10.2009	PHQr Peshawar (working against the post of Photographer)	
8	Fazal Wadood	BSc	04/08/1985	Mardan	7.5.2009	7.5.2009	7.5.2009	7.5.2009	24.10.2009	DPW Office Buner	
9	Muhammad Najeem Khan	BSc	30/04/1985	Dir Lower	11.5.2009	11.5.2009	11.5.2009	11.5.2009	24.10.2009	DPW Office Dir Lower	
10	Zakir Hussain	BSc	01/02/1979	Chitral	14.5.2009	14.5.2009	14.5.2009	14.5.2009	24.10.2009	DPW Office Chitral	
11	Salman Babar	MBA & MA (Pol.)	10/01/1988	Charsadda	12/10/2012	12/10/2012	12/10/2012	12/10/2012		DPW Office Charsadda	


Deputy Director (Admin)

2

Government of Khyber Pakhtunkhwa,
Directorate General Population Welfare
Plot No. 18, Sector E-8, Phase-7, Hayatabad, Peshawar

OFFICE ORDER

F.No.415/2017/Admn. In pursuance of Section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rules 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) rules 1989, the tentative seniority list of Statistical Assistant (BPS-12) (As stood on 09.11.2017), Population Welfare Department, Khyber Pakhtunkhwa is hereby ordered/circulated for general information.

TENTATIVE SENIORITY LIST OF STATISTICAL ASSISTANTS BPS-12 POPULATION WELFARE DEPARTMENT, KHYBER PAKHTUNKHWA AS ON 09.11.2017

S.No.	Name	Qualification	Date of birth	Domicile	Date of joining Govt. Service	Present Grade	Date of joining the PW Deptt.	Date of Regularization	Posting	Remarks
1	Farooq A.	M.Sc	10/04/1975	Abbottabad	29.12.2006	29.12.2006	29.12.2006	29.12.2006	DPWO Battagram	Through PIC
2	Ahmed Hussain	M.A (P. Science)	01/01/1960	Charsadda	22.02.1986	22.02.1986	12.8.2008	-	DG Office, Peshawar	Absorbed / adjusted from the senior post vide office order No. 12985-2007/Admn-18950-02 dated 21.08.2007
3	Gair Muhammad Ahsan	BSc	02/05/1978	Khyber Agency	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Jhang	Admn. appointment from the senior post vide office order No. 2432/2009, where as his name was not determined in the ranking of BPS-12 (Stat) Agmt. Deptt. vide NO. 1005/PW-12/2009 dated 09.11.2009 and vide Admn. Department order No. 1005/PW-12/2009 dated 09.11.2009.
4	Zaki Hussain	MA (Anthropology)	01/02/1979	Chitral	14.05.2009	14.05.2009	14.05.2009	24.09.2009	DPW Office Chitral	
5	Nazir A'	MSc (Statistics)	04/01/1981	Chitral	06.05.2009	06.05.2009	06.05.2009	24.09.2009	DPW Office Chitral	
6	Shahbaz Akbar	MSc	04/01/1982	Mohmand Agency	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Mardan	
7	Hafiz Nasir Khan	MSc (Statistics) MBA (Finance)	04/01/1984	Charsadda	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DG Office, Peshawar (working against the post of Photographer)	
8	Muhammad Nafeem Khan	BSc	30/04/1985	Dir Lower	11.05.2009	11.05.2009	11.05.2009	24.09.2009	DPW Office Dir Lower	
9	Fazal Waheed	BSc	04/08/1985	Mardan	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Mardan	
10	Zawar Hussain	BSc	18/03/1986	Mardan	06.05.2009	06.05.2009	06.05.2009	24.09.2009	DPW Office Mardan	
11	Raza Muhammad	MSc	01/04/1988	Bannu	16/10/2012	16/10/2012	16/10/2012	-	DPW Office, Bannu	Seniority assigned to the rank of Statistical Assistant BPS-12 (Stat) vide office order No. 1005/PW-12/2009 dated 09.11.2009.
12	Salman Bazar	MBA & MA (Pol.)	10/01/1988	Charsadda	12/10/2012	12/10/2012	12/10/2012	-	DPW Office Charsadda	

(Director General)
Population Welfare Department
Khyber Pakhtunkhwa

Copy forwarded to the:-

1. All Directors, PWD, KP, Peshawar.
2. Principals ATI, Chief Medical Officer LRA and All District Population Welfare Officers, Khyber Pakhtunkhwa with the direction to distribute the seniority among the concerned officials. If obtained receipt certificate to this effect shall be furnished to this office for record within 30 days.
3. PA to Advisor to CM for PWD, KP, Peshawar.
4. PS to Secretary to Govt. of KP, PWD, Peshawar.
5. PS to Director General, PWD, KP, Peshawar.
6. Officials concerned C/O DPWDs.
7. F.No. 4(5)/Admn
8. Master File.

(Signature)
Deputy Director (Admn)

3

Government of Khyber Pakhtunkhwa,
Directorate General Population Welfare
Plot No. 18, Sector E-8, Phase-7, Hayatabad, Peshawar

Dated Peshawar the 26.12.2018.

OFFICE ORDER

In pursuance of Section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rules 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) rules 1989, the Provisional seniority list of Statistical Assistant (BPS-12) (As stood on 29.11.2018), Directorate General, Population Welfare Department, Khyber Pakhtunkhwa is hereby ordered/circulated for general information and will be finalized as per Judgment of Service Tribunal KP, Peshawar in Service Appeal No 56/2018 title Mr Zawar Hussain VS Govt. of KP.

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S.No.	Name	Qualification	Date of birth	Domicile	Date of joining Govt. Service	Present Grade	Date of joining the PW Dept.	Date of Regularization	Posting	Remarks
1	Khair Muhammad Afridi	BSc	02/05/1978	Khyber Agency	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Hangu	Adhoc appointments has been regularized vide promulgation of ordinance i.e. 24.09.2009, where as interese seniority has been determined as per analogy of BPS-17 (NT) vide Adm. Dept. letter NO. SOE(PWD)-30/2012/Vol-4/1425-27 dated 08th Oct. 2017, and vide Adm. Department guidance letter No. SOE(PWD)-30/2012/Vol-4/1911-13 dated 26th Oct. 2017.
2	Zakir Hussain	MA (Anthropology)	01/02/1979	Chitral	14.05.2009	14.05.2009	14.05.2009	24.09.2009	DPW Office Chitral	
3	Nazar Ali	MSc (Statistics)	04/01/1981	Chitral	06.05.2009	06.05.2009	06.05.2009	24.09.2009	DPW Office Chitral	
4	Shaleeq Alam	MSc	01/04/1982	Mohmand Agency	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Malakand	
5	Hafiz Nasir Khan	MSc (Statistics) MBA (Finance)	01/04/1984	Charsadda	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DG Office, Peshawar (working against the post of Photographer)	
6	Muhammad Najeem Khan	M Sc (Statistics)	20/04/1985	Dir Lower	11.05.2009	11.05.2009	11.05.2009	24.09.2009	DPW Office Dir Lower	
7	Fazal Wadood	BSc	04/08/1985	Mardan	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Buner	
8	Zawar Hussain	BSc	18/03/1986	Mardan	06.05.2009	06.05.2009	06.05.2009	24.09.2009	DPW Office Mardan	
9	Raza Muhammad	MSc	01/04/1988	Bannu	16/10/2012	16/10/2012	16/10/2012	-	DPW Office, Bannu	
10	Salman Babar	MBA & MA (Pol.)	10/01/1988	Charsadda	12/10/2012	12/10/2012	12/10/2012	-	DPW Office Charsadda	

(Director General)
Population Welfare Department

Copy forwarded to the:-

- All Directors /All Principals RTI /All DPWOs, PWD, KP, for information with the request to distribute the same amongst the concerned officials and submit distribution certificate to this office.
- Official concerned for information and to submit objection / No objection certificate in either case to this office within 30 days.
- PS to Director General, Population Welfare Department, Govt. of Khyber Pakhtunkhwa, Peshawar.

(Hidayatullah)
Deputy Director (Admin)

38
17/11/2019

4

Government of Khyber Pakhtunkhwa,
Directorate General Population Welfare
Plot No. 18, Sector E-8, Phase-7, Hayatabad, Peshawar

123

Dated Peshawar the 24/11/2019.

OFFICE ORDER

F.No.-(15)/2017/Admn:- In pursuance of Section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rules 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) rules 1959, the final seniority list of Statistical Assistant (BPS-12) (As stood on 14.05.2019), Directorate General, Population Welfare Department, Khyber Pakhtunkhwa is hereby ordered/circulated for general information.

S/No	Name	Qualification	Date of birth	Domicile	Date of joining Govt. Service	Present Grade	Date of joining the PW Dept.	Date of Regularization	Posting	Remarks
1	Nazar Ali	MSc (Statistics)	04/01/1981	Chitral	05.05.2009	05.05.2009	05.05.2009	24.09.2009	DPW Office Chitral	Adhoc appointments has been regularized with promulgation of ordinance no. 24.09.2009 where all interim seniority has been determined as per Service Rules Peshawar Department dated 12.03.2018 in response to Service account no. 15/2013 the Director Hassan Khan.
2	Zawar Hussain	BSc	18/03/1988	Mardan	05.05.2009	05.05.2009	05.05.2009	24.09.2009	DPW Office Mardan	
3	Khair Muhammad Afandi	BSc	02/05/1978	Khyber Agency	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Mardan	
4	Shafiq Alam	MSc	01/04/1982	Mohmand Agency	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Malakand	
5	Hafiz Nasir Khan	MSc (Statistics) MBA (Finance)	01/04/1984	Charsadda	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DG Office, Peshawar (working against the post of Photographer)	
6	Fazal Wadood	BSc	04/02/1985	Mardan	07.05.2009	07.05.2009	07.05.2009	24.09.2009	DPW Office Buner	
7	Muhammad Nazeem Khan	M.Sc (Statistics)	20/04/1985	Dir Lower	11.05.2009	11.05.2009	11.05.2009	24.09.2009	DPW Office Dir Lower	
8	Zakir Hussain	MA (Anthropology)	01/02/1979	Chitral	14.05.2009	14.05.2009	14.05.2009	24.09.2009	DPW Office Chitral	
9	Faza Muhammad	MSc	01/04/1988	Bannu	16/10/2012	16/10/2012	16/10/2012	-	DPW Office, Bannu	
10	Salman Babar	MBA & MA (Pol.)	10/01/1988	Charsadda	12/10/2012	12/10/2012	12/10/2012	-	DPW Office Charsadda	

(Director General)
Population Welfare Department

Copy forwarded to the:-

- All Directors /All Principals RTI /All DPWOs, PWD, Khyber Pakhtunkhwa.
- Officials concerned C/O DPWOs concerned.
- PS to Director General, Population Welfare Department, Govt. of Khyber Pakhtunkhwa, Peshawar.

Assistant Director (Admn)

0/12

C

(Annex - 1)

THE ¹[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(²[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)

CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement.
2. Definitions.
3. Regularization of services of certain employees.
4. Determination of seniority.
- 4A. Overriding effect.
5. Repeal.

**THE ³[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(⁴[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)**

[First published after having received the assent of the Governor of the ⁵[Khyber Pakhtunkhwa] in the Gazette of ⁶[Khyber Pakhtunkhwa] (Extraordinary), dated the 24th October, 2009]

**AN
ACT**

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.---(1) This Act may be called the ⁷[Khyber Pakhtunkhwa] Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the ⁸[Khyber Pakhtunkhwa] Public Service Commission;
- (aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;
- (b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
⁸Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (c) "Government" means the Government of the ⁹[Khyber Pakhtunkhwa];
- (d) "Government Department" means any department constituted under rule 3 of the ¹⁰[Khyber Pakhtunkhwa] Government Rules of Business, 1985, and does not include any section of a Department or an organization which is federally funded;
- (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
- (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions "ad hoc or contract appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the ¹¹[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (¹²[Khyber Pakhtunkhwa] Act No. XVIII of 1973).

3. **Regularization of services of certain employees.**---All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of seniority.**---(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

⁹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹⁰Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. **Overriding effect.**---Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. **Repeal.**---The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

In Service Appeal No. 3186 /2020

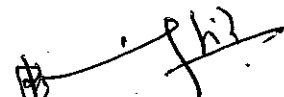
Mr. Muhammad Tariq Khan. (Appellant)

Versus

The Secretary, Govt. of Khyber Pakhtunkhwa
Population Welfare Department, Peshawar etc (Respondents)

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(Kashif Fida)

Assistant Director (Admn)
Directorate General, Population Welfare
Respondent No. 4

(In Person)

(1)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.3186/2020.

Muhammad Tariq Khan (Appellant)

Versus

The Secretary, Govt. of Khyber Pakhtunkhwa
Population Welfare Department, Peshawar etc (Respondents)

PARAWISE REPLY/COMMENTS ON BEHALF OF THE RESPONDENT No. 4 (NON PERSON)

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That no discrimination / injustice has been done to the appellant.
2. That the instant appeal is bad in the eye of law.
3. That the appellant has not come to this Tribunal with cleaned hands.
4. The appeal is based on distortion of facts and is not tenable in eye of law.
5. That according to the law the seniority list is to be determined on the basis of arrival (continuous officiation) not from the date of appointment or from the Regularization date.
6. That all the proceeding regarding seniority has been conducted in accordance with the prevailing law.
7. That the appellant has filed the present service appeal contrary to Law and facts.
8. That the appellant has concealed material facts from this Tribunal.

ON FACTS:

1. No comments refer to record.
2. No comments refer to record.
3. Para No.3 of the appeal is correct.

A. / h2

4. Para No.4 of the appeal is correct to the extent that appeal of the respondent No.5 and 6 were subjudice before the honorable service tribunal. However before the final order by the Tribunal, The Departmental progress Review Committee already constituted in order to streamline the working of litigation section to review the matter relating to the seniority list dated 4th October, 2017 was reviewed and as such in light of the decision of the review committee respondent No. 5 & 6 withdrawn their appeals. It is worth mentioning that review committee decided the seniority list in light of Section-4 (2) of the Khyber Pakhtunkhwa (Employees Regularization of Services Act, 2009. Moreover such seniority list was duly approved by the competent forum.
5. Para No. 5 is incorrect. The seniority list dated 04.12.2019 were issued after due consideration in light of Section-4 (2) of the Khyber Pakhtunkhwa (Employees Regularization of Service Act, 2009. While the rest of the para is not related therefore need no comments.
6. Para No. 6 pertains to record hence needs no comments.
7. Para No. 7 is Legal need no reply.

~~pk2~~

ON GROUNDS:

- A. Para-A is incorrect. The seniority list was prepared in accordance with Section-4 (2) of KP (Employees Regularization Act, 2009. read with the judgment dated 12.03.2019 of this Honorable Service Tribunal in Service Appeal No. 56/2018 Title Zavar Hussain Khan Versus Secretary Population Welfare Department Khyber Pakhtunkhwa Peshawar (**Annex: A**).
- B. Para-B is incorrect. And is already replied in Para-A above.
- C. Para-C is incorrect. Progress Review Committee / Dispute Resolution Committee was the proper forum for granting relief to respondent No. 5 & 6 in accordance with the TORs No (iii) of DPRC as defined in the litigation policy circulated vide Notification No SO(Policy)1-41/2018 dated 26-03-218 . (**Annex: B**). There is no legal bar on the departmental committee to constrain them not to review the seniority list. The committee has been given the power / mandate to consider such like court cases.
- D. Para-D is incorrect. The appellate is serving as Assistant Director not as an Additional Director. As per Khyber Pakhtunkhwa Litigation Policy circulated

vide No. SO (Policy) 1-141/2018 dated 26.03.2018 (Annex: B), there are two committees i.e. Provincial Progress Review Committee (PPRC) and Departmental Progress Review Committee (DPRC) and the committee as referred by the appellant is not applicable in the instant case.

E. Para-E is correct. The Departmental Committee was constituted in line with the Litigation Policy of the Provincial Government referred at Para-D above.

F. Para-F is incorrect. Population Welfare Department duly forwarded the minutes of the DPRC meetings held on 28.10.2019 and 15.11.2019 to the Khyber Pakhtunkhwa. Law, Parliamentary Affairs & Human Rights, Department Peshawar vide letters NO. SOE (PWD) 4-109/2019/DPRC dated 31.10.2019 (Annex: C) & No. SOE (PWD) 4-109/2019/DPRC/532-36 dated 20.11.2019 respectively in line with the TORs No. IV of DPRC defined in the Litigation Policy of the Province at Annex: B. Furthermore the revised seniority list of BPS-17 (N.T) was also got approved from the Competent Authority vide Note dated 02.12.2019.

[Handwritten signature]

G. Para-G is incorrect. The minutes of the meetings ~~of the DPRC~~ of the DPRC were regularly forwarded to the quarter concerned and the said seniority list was got approved from the competent authority as explained above at Para-F.

H. Para-H is incorrect. As per TORs of the committee duly circulated by Establishment Department Govt. of KP vide Notification dated 26/03/2018 at Annex: B, the committee is supposed to made negotiations with litigants to withdraw their cases accordingly, hence there was no need to call others therefore the action was taken in line with the policy of the Government.

I. Para-I is incorrect. As per rules of business, interpretation on law points/ issues is the business of law, Parliamentary Affairs & Human Rights Department Govt of Khyber Pakhtunkhwa. The term "Continuous Officiation" has already been defined by the law, Parliamentary Affairs & Human Rights Department Govt of Khyber Pakhtunkhwa vide letter No. SO (OP-II)/LD/S-1/2012-Vol-III-26384-86 dated 28.11.2016 (Annex: E), and the Govt. of Khyber Pakhtunkhwa Establishment & Admn: Department (Regulation Wing) letter No. SOR-V (E&AD)/4-31/2017 dated 17.08.2017 (Annex: F) and this Honorable Tribunal

(4)

vide decision dated 12.03.2219 in Service Appeal No. 56/2018 Titled Zawar Hussain Khan Versus Secretary Population Welfare Department Khyber Pakhtunkhwa Peshawar at Annex: A that the term "continuous of officiation" is the date of arrival and as such the undersigned appraised the DPRC as per available record.

- J. Para-J is incorrect. The matter has already been clarified by the concerned quarters and decision of this Honorable Tribunal as explained above at Para-I.
- K. Para-K is incorrect. The seniority list has been corrected as per advice of the Law, Parliamentary Affairs & Human Rights Department Govt of Khyber Pakhtunkhwa vide letter No. SO (OP-II)/LD/S-1/2012-Vol-III-26384-86 dated 28.11.2016 and Govt. of Khyber Pakhtunkhwa Establishment & Admn: Department (Regulation Wing) letter No. SOR-V(E&AD)/4-31/2017 dated 17.08.2017 as well as this Honorable Tribunal as explained in Para-I.
- L. Para-L is incorrect. The seniority list is correct according to the prevailing Law and prepared by the lawful authority and no discrimination has been effected upon any one's right.

Prayer:-

It is therefore most humbly prayed that by acceptance of this reply the Service Appeal of the Appellant may kindly be dismissed with cost.

Any other relief though not specifically prayed for deem fit in circumstances of the case may kindly be granted.


(Kashif Fida)

Assistant Director (Admn)
Directorate General, Population Welfare
Respondent No. 4

(In Person)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No. 3186 /2020

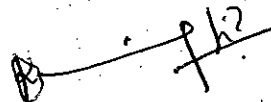
Mr. Muhammad Toriq Khan (Appellant)

Versus

The Secretary, Govt. of Khyber Pakhtunkhwa
Population Welfare Department, Peshawar etc (Respondents)

Affidavit

I Mr. Kashif Fida, Assistant Director (Admn), Directorate General, PW Peshawar do solemnly affirm and declare on oath that the contents of para-wise comments/reply are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal .



(Kashif Fida)
Assistant Director (Admn)
Directorate General, Population Welfare
Respondent No. 4
(In Person)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 56 /2018

Khyber Pakhtunkhwa
Service Tribunal

Case No. 34

Date: 12-1-2018

Zawar Hussain Khan,
Statistical Assistant,
Office of the District Population Welfare,
Mardan.....

Appellant

Versus

1. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Population Welfare Department, Peshawar.
2. The Director General,
Population Welfare Department,
Khyber Pakhtunkhwa, Peshawar.
3. Khair Muhammad Afridi,
Statistical Assistant,
Office of the District Population Welfare,
District Hangu.
4. Zakir Hussain,
Statistical Assistant,
Office of the District Population Welfare,
District Chitral.
5. Nazar Ali,
Statistical Assistant,
Office of the District Population Welfare,
District Chitral.
6. Shafeeq Alam,
Statistical Assistant,
Office of the District Population Welfare,
District Malakand.
7. Hafiz Nasir Khan,
Office of the Director General,
Population Welfare Department Peshawar.
8. Muhammad Najeem Khan,
Office of the District Population Welfare,
Dir Lower.
9. Fazal Wadood,
Office of the District Population Welfare,
District Bunner.....

Respondents



Expt
11-4-18

Filed by
Sonia
2/1/18

Registered

Registration to-day
and
5/1/18

Registrar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 56/2018

Date of Institution ... 12.01.2018

Date of Decision ... 12.03.2019

Zawar Hussain Khan, Statistical Assistant, office of the District Population Welfare,
Mardan.
(Appellant)

VERSUS

The Secretary, Govt. of Khyber Pakhtunkhwa Population Welfare Department, Peshawar
and eight others.
(Respondents)

MR. KHUSH DIL KHAN,
Advocate

--- For appellant.

MR. ZIAULLAH
Deputy District Attorney

--- For official respondents no. 1 & 2

MR. JAVED IQBAL GULBELA,
Advocate

--- For private respondents no. 3 & 4

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER (Executive)
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER. - Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that he was initially appointed as
Statistical Assistant (BPS-11) on adhoc basis vide order dated 27.04.2009. After
promulgation of Khyber Pakhtunkhwa Employees (Regularization of Services)
Act, 2009 his services were regularized alongwith other similarly placed
employees. The method for determination of seniority was laid down in Section-4
of the above Act. That final seniority list was circulated by the respondent no.2 on
23.05.2010 showed that name of the appellant was reflected at sr. 8, while private



respondents no. 3 to 9 were shown as junior to him as per law/rules. This position was maintained in the seniority list issued on 29.11.2013 and 26.02.2016. Thereafter, another final seniority list was circulated vide office order dated 04.04.2017 in which due place was given to the appellant. Against the laid down procedure another tentative seniority list was notified in 2017 in which his name was brought to sr. no.10, while private respondents 3 to 9 were shown senior to the appellant. Feeling aggrieved, he preferred departmental appeal on 21.11.2017 which was rejected vide order dated 28.12.2017. Respondents have misinterpreted sub-Section-2 of Section-4 of the Act of 2009, while preparing the impugned seniority list. The appellant joined service/assumed charge on 06.05.2009, whereas the private respondents joined duty later on and were rightly placed junior to him. As such by applying the method of continues officiation he was senior to private respondents.

3. On the other hand learned Deputy District Attorney argued that initially the appellant was appointed on adhoc basis and thereafter his services were regularized under the Khyber Pakhtunkhwa (Regularization of Services) Act, 2009. For proper interpretation of the said Act regarding determination of seniority the matter was referred to the Establishment department for advice. In the light of advice of the said department, seniority list was firmed up/notified. Action taken by the respondents was duly backed by law and rules.

4. Learned counsel for private respondents no. 3 and 4 relied on arguments advanced by learned Deputy District Attorney.



CONCLUSION

5. It is not disputed that the appellant was appointed as Statistical Assistant on adhoc basis vide order dated 27.04.2009. After promulgation of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 his services were regularized. Attention is invited to Sub-Section-2 of Section-4 of the above Act, wherein it is laid down that the seniority inter-se of the employees whose services were regularized under this Act within the same service or cadre shall be determined on the basis of their continuous officiation in such service or cadre. On the strength of this principle due place was given to the appellant in the seniority lists notified on 23.08.2010, 29.11.2013, 24.2.2016 and 04.04.2017.

6. The dispute arose after circulation of tentative seniority list dated 15.11.2017 in which his name was not placed at the appropriate place. Sub-Section (1) (5) of Section-8 of Khyber Pakhtunkhwa Civil Servant Act, 1973 provides that seniority list shall be revised atleast once in a calendar year, preferably in the month of January. It is not understandable, why two seniority lists were circulated/notified by the respondents in one calendar year? The grounds given in the rejection order of his departmental appeal are against the spirit of the said Act.

7. Attention is also invited to a letter dated 06.08.2017 addressed to the Director General Population Welfare, Khyber Pakhtunkhwa, wherein some guidelines were given for determination of seniority of BPS-11 adhoc employees. It was also directed to fix their seniority on the analogy of BPS-17 employees (non-technical). Through another letter dated 26.10.2017 from respondent no.1

addressed to respondent no.2 directions were conveyed that seniority of adhoc employees be determined from the date of promulgation of ordinance.

8. Learned counsel for the appellant also produced minutes of the DSC held on 03.04.2009 in which the appellant was selected and placed at sr. no.3 of merit assigned to him. Order dated 27.04.2009 through which his appointment was notified showed him at the same place.

9. Respondents in order to properly interpret the relevant section of Act for determination of seniority took up the case with the Establishment Department for advice. The said department vide letter no. SOR-V (E&AD)/4-31/2017 dated 17.08.2017 advised to settle the issue in the light of Section 4(2) of the said Act. However, this advice was not followed by the respondents. Case of the appellant seems genuine and respondents are required to recast the impugned seniority list in the light of the relevant section of the aforementioned act.

10. As a sequel to above, the appeal is accepted and the impugned orders dated 15.11.2017 and 28.12.2017 are set aside. Parties are left to bear their own costs. File be consigned to the record room.

(HAMID FAROOQ DURRANI)
CHAIRMAN

(AHMAD HASSAN)
MEMBER

ANNOUNCED
12.03.2019



NOTIFICATION:

No. SO(POLICY)1-41/2018. In order to streamline the processes and devise a policy based on standardized procedures for litigation, the Competent Authority is pleased to approve the Provincial Litigation Policy for all Administrative Departments and attached formations with immediate effect. The policy shall be followed in letter and spirit by all concerned.

Provincial Litigation Policy

1. Purpose

It has been the utmost priority of the Provincial Government to emphasis on welfare legislation and social reforms. The Provincial Litigation Policy is aimed to transform all government departments and attached formations into efficient and responsible litigants. This policy adheres to the responsibility of the government to protect the rights of citizens while strictly adhering to the laws, rules and regulations in vogue. The primary objective of this policy is to reduce unnecessary litigation workload of the departments in courts so as to avoid wastage of valuable time of the courts and government. This Policy will also enable the officers heading the litigation sections of the departments to work more efficiently and objective oriented.

2. Salient features

The salient features of the policy are:

- a. To ensure that litigation section/cell of a department is as important as other section. However, all other sections (internal or external if related to the case) are equally responsible to cooperate while filing/contesting cases.
- b. It guides to place correct facts, all relevant documents before the court/tribunal and not to mislead them.
- c. It guides about progress review of departments both internally and externally via notified departmental committees.
- d. It sensitizes the government departments in important cases for efficient and timely disposal.
- e. To put in place an external monitoring mechanism to review progress of the line departments in terms of success/failure and determine responsibilities.
- f. To lay down a model for departmental litigation sections.
- g. To lay down incentives based litigation model.

3. Principles of Efficiency

Competency	A Department to be represented by a competent and sensitive litigation officers or team of officers: competent on the basis of qualification, experience and skills (presentation/arguments) and sensitive to the facts that government is not an ordinary litigant and that a litigation does not have to be won at any cost.
Prioritization	The core cases which if decided in favour of the Government could either strengthen the government stance or result into revenue or both.
Management	Initiate litigation in a uniform and coordinated manner and ensuring that cases of public interest are won and otherwise are not needlessly persisted with.
Responsibility	<ul style="list-style-type: none"> • That litigation will not be resorted to for the sake of contesting. • That false pleas will not be taken and shall be avoided in presentation before the court.

4. Progress Review Committee (PRC)

In order to streamline working of litigation sections and make an efficient environment therein, it is direly needed to vigilantly review progress and efficiency of these sections both internally and externally. For the purpose, the following two tiers of Progress Review Committee are laid down:

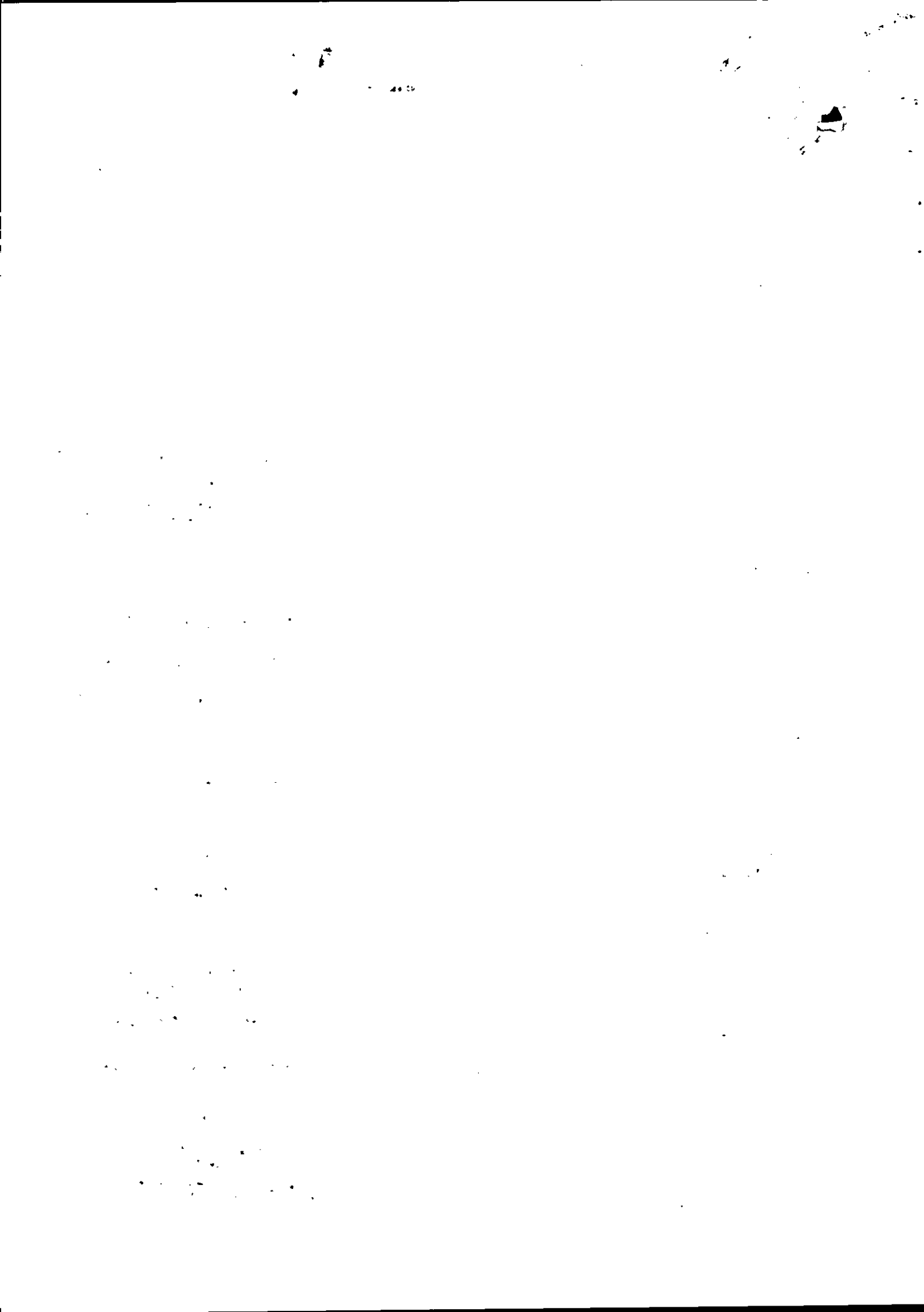
- a. Departmental Progress Review Committee (DPRC)
- b. Provincial Progress Review Committee (PPRC)

a. Departmental Progress Review Committee (DPRC)

The DPRC Committee to be notified by the concerned department preferably under the Chairmanship of the Special Secretary concerned. However, those departments where the post of Special secretary does not exist shall notify the same under any well versed officer but not below the rank of Additional Secretary or BPS-19. The rest of composition shall include members from the concerned attached formations, litigation section, and any coopted expert(s).

ToRs:

- i. To conduct quarterly performance review of the litigation section of the department and that of the attached formations in terms total number of cases at different courts, progress made in cases, issues and the line of action adopted
- ii. To recommend action to the next higher authority against the officer/official on account of poor performance and negligence of duty in a case or cases.
- iii. To review cases for possible resolution/settlement at the Committee's level or by means of negotiation with complainant/litigant to withdraw his case or cases accordingly.
- iv. To furnish minutes/reports of the quarterly meeting to Law Department regularly.





GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

13

No. SOE (PWD) 4-109/2019/DPRCI/4476
Dated Peshawar the 31st October, 2019

- To
1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights Department,
Peshawar.
 2. The Director General,
Directorate General PW,
Khyber Pakhtunkhwa, Peshawar.

Subject: - MINUTES OF THE DEPARTMENTAL PROGRESS REVIEW COMMITTEE
MEETING HELD ON 28-10-2019 UNDER THE CHAIRMANSHIP OF
ADDITIONAL SECRETARY, POPULATION WELFARE DEPARTMENT
REGARDING PENDING COURT CASES

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith minutes of meeting of the Departmental Progress Review Committee held on 28/10/2019 under the Chairmanship of Additional Secretary of this Department for further necessary action please.

Yours faithfully,

SECTION OFFICER (ESTT)

Encls: As above.

Copy to the: -

1. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar alongwith a copy of minutes of the DPRC meeting held on 28-10-2019 for information.
2. PS to Additional Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
3. PA to Deputy Secretary (Admn), PWD, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

(14)

No. SOE (PWD) 4-109/2019/DPRC/1322-36
Dated Peshawar the 20th November, 2019

To

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights Department,
Peshawar.
2. The Director General,
Directorate General PW,
Khyber Pakhtunkhwa, Peshawar.


Subject: - MINUTES OF THE DEPARTMENTAL PROGRESS REVIEW COMMITTEE
MEETING HELD ON 15-11-2019 UNDER THE CHAIRMANSHIP OF
ADDITIONAL SECRETARY, POPULATION WELFARE DEPARTMENT
REGARDING PENDING COURT CASES

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith minutes of meeting of the Departmental Progress Review Committee held on 15/11/2019 under the Chairmanship of Additional Secretary of this Department for further necessary action please.


Yours faithfully,

Encls: As above.


SECTION OFFICER (ESTT)

Copy to the: -

1. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar alongwith a copy of minutes of the DPRC meeting held on 15-11-2019 for information.
2. PS to Additional Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
3. PA to Deputy Secretary (Admn), PWD, Khyber Pakhtunkhwa, Peshawar.


SECTION OFFICER (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-II)/LD/5-1/2012-VOL-III 26384-86
DATED: PESH: THE 28 NOV, 2016

Handwritten initials and a circled '15'

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Population Welfare Department.

Subject: DETERMINATION OF SENIORITY.

Dear Sir,

I am directed to refer to your Department letter No.SOE(PWD) 4-30/ 2012/ Vol-II/ 3074-76 dated 24.11.2016 on the subject noted above and to state that in accordance with sub-section 2 of section 4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009, the inter se seniority of the Employees, whose services are regularized under this Act within the same service or cadre shall be determined on the basis of the continuous officiation in such service and cadre provided that if the date of continuous officiation in the case of two or more Employees is the same, the Employee older in age shall rank senior to the other one.

2. The fore referred provision of law clearly provides for determination of seniority on the basis of date of continuous officiation. The provision with regard to older age will be applicable in the eventuality, when the date of continuous officiation of two or more Employees is the same, and not in all cases.

Yours Faithfully,

[Signature]
Section Officer (Opinion-III)

Endst: of even No, & date.

Copy is forwarded to P.S to Secretary Law Department.

33099
29-11-16

Process No
335-17 official

[Handwritten signature]
27/11/16

30/11
30/11/16



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No.SOR-V(E&AD)/4-31/2017
Dated 17th August, 2017.

To


The Secretary to Govt: of Khyber Pakhtunkhwa,
Population Welfare Department.

Subject: ISSUANCE OF FINAL SENIORITY LIST OF (BS-17) NON-TECHNICAL

Dear Sir,

I am directed to refer to your letter No.SOE(PWD)4-30/2008/Vol-1/50004 dated 21-06-2017 on the subject noted above and to state that Section-4(2) of Khyber Pakhtunkhwa Employees (Regulation of Services) Act 2009 is very clear on issue and the issue may be settled accordingly.

Yours faithfully,


(MUHAMMAD SALIM SHAH)
SECTION OFFICER (REG-V)

Secretary PWD
No. 2323
Date 17-8-2017

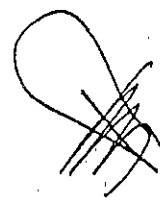
Endst: of even No. & Date.

Copy forwarded to the PA to Deputy Secretary (R-III) Establishment Department.

SECTION OFFICER (REG-V)

① Copy to DG
with the advice to
send final S.L. as
per advice of the E&AD Dept
within three days
positively.

(ii) Grievances of
Sahibul Azam, etc who
are beneficiary of Act 2009
also be decided
accordingly and after
meeting of DPE
be called next
week.


17/8/17

PS

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.3186/2020.

Muhammad Tariq

..... (Appellant)

Versus


The Secretary, Govt. of Khyber Pakhtunkhwa

Population Welfare Department, Peshawar etc

..... (Respondents)

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Deponent

Ahmad Yar Khan
Assistant Director (Lit)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.3186/2020.

Muhammad Tariq Khan. (Appellant)

Versus

The Secretary, Govt. of Khyber Pakhtunkhwa

Population Welfare Department, Peshawar etc (Respondents)

PARAWISE REPLY/COMMENTS ON BEHALF OF THE RESPONDENTS No. 1 To 3.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appellant has got no locus standi to file the instant appeal.
2. That no discrimination / injustice has been done to the appellant.
3. That the instant appeal is bad in the eye of law.
4. That the appellant has not come to this Tribunal with cleaned hands.
5. The appeal is based on distortion of facts and is not tenable in eye of law.
6. That the appellant has been estopped by his own conduct to file the appeal.
7. The present service appeal is based upon malicious/vexations and frivolous grounds.
8. That the service appeal is based on conjecture and surmises.
9. That the service appeal is not maintainable in its present form.
10. That the service appeal is bad due to mis-joinder and non-joinder of the parties.
11. That according to the law the seniority list is to be determined on the basis of arrival (continuous officiation) not from the date of appointment or from the Regularization date.
12. That all the proceeding regarding seniority has been conducted in accordance with the prevailing law.
13. That the appellant has filed the present service appeal contrary to Law and facts.
14. That the appellant has concealed material facts from this Tribunal.
15. The instant appeal is hit by R.23 of the Khyber Pakhtunkhwa Service Tribunal Rule 1974.

ON FACTS:

1. Para No.1 of the appeal is correct.
2. Para No.2 of the appeal is correct.
3. Para No.3 of the appeal is correct.
4. Para No.4 of the appeal is correct to the extent that appeal of the respondent No.5 and 6 were subjudice before the honourable service tribunal however before the final order by the Tribunal, The Departmental progress Review Committee already constituted in order to streamline the working of litigation section to review the matter relating to the seniority list dated 4th October, 2017 was reviewed and as such in light of the decision of the review committee respondent No. 5 & 6 withdrawn their appeals. It is worth mentioning that review committee decided the seniority list in light of Section-4 (2) of the Khyber Pakhtunkhwa (Employees Regularization of Services Act, 2009. Moreover such seniority list was duly approved by the competent forum.
5. Para No. 5 is incorrect. The seniority list dated 04.12.2019 were issued after due consideration in light of Section-4 (2) of the Khyber Pakhtunkhwa (Employees Regularization of Service Act, 2009. While the rest of the para is not related therefore need no comments.
6. Para No. 6 pertains to record hence needs no comments.
7. Para No. 7 need no comments .However reply on the grounds are as under..

ON GROUNDS:

- A. Para-A is incorrect. The seniority list was prepared in accordance with Section-4 (2) of Regularization Act, 2009, after due consideration of material facts on record. There is no legal bar on the authority to give notice to any one, while considering the seniority list. Furthermore the seniority list was prepared in accordance with Section-4 (2) of KP (Employees Regularization Act, 2009. read with the judgment dated 12.03.2019 of this Honorable Service Tribunal in Service Appeal No. 56/2018 Title Zavar Hussain Khan Versus Secretary Population Welfare Department Khyber Pakhtunkhwa Peshawar (**Annex: A**).
- B. Para-B is incorrect. In such like proceeding there is no needs to give notices to appellant or to anyone else. The rest of the para is already replied in Para-A above.

- C. Para-C is incorrect. Progress Review Committee / Dispute Resolution Committee was the proper forum for granting relief to respondent No. 5 & 6 in accordance with the TORs No (iii) of DPRC as the defined in the litigation policy circulated vide Notification No SO(Policy)1-41/2018 dated 26-03-218 . **(Annex: B)**. There is no legal bar on the departmental committee to constrain them not to review the seniority list. The committee has been given the power / mandate to consider such like court cases.
- D. Para-D is incorrect. The appellate is serving as Assistant Director not as an Additional Director. There are two committees mentioned in the litigation policy 2018 i.e. Provincial Progress Review Committee (PPRC) and Departmental Progress Review Committee (DPRC) and the committee as referred by the appellant is not applicable in the instant case.
- E. Para-E is correct. The departmental committee is constituted in line with the Establishment Department KP instructions vide Notification No. SO (Policies)/E&AD/2-1/2017 dated 19/10/2017.
- F. Para-F is incorrect. The seniority list of respondents No 5 & 6 was revised/ reviewed but the seniority list dated 04-10-2017 related to all the regularized officer was revised/ reviewed by the committee. The revised/ reviewed seniority list alongwith minutes of the meeting dated 15-11-2019 was forwarded to the Provincial Departmental Resolution committee vide letter No SOE(PWD)4-109/2019/DPRC/532-36 dated 20-11-2019 . **(Annex: C)**.
- G. Para-G is incorrect. The minutes of the meeting dated 15/11/2019 was forwarded to the competent forum vide letter No. SOE (PWD) 4-109/2019/DPRC/532-36. Dated 20/11/2019. **(Annex: D)**.
- H. Para-H is incorrect. As per TORs of the committee duly circulated by Establishment Department Govt. of KP vide Notification dated 26/03/2018, the committee is supposed to made negotiations with litigants to withdraw their cases accordingly, hence there was no need to call others therefore the action was taken in line with the policy of the Government.
- I. Para-I is incorrect. The reply is already given in para A.
- J. Para-J is incorrect. The matter has already been clarified by the concerned quarters and Judgment of this Honorable Tribunal as explained above at Para-A.

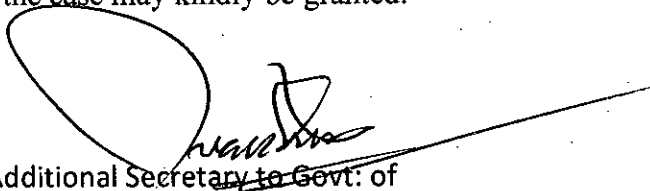
K. Para-K is incorrect. The seniority list has been corrected as per advice of the Law, Parliamentary Affairs & Human Rights Department Govt of Khyber Pakhtunkhwa vide letter No. SO (OP-II)/LD/S-1/2012-Vol-III-26384-86 dated 28.11.2016 and Govt. of Khyber Pakhtunkhwa Establishment & Admn: Department (Regulation Wing) letter No. SOR-V(E&AD)/4-31/2017 dated 17.08.2017 as well as this Honorable Tribunal as explained in Para-A. (Annexure E&F).

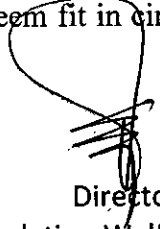
L. Para-L is incorrect. The seniority list is correct according to the prevailing Law and prepared by the lawful authority and no discrimination has been effected upon any one's right. Furthermore, upon approval by the competent authority draft seniority list of Assistant Director/Tehsil Population Welfare Officer, Dy District Population Welfare Officer (Non-Tech)/Dy Demographer/Accounts Officer (BPS-17) of the Directorate General, Population Welfare, which has been determined in light of sub section 2 of section 4 of the Khyber Pakhtunkhwa employees (regulation of Services) Act, 2009 and advises of Law Department and Establishment Division in respect of Adhoc employees and Director General, Population Welfare Khyber Pakhtunkhwa has been requested to circulate the same amongst all members of the cadres of any observation/objections (if any) up to 02-07-2020 positively vide letter No SOW(PWD)4-30/2020/seniority/3563-65 dated 03-06-2020 copy enclosed for ready reference,

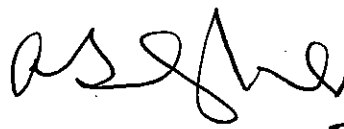
Prayer:-

It is therefore most humbly prayed that by acceptance of this reply the Service Appeal of the Appellant may kindly be dismissed with cost.

Any other relief though not specifically prayed for deem fit in circumstances of the case may kindly be granted.


Additional Secretary to Govt. of
Khyber Pakhtunkhwa Population
Welfare Department,
Respondent No.3


Director General
Population Welfare Directorate
Khyber Pakhtunkhwa
Respondent No.2


Secretary to Govt. of
Khyber Pakhtunkhwa
Population Welfare Department,
Respondent No.1

07.07.20

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

In Service Appeal No.3186/2020.

Muhammad Tariq Khan (Appellant)

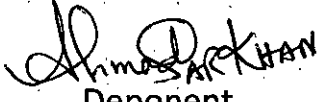
Versus

The Secretary, Govt. of Khyber Pakhtunkhwa

Population Welfare Department, Peshawar etc (Respondents)

Counter Affidavit

I Mr. Ahmad Yar Khan, Assistant Director (Litigation), Directorate General of Population Welfare Department do solemnly affirm and declare on oath that the contents of para-wise comments/reply on behalf of respondent's No. 1 to 3 are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal.


Deponent

Ahmad Yar Khan
Assistant Director (Lit)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 56/2018

Date of Institution ... 12.01.2018

Date of Decision ... 12.03.2019

Zawar Hussain Khan, Statistical Assistant, office of the District Population Welfare, Mardan. ... (Appellant)

VERSUS

The Secretary, Govt. of Khyber Pakhtunkhwa Population Welfare Department, Peshawar and eight others. ... (Respondents)

MR. KHUSHI DIL KHAN,
Advocate

--- For appellant.

MR. ZIAULLAH
Deputy District Attorney

--- For official respondents no. 1 & 2

MR. JAVED IQBAL GULBELA,
Advocate

--- For private respondents no. 3 & 4

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER (Executive)
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that he was initially appointed as Statistical Assistant (BPS-11) on adhoc basis vide order dated 27.04.2009. After promulgation of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 his services were regularized alongwith other similarly placed employees. The method for determination of seniority was laid down in Section-4

ATTENDED

5/11/19
STATISTICAL ASSISTANT
OFFICE OF THE DISTRICT POPULATION WELFARE
MARDAN

respondents no. 3 to 9 were shown as junior to him as per law/rules. This position was maintained in the seniority list issued on 29.11.2013 and 26.02.2016. Thereafter, another final seniority list was circulated vide office order dated 04.04.2017 in which due place was given to the appellant. Against the laid down procedure another tentative seniority list was notified in 2017 in which his name was brought to sr. no.10, while private respondents 3 to 9 were shown senior to the appellant. Feeling aggrieved, he preferred departmental appeal on 21.11.2017 which was rejected vide order dated 28.12.2017. Respondents have misinterpreted sub-Section-2 of Section-4 of the Act of 2009, while preparing the impugned seniority list. The appellant joined service/assumed charge on 06.05.2009, whereas the private respondents joined duty later on and were rightly placed junior to him. As such by applying the method of continuous officiation he was senior to private respondents.

3. On the other hand learned Deputy District Attorney argued that initially the appellant was appointed on adhoc basis and thereafter his services were regularized under the Khyber Pakhtunkhwa (Regularization of Services) Act, 2009. For proper interpretation of the said Act regarding determination of seniority the matter was referred to the Establishment department for advice. In the light of advice of the said department, seniority list was firmed up/notified. Action taken by the respondents was duly backed by law and rules.

4. Learned counsel for private respondents no. 3 and 4 relied on arguments advanced by learned Deputy District Attorney.

ATTESTED

Shah
Khyber Pakhtunkhwa
Government

CONCLUSION

5. It is not disputed that the appellant was appointed as Statistical Assistant on adhoc basis vide order dated 27.04.2009. After promulgation of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 his services were regularized. Attention is invited to Sub-Section-2 of Section-4 of the above Act, wherein it is laid down that the seniority inter-se of the employees whose services were regularized under this Act within the same service or cadre shall be determined on the basis of their continuous officiation in such service or cadre. On the strength of this principle due place was given to the appellant in the seniority lists notified on 23.08.2010, 29.11.2013, 24.2.2016 and 04.04.2017.

6. The dispute arose after circulation of tentative seniority list dated 15.11.2017 in which his name was not placed at the appropriate place. Sub-Section (1) (5) of Section-8 of Khyber Pakhtunkhwa Civil Servant Act, 1973 provides that seniority list shall be revised atleast once in a calendar year, preferably in the month of January. It is not understandable, why two seniority lists were circulated/notified by the respondents in one calendar year? The grounds given in the rejection order of his departmental appeal are against the spirit of the said Act.

7. Attention is also invited to a letter dated 06.08.2017 addressed to the Director General Population Welfare, Khyber Pakhtunkhwa, wherein some guidelines were given for determination of seniority of BPS-11 adhoc employees.

It was also directed to fix their seniority on the analogy of BPS-17 employees (non-technical). Through another letter dated 26.10.2017 from respondent no.1

SHY
 Director General
 Population Welfare
 Khyber Pakhtunkhwa

ATTESTED

...ent no.2 directions were conveyed that seniority of adhoc
...s be determined from the date of promulgation of ordinance.

8. Learned counsel for the appellant also produced minutes of the DSC held
on 03.04.2009 in which the appellant was selected and placed at sr. no.3 of merit
assigned to him. Order dated 27.04.2009 through which his appointment was
notified showed him at the same place.

9. Respondents in order to properly interpret the relevant section of Act for
determination of seniority took up the case with the Establishment Department for
advice. The said department vide letter no. SOR-V (E&AD)/4-31/2017 dated
17.08.2017 advised to settle the issue in the light of Section 4(2) of the said Act.
However, this advice was not followed by the respondents. Case of the appellant
seems genuine and respondents are required to recast the impugned seniority list in
the light of the relevant section of the aforementioned act.

10. As a sequel to above, the appeal is accepted and the impugned orders dated
15.11.2017 and 28.12.2017 are set aside. Parties are left to bear their own costs.
File be consigned to the record room.


(HAMID FAROOQ DURRANI)
CHAIRMAN


(AHMAD HASSAN)
MEMBER

ANNOUNCED
12.03.2019

Certified to be
S1



NOTIFICATION:

S.O. 100/2018. In order to streamline the processes and procedures of the various authorized procedures for litigation, the Competent Authority is pleased to approve the Provincial Litigation Policy for all Administrative Departments and attached formations with immediate effect. The policy shall be followed in letter and spirit by all concerned.

Provincial Litigation Policy

1. Purpose

It has been the utmost priority of the Provincial Government to ensure the smooth implementation of legislation and social reforms. The Provincial Litigation Policy is aimed to transform all government departments and attached formations into efficient and responsible litigating entities. It is the responsibility of the government to protect the rights of citizens and to ensure the adherence to the laws, rules and regulations in vogue. The main objectives of the policy are to reduce unnecessary litigation workload of the departments in order to avoid wastage of valuable time of the courts and government. This policy will ensure that the litigating sections of the departments to work in a more efficient and effective manner.

2. Salient features

The salient features of the policy are:

- a. It ensures that litigation section cell of a department is the only authorized section to handle all other sections internally or externally if related to the case and the litigating section is to cooperate while filing a pleading or
- b. It guides to place correct facts, an relevant documents before the court and not to mislead them.
- c. It provides for progress review of departments both internally and externally by the judicial committees
- d. It sensitizes the government departments on important cases for efficient and effective disposal
- e. It puts in place an external monitoring mechanism to review the performance of the departments in terms of success failure and determine responsibility
- f. It lays down a model for departmental litigation section
- g. It lays down incentives based litigation model

3 Principles of Efficiency

- A Department to be entrusted with competent and sensitive litigation officers or team of officers competent on the basis of qualification, experience and skills (presentation arguments) and sensitive to the facts that government is not an ordinary litigant and that a litigation does not have to be won at any cost
- The core cases which if decided in favour of the Government could either strengthen the government finance or result into revenue or savings
- That all litigations in a uniform and coordinated manner and ensuring that cases of public interest are taken and otherwise are not needlessly persisted and
- That litigation will not be resorted to for the sake of contesting
- That those pleas will not be taken and shall be avoided if presentation before the court

4 Progress Review Committee (PRC)

In order to streamline working of litigation sections and make an efficient government, it is direly needed to vigilantly review progress and efficiency of these sections both internally and externally. For the purpose, the following two tiers of Progress Review Committee are laid down:

- A. Departmental Progress Review Committee (DPRC)
- B. Progress Review Committee (PPRC)

a. Departmental Progress Review Committee (DPRC)

The DPRC Committee to be notified by the concerned department preferably under the Chairmanship of the Special Secretary concerned. However, those departments where the post of Special Secretary does not exist shall notify the same under any well versed officer but not below the rank of Additional Secretary or BPS-17. The Committee shall include members from the concerned attached formations, litigation section and any accepted experts.

To Review

The Committee shall monitor the progress of the litigation section of the department and that of the attached formations in terms total number of cases, pending cases, progress made in cases, issues and the line of action adopted by the government against the next higher authority against the officer official or public in poor performance and negligence of duty in a case or cases.

The review cases for possible resolution or settlement of the Committee's cases.

The review cases for possible resolution or settlement of the Committee's cases.

For more information, please refer to the meeting of the Departmental Progress Review Committee.

Provincial Progress Review Committee (PPRC)

The PPRC Committee to be notified by the Establishment Department under the Chairmanship of Secretary Law Department. The rest of members shall be nominated by the concerned departments. Additional Secretary, Government of Punjab shall be invited to attend.

FoRs:

1. To conduct quarterly performance review of the department in terms of total number of cases at different courts, progress made in cases, issues and the time taken to dispose of cases and recommend action to the relevant departments accordingly.
2. To report on the performance and negligence of duty in a case.
3. To submit a consolidated performance report on a quarterly basis to the Secretary for decision.

5. Efficient Litigation Section

Despite significant role in safeguarding the public interest, the litigation sections of the departments/attached formations have always been marginalized. The Sections mostly suffer from issues like lack of qualified and experienced staff, necessary equipment and transportation facility. Due to cumbersome and unproductive nature of the work, officers are posted elsewhere and resultantly either working without their full attention or on an additional charge basis. To address this issue and to ensure that the litigation sections are strengthened and efficient, the following measures shall be taken by the departments. The Government of Punjab shall be notified accordingly.

a. Staffing

There shall be no vacant position in the litigation section. It shall be ensured that the vacant positions are filled either by means of initial recruitment or transfer as the case may be. The establishment department shall prioritize and give special attention to the needs of line departments in this context.

The litigation sections shall be run by dedicated and full time staff as per the establishment department's policy. No officer shall be posted to any other department on an additional charge basis for more than 120 days in a year. The same shall apply vice versa. In case of leave not exceeding 120 days, suitable arrangement shall be made as stop gap arrangement is permissible.

Staffing of litigation section shall not be taken for granted and in case of admission, staff requirement (as per standardization) other than the sanctioned Line Department shall be moved SNE to Finance Department for creation of the same.

b. Equipment

Litigation section shall have all required equipment as per need. The Government of Punjab shall be notified accordingly. The following equipment shall be made available to each litigation section:

- Computers or Scanners or Printers
- UPS system or Photocopier or DSI Facility

c. Transportation

For timely attendance in outstation courts, submission of documents, hearings and meetings with line formations and other regulatory departments, every litigation section shall be provided with a good condition dedicated pool vehicle (to be authorized by administration department) with provision of necessary fuel.

instant and have reference to other similar cases, the court decisions in such cases where the case is against the department shall be listed as preserved scanned in the system. The record of cases shall be categorized and maintained on the given sample format:

Consolidation of Decided/Closed Case

Decision Court	Services Tribunal	Civil Court		High Court		Supreme Court	
		Service Matter	other	Service Matter	other	Service Matter	Other Matter
For Year							
Against							
At							

ii. Detailed Description

Court	Nature of Case	Decided in Favour of the Govt.		Decided against the Govt.	
		S.No	Title of case	S.No	Title of case
Services Tribunal	Service Matters				
	Others				
High Court	Service Matters				
	Others				
Supreme Court	Service Matters				
	Others				

c. Scheduling & Coordination

1. The time spent on the cases in the court should be minimized and the cases should be disposed of as soon as possible. The section officer in charge of the section should on a regular basis share the monthly schedule of cases hearings with the concerned court.

d. Litigation Management Information System (LMIS)

The system for keeping and management of cases at departmental level should be supervised through Litigation Management Information System (LMIS). The department will technical support to be provided by the PNRI.

e. Incentive Plan

In order to get best results in litigation, departments are required to work in an efficient and effective manner. To keep the litigation staff motivated to get the best possible results, there shall be a mechanism whereby the section officer in charge of the litigation section shall be rewarded on account of exceptional performance. The reward concept is new and to what extent incentive be tied to litigation staff will be a matter of performance. The incentive will not be treated the same way as the salary. However, every department should be free to identify its own performance indicators and wants its litigation staff to fulfill.

a. The specific objectives of the plan are to:

- 1. Encourage higher levels of performance by clearly identified and quantifiable incentives paid for successful achievement of that performance.
- 2. Facilitate and ensure ongoing retention of competent and willing officers in the litigation sections.
- 3. Increase the level of accountability for tangible output.
- 4. Enable the litigation staff to adhere to best practices in planning, organizing and performance management.
- 5. Promote the attributes of hard work, fast teamwork, and more.

b. Performance Based Incentives Structure

Apart from regular litigation section allowance, there shall be performance based incentive as well for the litigation staff. This incentive shall be based on the performance of the section. This entry is eligible for promotion in the next 30 days a year over and above any other routine incentive. However, the Government Secretary shall after recommendations of the law department may consider the program.

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

LNDST: NO & EVEN DATE

Copy is forwarded to:-

- Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department
- Additional Chief Secretary (FATA), FATA Secretariat, Peshawar
- The Senior Member Board of Revenue, Khyber Pakhtunkhwa
- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
- The Principal Secretary to Governor, Khyber Pakhtunkhwa
- The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
- All Divisional Commissioners in Khyber Pakhtunkhwa.
- All Heads of Attached Departments in Khyber Pakhtunkhwa.
- All Autonomous Semi Autonomous Bodies in Khyber Pakhtunkhwa.
- All Deputy Commissioners in Khyber Pakhtunkhwa.
- The Registrar Peshawar High Court, Peshawar.
- The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
- The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar
- All Special Secretaries, Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department


26/03/13
(BEENISH IQBAL)
SECTION OFFICER (POLICY)



GOVERNMENT OF KHYBER PAKHTUNKHWA,
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

No. SOE (PWD) 4-109/2019/DPRC/532-36
Dated Peshawar the 20th November, 2019

To

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights Department,
Peshawar.
2. The Director General,
Directorate General PW,
Khyber Pakhtunkhwa, Peshawar.

Subject: - MINUTES OF THE DEPARTMENTAL PROGRESS REVIEW COMMITTEE MEETING HELD ON 15-11-2019 UNDER THE CHAIRMANSHIP OF ADDITIONAL SECRETARY, POPULATION WELFARE DEPARTMENT REGARDING PENDING COURT CASES

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith minutes of meeting of the Departmental Progress Review Committee held on 15/11/2019 under the Chairmanship of Additional Secretary of this Department for further necessary action please.

Yours faithfully,

Encls: As above.


SECTION OFFICER (ESTT)

Copy to the: -

1. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar alongwith a copy of minutes of the DPRC meeting held on 15-11-2019 for information.
2. PS to Additional Secretary, Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
3. PA to Deputy Secretary (Admn), PWD, Khyber Pakhtunkhwa, Peshawar.


SECTION OFFICER (ESTT)

Endri of ovon No. & date
Section Office

Yours faithfully
[Signature]

cases
[Handwritten marks]

The fore referred provision of law clearly provides for determination of seniority on the basis of date of continuous officiation. The provision with regard to older age will be applicable in the eventually, when the date of continuous officiation of two or more Employees is the same and not in a

Employee older in age shall rank senior to the other one.
continuous officiation in the case of two or more Employees is the same, the continuous officiation in such service and cadre provided that if the date of within the same service or cadre shall be determined on the basis of the seniority of the Employees, whose services are regulated under this Act. Pakhtunkhwa Employees (Regularization of Services) Act, 2009, the inter se state that in accordance with sub-section 2 of section 4 of the Kyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009, the inter se

30/2012/ Vol-II/ 3074-76 dated 24.11.2016 on the subject noted above and to I am directed to refer to your Department letter No. SOE(PWD) 4

To
The Secretary to Govt of Kyber Pakhtunkhwa,
Population Welfare Department
Subject: DETERMINATION OF SENIORITY
Dear Sir,

GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT
No. 3074-76/2012-Vol-II/30 dated 24.11.2016
DATE: 25 NOV 2016



30/2012-9
24-11-16

35-17
[Handwritten notes]

[Handwritten marks]



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SOR-V(E&AD)/4-31/2017
Dated 17th August, 2017.

To

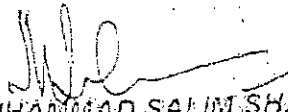
The Secretary to Govt: of Khyber Pakhtunkhwa,
Population Welfare Department

Subject: ISSUANCE OF FINAL SENIORITY LIST OF (BS-17) NON-TECHNICAL

Dear Sir,

I am directed to refer to your letter No. SOE(PWD)4-30/2008/Vol-1/50
004 dated 21-06-2017 on the subject noted above and to state that Section-4(2) of
Khyber Pakhtunkhwa Employees (Regulation of Services) Act 2009 is very clear on
issue and the issue may be settled accordingly.

Yours faithfully,


(MUHAMMAD SALIM SHAH)
SECTION OFFICER (REG-V)

Encls: of even No. & Date.

Copy forwarded to the PA to Deputy Secretary (R-III) Establishment
Department.

SECTION OFFICER (REG-V)

① Copy to DG
with the advice to
send final S.L. as
per advice of the EO & Det
KPM in three days
positively.

1.1. Criticism of
senior staff etc was
a beneficiary of Act 2009
has decided
industry and other
things of DPE
called not
ok.


17/8/17

PS

No. 2323
Date 17-8-2017

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. 3186/2020

Muhammad Tariq Khan

Vs

Chief Secretary etc

=====

APPELLANT'S REJOINDER

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REPLY TO PRELIMINARY OBJECTIONS

1. All the preliminary objections taken in para 1 to 15 are incorrect and are hence denied in detail.

PARAWISE REPLY

1. Para 1 of the appeal has been admitted correct.
2. Para 2 of the appeal has been admitted correct.
3. Para 3 of the appeal has been admitted correct.
4. Para 4 has been partially admitted correct, rest of the claim detailed in para 4 of the appeal is correct and that of the reply is incorrect.

The entire process was conducted surreptitiously without even noticing the appellant. The seniority list as it stood on 04-10-2017 was illegally altered and the appellant was arbitrarily placed junior to respondents No. 05 & 06, while placing him at serial No. 20 instead of his original seniority to position at serial No. 10.

The Progress Review Committee/Dispute Resolution Committee had completely exceeded its mandate and authority while granting the relief to respondents No. 05 & 06, during the pendency of their service appeals before the Hon'ble service tribunal. The dispute Resolution Committee was thus quorum non judge and had no authority to alter the Seniority List while the service appeals were pending adjudication.

5. Para 5 of the appeal is correct and that of the reply is incorrect. The progress review committee has exceeded its authority as the clear mandate of the Dispute Resolution Committee constituted by the Population Welfare Department Peshawar was to resolve the disputes relating to terms and conditions of Civil Servants in BPS-03 to 15 only.

The services of the appellant, fall within the category of Civil Servants in BPS-16 **and above**, wherein the mandate of the Departmental Committee was to review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and **make appropriate recommendations to the Provincial Committee.**

The minutes of meeting dated 15-11-2019 regarding acceptance of departmental appeals of respondents No. 05 & 06 was thus not only illegal and unlawful, but was also beyond the mandate and competence of Departmental Committee, hence void ab-initio.

6. Para 6 of the appeal is correct and that of the reply is incorrect.
7. Para 7 of the appeal is correct and that of the reply is incorrect.

REPLY TO THE GROUNDS

1. All the grounds taken in para A to L of the appeal are correct, whereas that of the reply are incorrect.

the appellant is serving as Additional Director BPS-17 and for resolving disputes of civil servants in **BPS- 16 & above**, a **Provincial** Dispute Resolution Committee was constituted under the Chairmanship of Additional Chief Secretary: P&D, vide notification dated 19-10-2017 detailed as under;

1. Add 1: chief Secy: P&D Department	chairman
2. Secretary Establishment Department	Member
3. Secretary Finance Department	Member
4. Secretary Law Department	Member
5. Secretary of the concerned Department	Secretary

That another committee under the Chairmanship of Administrative Secretary for resolving the matters relating to civil service in BPS-03 to 15 was also notified on 19-10-2017. The population welfare department acknowledged the notifications and constituted committee vide notification dated 12-07-2019, wherein the TOR's of the committee were settled as under;

- i. **To resolve court cases other than disciplinary matters related to the terms and conditions of Civil Servants in BS-03 to BS-15.**
- ii. **To review and sift the court cases that can be settled outside the court in respect of Civil Servants in BS-16 and above and make appropriate recommendations to the Provincial Committee.**

The constitution of such committees detailed in notification dated 19-10-2017 was circulated to all Administrative Secretaries of Government Khyber Pakhtunkhwa vide letter dated 08-07-2019. In pursuance of notification dated 19-10-2017, Population Welfare Department constituted its own Dispute Resolution Committee vide notification dated 12-07-2019.


In addition to above, the term "**continuous officiation**" defined in section 4(2) of the Khyber Pakhtunkhwa (Regularization of Services Act, 2009) is a matter of interpretation of the Honorable Tribunal and the representative of the DG PWD, Mr. Kashif Fida, respondent No. 04 has failed to interpret the same.

Such statement of the DG PWD, Mr. Kashif Fida, respondent No. 04 has created serious doubts regarding his impartiality, calling for interference by the worthy Tribunal.

The date of appointment of the appellant vide the regularization act dated 12-06-2009 (Annex "D") is his actual date of continuous officiation, hence in such case age factor will be considered for seniority according to section 4(2) of the act, which was completely ignored.

The appellant is entitled to place at his proper place in the seniority list dated 04-10-2017, of the Assistant Director, Population Welfare Department Khyber Pakhtunkhwa. The Hon'ble Tribunal is requested to place the appellant at his proper place and set aside the impugned discriminatory list, which is not only illegal and unlawful but also collusive and arbitrary.

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


Appellant,

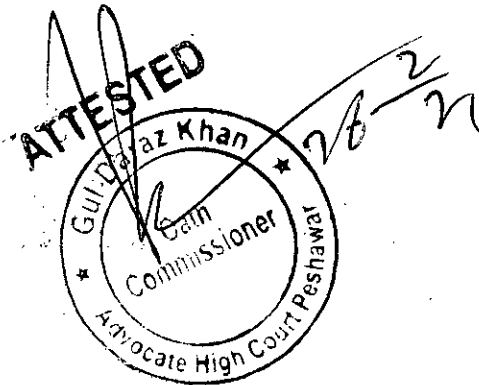
Through,


Peshawar, dated
24 /Feb, 2021


(MUHAMMAD ZAFAR TAHIRKHELI)
Advocate

Affidavit

I, the appellant, do hereby state on Oath that the contents of the above rejoinder are true and correct to the best of my knowledge and belief, and nothing has been kept concealed from this Hon'ble Tribunal.




DEPONENT