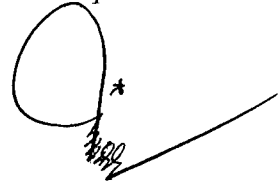


31.05.2022

Learned counsel for the appellant present and submitted an application to file amended appeal in the light of order of Honourable Peshawar High Court dated 04.11.2021 delivered in Writ Petition of the present appellant bearing No. 2871-P/201 with IR. Perusal of the order dated 04.11.2021 reveals that Writ Petition of the present appellant has been converted in to service appeal for adjudication by Service Tribunal. Request of learned counsel for the appellant is allowed. To come up for amended appeal on 26.07.2022 before S.B.



(Mian Muhammad)  
Member (E)

26.07.2022

Appellant present through counsel.

~~An~~ Amended appeal has already been filed and placed on file. A request was made for adjournment in order to produce relevant record. Last chance is given. To come up for preliminary hearing on 12.10.2022 before S.B.

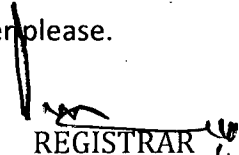





(Rozina Rehman)  
Member (J)

Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. \_\_\_\_\_ 7750/2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	12/11/2021	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 04.11.2021 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>04/01/22</u></p> <p>04.01.2022</p> <p>Nemo for the appellant.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Notices be issued to appellant as well as his learned for the next date. Case to come up for preliminary hearing on 01.03.2022 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p> <p>1-3-2022</p> <p>Due to retirement of the Hon'ble Chairman the case is Adjourned to come up for the same as before on 31-5-2022</p> <p style="text-align: right;"> Reader</p>



*The*  
**PESHAWAR HIGH COURT**  
*Peshawar*

Ph: No. 091-9210149-58

No. 43005 (1)/447/2021/WP-MN

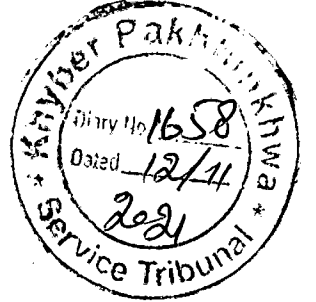
Dated. 11-November-2021

**From**

**Deputy Registrar (J),  
Peshawar High Court,  
Peshawar.**

**To**

✓  
The Khyber Pakhtunkhwa Service Tribunal, Peshawar.



**Subject:**

**Writ Petitions W.P 2871/2021 Title: Eng: Hasnain Javed VS Govt of Pakistan & others**

**Memo,**

I am directed to send herewith the titled case in original alongwith all annexures and copy of order of this Honble Court dated 04.11.2021 for compliance.

11-11-21  
**Deputy Registrar (J)**

**Encl: As above.**

**PESHAWAR HIGH COURT, PESHAWAR.**

**ORDER SHEET**

Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge.
<p><u>04/11/2021</u></p>	<p><b><u>WP No. 2871-P/2021 with IR</u></b></p> <p><b><u>Present:</u></b> Mr. Noor Muhammad Khattak, Advocate, for the petitioner.</p> <p>Mr. Arshad Ahmad Khan, AAG, for the respondents.</p> <p>===</p> <p><b><u>SYED ARSHAD ALI, J.-</u></b> Eng. Hasnain Javed, the petitioner, who is a retired civil servant, has approached this Court, through the instant constitutional petition, praying that:-</p> <p><i>“It is, therefore, humbly prayed that on acceptance of this writ petition the Honorable Court may please be directed the respondents to consider the petitioner for proforma/ante-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of Superintendent Engineer BS-19 with all back benefits according to rules and law.</i></p> <p><i>Any other relief, which the petitioner is found fit in law, justice and equity”.</i></p> <p>2. Arguments heard and record perused.</p> <p>3. The record is very clear and straight forward, according to which, the present petitioner was a civil servant and he seeks direction of this Court for proforma/ante-dated promotion. It is by now settled law that claim for ante-dated promotion is one of the terms and conditions of a civil servant, therefore, in view of the judicial contour envisaged under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973,</p>

this Court lacks jurisdiction in the matter in relation to enforcement of terms and conditions of a civil servant. When the learned counsel for the petitioner was confronted with the said legal position, he has produced a judgment of this Court dated 27.10.2021 passed in Writ Petition No. 3210-P/2021, whereby instead of dismissing the petition, the same was converted into appeal and transmitted to the worthy Service Tribunal in view of the law laid down by the Apex Court in the case of Mian Asghar Ali vs. Govt. of Punjab through Secretary (Colonies) BOR Lahore and others” (2017 SCMR 118) with further direction that the petitioner in that case may file an application for amendment in the appeal.

4. Since a Division Bench of this Court has formed an opinion in a similar matter, therefore, keeping in view the judgment of this Court, we convert this petition into appeal and send the same to the worthy Service Tribunal for adjudication, copy whereof be retained in office for the purpose of record.

5. Writ Petition along with Interim Relief stands disposed of accordingly.

  
Judge

  
Judge

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Amended Appeal No. 7750 2021

Eng Hasnain Javed S/o Amjad Uddin Hassan R/o Amour Housing Society  
Manki Road Hous No.49, Nowshera

Appellant

VERSUS

Government of Khyber Pakhtunkhwa through its Chief Secretary and  
others.

Respondents

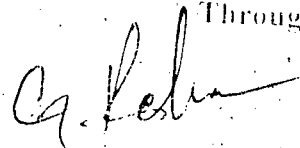
INDEX

S No	Description of Documents	Annexure	Pages
1.	Appeal with affidavit		1-5
2	Copy of Appointment letter	A	6-7
3	Copy of retirement letter dated 31-03-2021	B	8-9
4	Copy of seniority list	C	10-13
5	Copy of application dated 26-04-2020	D	14-16
6	Copy of Writ Petition and order	E	17-23

Dated: 20-06-2022

Appellant

Through



GOHAR RAHMAN KHATTAK  
ADVOCATE,

HIGH COURT PESHAWAR

Office: J.A. Nasir Mansion

Shola Bazar, Kallwa, Road II,

Peshawar, Cantt

Cell: 0312-9107794

Email: khattak\_law\_chamber@yahoo.com

(1)

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR**

*Amended* Appeal No. \_\_\_\_\_/2021

Eng Hasnain Javed S/o Amjad Uddin Hassan R/o Amour Housing Society  
Manki Road Hous No.49, Nowshera

..... Appellant

**VERSUS**

1. Government of Khyber Pakhtunkhwa through its Chief Secretary Khyber Pakhtunkhwa, Peshawar
2. Secretary Communication and Works Khyber Pakhtunkhwa, Peshawar
3. Secretary Finance, Khyber Pakhtunkhwa, Peshawar
4. Secretary Establishment & Admn department, Khyber Pakhtunkhwa
5. Accountant General, Khyber Pakhtunkhwa, Peshawar

..... Respondents

**AMENDED APPEAL UNDER SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,  
1974.**

***PRAYER IN PETITION:***

On acceptance of this Appeal the Honorable Tribunal may please be directed the respondents to consider the Appellant for Performa/ante-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of Superintendent Engineer BS-19 with all back benefits according to rules and law.

Any other relief which the Appellant is found fit for in law, justice and equity.

**RESPECTFULLY SHEWETH:**

1. That the Appellant is the permanent resident of Armour Housing Society Manki Road Hous No.49, Nowshera.

2. That the Appellant was initially appointed as Assistant Engineer BS-17 in the C&W Department on 26-07-1989.

(Copy of appointed order is attached as annexure A)

3. That the Appellant was promoted on 16-11-2010 to BS-18 and did his duties on different posts and lastly as Superintendent Engineer BS-18.

4. That in wake of Peshawar High Court Peshawar Judgment dated 19-02-2020 regarding age of retirement of Civil Servant which was dismissed by the August Supreme Court of Pakistan and through Ordinance age of retirement was re-fixed as 60 years and Appellant was retired from service on 31-03-2021 with effect from 29-03-2021. (Copies attached as annexure B)

5. That the Finance Department has also been created various posts/positions including 13 Nos of post of Superintendent Engineer BS-19 on 17-02-2021 and all the post are referred to be filled by way of promotion amongst Superintendent Engineers (BS-19) C&W department. It is to mention here that the C&W Department has submitted working paper of Appellant to Establishment Department through letter dated 23-02-2021.

6. That the Appellant being eligible for promotion to BS-19 and was a senior officer as per seniority list of the employees of BS-18 and stood on S.No.3 applied for promotion but in vain. It is pertinent to mention here that despite of written request for promotion to the next higher grade BPS-19 pretty a long time before retirement of Appellant, no action was taken in this very important service matter and Appellant was retired 31-03-2021 while working on the post of Superintendent Engineer BS-19 were already sent. (Copy attached as annexure C)



7. That the Appellant submitted an application through proper channel to the Honorable Chief Secretary Khyber Pakhtunkhwa on 26-04-2020 for Special PSB and to promote the Appellant to BS-19. (Copy attached as annexure D)
8. That Appellant aggrieved from the said act by not promoting the Appellant from back date, (S 4 (b) ) Service Tribunal Act, 1973 barred the Appellant by approaching Tribunal, having no other adequate and efficacious remedy is available to Appellant except filed constitutional petition before the Honorable Peshawar High Court Peshawar which was converted into instant appeal with direction to amend the same. Hence this appeal on the following grounds: (Copy of Writ petition and order is attached as annexure E)

#### GROUND:

- A. That the impugned action of the respondents is illegal, unlawful and against the law.
- B. That the Appellant was as being most senior officer as per seniority list of the employees of BS 18 and stood on S.No.3.
- C. That the act of the respondents is in violation of article 4,8,25,27,30, of the Constitution of Islamic republic of Pakistan 1973.
- D. That as usual, the Appellant's case for promotion fell prey to the red-tappism and it was delayed till his retirement from service vide notification dated 31-03-2021.
- E. That the Appellant had served the department for almost 32 years on the lower posts and was entitled for the post of Superintendent Engineer BS-19 as the posts were vacant before retirement of the Appellant.

4

- F. That the Appellant was moved written request for the promotion to the next higher grade, but it seems that it was buried and no order, whatsoever, either of the grant or refusal of promotion was conveyed to the Appellant before retirement.
- G. That the Appellant had not been dealt with in accordance with law, rather has been discriminated and deprived from legal right bestowed on him by the law and rules of the subject.
- H. That there is no reason for denial of the grant of promotion to the Appellant to the subject post, when he fulfills all the prescribed criteria and when the posts are required to be filled on promotion.
- I. That the ease of the Appellant was delayed upto his retirement for no reason, other than malafide and malice on the part of the respondents.
- J. That the Appellant had been deprived from his legal right and was ignored with malafide intention which is illegal, unlawful, against the law and natural justice.
- K. That the FR & SR are clear on the instant issue.
- L. That the Appellant has the right to agitate any other additional grounds/fact at the time of arguments after the stance of the respondents with permission of this Honourable court.

It is, therefore, humbly prayed that on acceptance of this Appeal the Honorable Court may please to direct the respondents to consider the Appellant for Performa/ante-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of

5

Superintendent Engineer BS-19 with all back benefits according to rules and law.  
Any other relief, which the Appellant is found fit in law, justice and equity.

Appellant  
Through

GOHAK RAHMAN KHATTAK

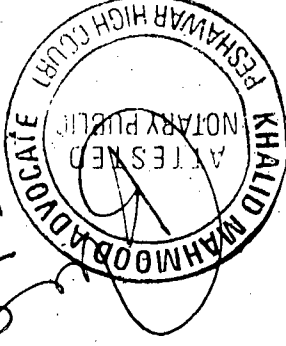
Advocate,  
High court Peshawar  
Cell# 0333-9107724  
&

Muhammad Arif (Firdous)  
Advocate, High Court  
Office: 1A Nasir Mansion  
Shoba Bazar, Railway Road  
II, Peshawar, Cantt  
0334-9215356  
Email:khatak\_law\_chamber@yahoo.com

AFIDAVIT

I Eng Hasnain Javed S/o Amjad Uddin Hassan R/o Amour Housing Society Manki Road Hous No.49, Nowshera, do hereby solemnly declare on oath that contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent  
*[Signature]*



Dated: 20-06-2022

(B)

A

GOVERNMENT OF N.W.F.P.  
COMMUNICATION & WORKS DEPARTMENT.

Dated Pesh: the 26th July, 1989.

NOTIFICATION

NO. SO(E)/C&W/4-14/79-II. On his selection by the NWFP Public Service Commission and acceptance of the terms and conditions of service offered to him vide this department letter of even number dated 23.7.1989, the Provincial Government are pleased to appoint Mr. **Hasnain Javed** as Temporary Assistant Engineer in the Communication and Works Department, NWFP in BPS-17 plus other allowances as admissible under the rules with immediate effect.

2. On his appointment the services of Mr. **Hasnain Javed** Temporary Assistant Engineer are hereby placed at the disposal of the Executive Engineer **Building Division, Manshara** for undergoing four months practical training against the existing leave reserve vacancy. He will have to pass the prescribed test on completion of four months training.

FAQIR AHMAD PARACHA  
SECRETARY TO GOVERNMENT OF NWFP,  
COMMUNICATION & WORKS DEPARTMENT.

ENDST. NO. SO(E)/C&W/4-14/79-II, Dated Peshawar the 26th July, 89.

A copy is forwarded to :-

- 1) Secretary to Chief Minister, NWFP.
- 2) P.S to Minister for C&W Department, NWFP.
- 3) P.S to Advisor to Chief Minister, NWFP for C&W Department.
- 4) Accountant General, NWFP Peshawar.
- 5) Secretary, NWFP Public Service Commission, Peshawar with reference to his letter NO.10442-C&W/4286, dated 23.5.1989.
- 6) All Chief Engineers/Superintending Engineers in the C&W Department, NWFP **Building Division, Manshara.**
- 7) Executive Engineer, **Manshara.**
- 8) District/Agency Accounts Officer, **Manshara.**
- 9) Manager Government Printing & Stationery Department, NWFP Peshawar for publication in the next issue of Government Gazette.
- 10) Officer concerned.
- 11) Deputy Secretary/Assistant Accounts Officer in the C&W Secretariat.
- 12) P.S to Secretary to C&W Deptt: NWFP.
- 13) O/O file/Personal file etc.

*Hasnain Javed*

*1211/3 Ickushal Colony  
Nowshera Cantt.*

\*HABIB\*

C: WP \APPTT-89. AES

*Ahmad Khan*  
( AHMAD KHAN )  
SECTION OFFICER (E)

*Received on 3/8/89*

ATTESTED

BETTER COPY

(37)

GOVERNMENT OF NWFP  
COMMUNICATION & WORKS DEPARTMENT

Dated Pesh: the 26<sup>th</sup> July, 1989.

NOTIFICATION

No 80 (E) C&W/4-14/79-II. On his selection by the NWFP Public Service Commission and acceptance of the terms and conditions of service offered to him vide this department letter of even number dated 23.07.1989, the Provincial Government are pleased to appoint Mr. Hasnain Javed as Temporary Assistant Engineer in the Communication and Works Department, NWFP in BPS-17 plus other allowances as admissible under the rules with immediate effect.

2. On his appointment the services of Mr. Hasnain Javed Temporary Assistant Engineer are hereby placed at the disposal of the Executive Engineer Planning Division, Manshera for undergoing four months practical training against the existing leave reserve vacancy. He will have to pass the prescribed test on completion of four months training.

Faqir Ahmad Paracha  
Secretary to Government of NWFP.  
Communication & Works Department.

Endst No. SO (E) C&W/4-14/79-II dated Peshawar the 26<sup>th</sup> July, 1989.

A Copy is forwarded to:-

- 1) Secretary to Chief Minister, NWFP.
- 2) P.S to Minister for C&W Department, NWFP.
- 3) P.S to Advisor to Chief Minister, NWFP for C&W Department.
- 4) Accountant General NWFP Peshawar.
- 5) Secretary, NWFP Public Service Commission, Peshawar with reference to his letter No.10422-C&W/4286, dated 23.05.1989.
- 6) All chief Engineers/ Superintending Engineers in the C&W Department, NWFP.
- 7) Executive Engineer, Building Division, Manshera.
- 8) District Agency Accounts Officer Manshera.
- 9) Manager Government Printing and Stationery Department, NWFP. Peshawar for publication in the next issue of Government Gazettee.
- 10) Officer Concerned.
- 11) Deputy Secretary/ Assistant Accounts Officer in the C&W Secretariat.
- 12) P.S to Secretary to C&W Deptt: NWFP.
- 13) O/O file/ personal file etc.

ATTESTED

Ahmad Khan  
Section Officer (E)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the March 31, 2021



**NOTIFICATION**

No. SGE/C&W/D/1-49/89 in pursuance of sub-section (2) of section 15A of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act, No. XXIII of 1973) read with sub-section (3) thereof, Engg. Hasnani Javed Executive Engineer (PS-18) C&W/D while posted as Superintending Engineer, C&W Circle Kohat in his own pay & scale retired from Government Service with effect from 30.03.2021 on attaining sixty (60) years of age as his date of birth is

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

End of given number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (Circle), C&W Peshawar.
3. Superintending Engineer, C&W Circle Kohat.
4. District Accounts Officer Kohat.
5. PS to Secretary, C&W Department Peshawar.
6. PA to Additional Secretary, C&W Department Peshawar.
7. PA to Deputy Secretary (Admin), C&W Department Peshawar.
8. Office concerned.
9. Office order File/Personal File.

(ZAHOOR SHAH)  
SECTION OFFICER (ES1b)

ATTESTED

BETTER COPY

(9)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the March 31, 2021

NOTIFICATION:

No SOE/C&W/D/1-49/89: In pursuance of sub section (2) of Section 13A of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act, No. XVIII of 1973) read with sub section (3), thereof, ENgr, Hasnain Javed Executive Engineer (BS-18) C&WD, while posted as Superintending Engineer C&W Circle Kohat in his own Pay & scale retired from Government Service with effect from 29.03.2021 on attaining sixtieth (60<sup>th</sup>) year of age, as his date of birth is 30.03.---

Secretary to  
Government of Khyber Pakhtunkhwa  
Communication & Works Department.

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (Centre) C&W Peshawar.
3. Superintending Engineer C&W Circle Kohat.
4. District Accounts Officer Kohat.
5. PS to secretary C&W Department Peshawar.
6. PA to Additional Secretary C&W Department Peshawar.
7. PA to Deputy Secretary (Admn), C&W Department Peshawar.
8. Officer Concerned.
9. Office Order File/ Personal file.

Zahoor Shah  
Section Officer (Estb)

ATTESTED

GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the August 06, 2020

**NOTIFICATION**

**SOE/C&W/8-15/2020 (seniority):** In pursuance of Sub-Section (1) of the Section-8, of the Khyber Pakhtunkhwa Civil Servant Act 1973, the Final seniority list of Executive Engineers (BPS-13) of Communication & Works Department as approved by the competent authority, as it stood on 01/06/2020 is notified as under:

Sl. No.	Name of Officer	Academic Qualification	Date of Birth	Domicile	Date of 1st Entry in Govt. Service	Date of Appointment/Promotion in Present Grade	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
01	Syed Yousaf Shah (BS-19 A.C.B)	B.Sc. (Civil)	03/03/1963	Mansehra	22/09/1987	28/05/2019	
02	Luqman Shafi Khattak	B.Sc. (Civil)	10/11/1962	Karak	09/01/1988	16/11/2010	
03	Hasnain Javed	B.Sc/M.S(Civil)	30/03/1961	Nowshera	26/07/1989	16/11/2010	
04	Amin-ul-Khaliq	B.Sc/M.S(Civil)	08/12/1962	Dir	11/10/1989	15/03/2011	
05	Zulfiqar Ali	B.Sc. (Civil)	27/06/1963	Peshawar	05/03/1990	03/04/2013	
06	Shahzad Afzal Khan	B.Sc. (Civil) / M.S (Envt)	01/08/1964	Peshawar	05/03/1990	15/03/2011	
07	Muhammad Tariq-III	B.Sc. (Civil)	03/06/1964	DIKhan	12/11/1989	15/03/2011	
08	Ejaz Ahmad	B.Sc/M.Sc (Civil)	14/04/1967	Charsadda	12/11/1989	15/03/2011	
09	S.Raffaqaat Shah	B.Sc (Civil)	08/04/1966	Abbottabad	01/07/1991	15/03/2011	
10	Jalaluddin Mahsud	B.Sc (Civil)	17/03/1967	S.W.Agency	01/07/1991	13/03/2012	
11	Muhammad Ali	B. Sc (Civil)	27/09/1965	Peshawar	01/07/1991	12/09/2014	
12	Mansoor Qadir	B. Sc. (Civil)	31/08/1970	Karak	03/12/1995	09/12/2014	
13	Jamshid Ali Khan	B. Sc. (Civil)	04/09/1971	Karak	03/12/1995	18/09/2015	
14	Naveed Iqbal	B. Sc. (Civil)	13/02/1971	Kohat	03/12/1995	12/09/2014	

REGISTERED



Sl. No.	Name of Officer	Academic Qualification	Date of Birth	Domicile	Date of Ist Entry in Govt. Service	Date of Appointment/Promotion in Present Grade	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
15	Muhammad Israr	B. Sc. (Civil) M Sc. (Struc)	12/04/1963	Peshawar	03/12/1995	12/09/2014	
16	Noor Sahib Khan	B. Sc. (Civil)	01/01/1967	N.W.A	03/12/1995	12/09/2014	
17	Khalid Muhammad Wazir	B.Sc. (Civil)	24/12/1969	F.R. Bannu	15/01/1994	28/03/2017	
18	Muhammad Arif Khar	B.Sc. (Civil)	20/10/1965	Malakand Agy	03/12/1995	18/09/2015	
19	Muhammad Sajid	B.Sc. (Civil)	25/09/1968	Malakand Agy	03/12/1995	12/09/2014	
20	Imran Hussain	B.Sc (Civil)	03/10/1980	Mardan	28/05/2007	09/12/2014	
21	Asad Ali	B.Sc (Civil)/M.Sc (transp)	01/04/1980	Kurram Agy	28/05/2007	09/12/2014	
22	Sohail Idrees	B.Sc (Civil)	13/10/1976	Swabi	28/05/2007	09/12/2014	
23	Qudratullah Khan	B.Sc (Civil)	25/01/1974	Bannu	28/05/2007	09/12/2014	
24	Azmatullah	B.Sc (Civil)	05/01/1979	N.W.Agy	28/05/2007	09/12/2014	
25	Abid Ali	B.Sc (Civil)	02/04/1981	Peshawar	28/05/2007	18/09/2015	
26	Muneer Khan	B.Sc (Civil)	11/10/1964	Malakand	02/05/1995	09/12/2014	
27	Muhammad Asif Imran	B.Sc (Civil)	15/12/1979	Bannu	28/05/2007	18/09/2015	
28	Mushtaq Ahmed	B.Sc (Civil)	15/10/1968	SW Agency	24/04/1995	28/03/2017	
29	Khurshid Iqbal	B.Sc (Civil)	21/08/1977	Manshra	28/05/2007	28/03/2017	
30	Mohammad Shahid	B.Sc (Civil)	05/08/1980	DI Khan	14/06/2007	28/03/2017	
31	Amir Jamal	B.Sc (Civil)	28/02/1978	Manshra	14/06/2007	28/03/2017	
32	Amir Jan	B.Sc (Civil)	01/04/1965	Lakki	13/12/1990	21/11/2019	
33	Adnan	B.Sc (Civil)	28/02/1978	Mohmand Agy	02/04/2008	28/03/2017	

ATTESTED

Sl. No.	Name of Officer	Academic Qualification	Date of Birth	Domicile	Date of Ist Entry in Govt. Service	Date of Appointment/Promotion in Present Grade	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
34	Inayatullah	B.Sc (Civil)	15/05/1975	FR Tank	02/04/2008	28/03/2017	
35	Tufail Ahmad	B.Sc/MS (Civil)	15/08/1981	Mardan	02/04/2008	28/03/2017	
36	Sajjad Haider Jan	B.Sc (Civil)	11/05/1970	Swat	23/04/1995	28/03/2017	
37	Muhammad Ali Khan	B.Sc (Civil)	15/02/1978	Lakki Marwat	30/12/2008	14/11/2017	
38	Muhammad Zubair	B.Sc (Civil)	05/04/1985	N.W.A.	30/12/2008	14/11/2017	
39	Shafeeq-ur-Rehman	B.Sc/M.Sc (Civil)	14/04/1983	Abbottabad	17/03/2009	14/11/2017	
40	Abdus Salam	B.Sc (Civil)	04/10/1972	N.W.A.	03/07/1994	18/05/2018	
41	Muhammad Arif-II	B.Sc (Civil)	20/04/1965	Peshawar	11/12/1990	18/05/2018	
42	Shahab Ahmad	B.Sc/M.Sc (Civil)	10/04/1984	Peshawar	21/10/2010	08/10/2018	
43	Abdul Samad	B.Sc (Civil)	01/01/1985	Swat	21/10/2010	08/01/2019	
44	Ghulam Moin-ud-Din	B.Sc (Civil)	22/02/1986	Peshawar	24/12/2010	08/01/2019	
45	Naveed Khan	B.Sc (Civil)	05/04/1986	Peshawar	24/12/2010	08/01/2019	
46	Sami Ullah	B.Sc/M.Sc (Civil)	15/04/1986	Tank	24/12/2010	08/01/2019	
47	Fawad Ahmad Abbasi	B.Sc (Civil)	12/07/1986	Abbottabad	24/12/2010	08/01/2019	
48	Zeeshan Ahmad	B.Sc/M.Sc (Civil)	10/05/1985	Mohmand Agy	24/12/2010	08/01/2019	
49	Arsalan Zeb	B.Sc (Civil)	17/04/1986	Swabi	24/12/2010	08/01/2019	
50	Shaukat Ullah	B.Sc (Civil)	12/10/1969	S.W. Agency	24/12/2010	08/01/2019	
51	Muhammad Irfan	B.Sc/M.Sc (Civil)	01/07/1978	Karak	24/12/2010	08/01/2019	
52	Shahab Khan	B.Sc (Civil)	01/01/1981	DIKhan	24/12/2010	08/01/2019	
53	Muhammad Shoaib	B.Sc /M.Sc (Civil)	23/05/1985	Kohat	24/12/2010	08/01/2019	

ATTESTED

197

SL No.	Name of Officer	Academic Qualification	Date of Birth	Domicile	Date of Ist Entry in Govt. Service	Date of Appointment/Promotion in Present Grade	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
54	Waqas Ali Shah	B.Sc (Civil)	01/04/1987	Peshawar	24/12/2010	10/05/2019	
55	Zarak Farooq	B.Sc (Civil)	16/12/1987	Nowshera	24/12/2010	10/05/2019	
56	Abdul Wadood	B.Sc (Civil)	14/08/1984	Karak	24/12/2010	10/05/2019	
57	Azam Amir	B.Sc (Civil)	05/09/1985	Peshawar	24/12/2010	10/05/2019	
58	Riaz Wali Shah	B.Sc (Civil)	11/03/1981	Chitral	24/12/2010	10/05/2019	
59	Muhammad Kamal	B.Sc (Civil)	20/04/1983	Lakki Marwat	24/12/2010	09/10/2019	
60	Muhammad Riaz Khan	B.Sc/M.Sc (Civil)	10/12/1978	N.W Agency	24/12/2010	09/10/2019	

SECRETARY TO  
GOVT OF KHYBER PAKHTUNKHA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the August 06, 2020

Endst.No.SOE/C&W/8-15/2020 (seniority)

1. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar
3. All Chief Engineers Communication & Works Department Peshawar
4. Chief Engineer (East) C&W Abbottabad
5. Chief Engineer (Merged Areas) C&W Peshawar
6. Managing Director Pakhtunkhwa Highway Authority, Peshawar
7. All Superintending Engineers Communication & Works Department
8. Superintending Engineer PBIIC C&W Peshawar
9. Superintending Engineer Provincial Building (Construction) Peshawar
10. All Executive Engineers Communication and Works Department
11. P.S. to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
12. P.S. to Secretary Establishment & Admin Department, Peshawar
13. P.S. to Secretary Law Department, Peshawar
14. P.S. to Secretary Communication & Works Department, Peshawar
15. Officers concerned.
16. Office order file /Personal files
17. Incharge Computer Cell C&W Department
18. Manager Govt Printing & Press Department for publication in the next issue of the Govt. Gazette.

SECTION OFFICER (Estb)

ATTESTED

To

The Chief Secretary (Chairman PSB),  
Government of Khyber Pakhtunkhwa Peshawar  
(Competent Authority)

Through:-

MERCY APPEAL

Subject:-

PROMOTION TO BPS-19

Respected Sir,

I, Engr. Hasnain Javed Superintending Engineer (BPS-18) held the post of Superintending Engineer C&W Circle Kohat submit the following few lines for your kind perusal and favorable consideration:-

1. Due to restructuring of C&W Department 13 Nos. new posts of Superintending Engineer (BPS-19) have been created vide Finance Department No.(BC)/I/D/1-61/2020-21 dated 17.02.2021 (Annex-1).
2. As per seniority list of Executive Engineer (BPS-18) C&W Department as stood on 07.05.2020, the name of the undersigned is appearing at Sl. No.02 (Annex-II).
3. Administrative Department has already forwarded working papers to Establishment Department for placing before the Provincial Selection Board (PSB) on 23.02.2021 for consideration.
4. The undersigned has attained that age of superannuation i.e. 60- years on 29.03.2021. However, the PSB has not yet considered my promotion case. Now the age limit of employees re-fixed as 60-years as decided by Provincial Cabinet on 16.03.2021.
5. It is pertinent to mention here, that the Supreme court of Pakistan has set aside the decision of Peshawar High Court Peshawar dated 19.02.20219 through Order dated 07.01.2021, meaning thereby the retirement age limit of Government Employees re-fixed i.e. 63- years, while at that the undersigned was properly working as Superintending Engineer H/Q (OTPS) Office of the Chief Engineer (Centre) C&W Department Peshawar. Hence, my plea taken in the aforesaid line is justified and entitle for promotion on the basis that the Finance Department created 13-Nos post of Superintending Engineer in C&W Department on 17.02.2021. Keeping in view the above, it is requested that a special PSB may please be convened for my promotion to BS-19 being still Government Servant or approve my promotion to BPS-19 through circular by PSB, please.
6. Concludingly, it is submitted that on 29.03.2021, prior to my superannuation, a clear vacant post was accordingly available for my promotion, however same couldn't be materialized and that was not any fault on my part. Hence, I am exposed to loss of Senior grade and emoluments connected to that grade for reasons beyond my control & reach.
7. My detailed synopsis is attached for perusal please.

DA/  
As Above

(Engr. Hasnain Javed)  
Ex-Superintending Engineer  
C&W Circle Kohat.

0396-5475353

15

To

The Honorable Chief Minister,  
Khyber Pakhtunkhwa,  
(Competent Authority).

Through:- PROPER CHANNEL

Subject:- PROMOTION TO BPS-19

Respected Sir,

I, Engr. Hasnain Javed Superintending Engineer (BPS-18) presently holding the post of Superintending Engineer C&W Circle Kohat submit the following few lines for your kind perusal and favorable consideration:-

1. Due to restructuring of C&W Department 13 Nos. new posts of Superintending Engineer (BPS-19) have been created vide Finance Department No.BO.1/FD/1-6/2020-21 dated 17.02.2021.(Annex-I).
2. As per seniority list of Executive Engineer (BPS-18) C&W Department as stood on 07.05.2020, the name of the undersigned is appearing at SL. No.02 (Annex-II).
3. Administrative Department has already forwarded working papers to Establishment Department for placing before the Provincial Selection Board (PSB) on 23.02.2021 for consideration.
4. The undersigned has attained that age of superannuation i.e. 60- years on 29.03.2021, however, the PSB has not yet considered my promotion case. Now the age limit of employees re-fixed as 60-years as decided by Provincial Cabinet on 16.03.2021.
5. It is pertinent to mention here, that the Supreme court of Pakistan has set aside the decision of Peshawar High Court Peshawar dated 19.02.20219 through Order dated 07.01.2021, meaning thereby the retirement age limit of Government Employees re-fixed i.e. 63- years, while at that the undersigned was properly working as Superintending Engineer (OPS) Central Design Office C&W Department, Peshawar. Hence, my plea taken in the aforesaid line is justified and entitle for promotion on the basis that the Finance Department created 13-Nos post of Superintending Engineer in C&W Department on 17.02.2021.

Keeping in view the above, it is requested that a special PSB may please be convened for my promotion to BS-19 being still Government Servant or approve my promotion to BPS-19 through circular by PSB, please.

DA/  
As Above

(Engr. Hasnain Javed)  
Superintending Engineer  
C&W Circle Kohat.

Copy to the:-

1. Chief Secretary Government of Khyber Pakhtunkhwa (Chairman Provincial Selection Board) with similar request as above please
2. Secretary to Government of Khyber Pakhtunkhwa C&W Department with the request to forward my application to the competent authority for favorable consideration please

Superintending Engineer

ATTESTED

(16)  
OFFICE OF THE CHIEF ENGINEER (CENTRE)  
COMMUNICATION & WORKS DEPARTMENT  
KHYBER PAKHTUNKHWA PESHAWAR

No. 48-E / 804 / CEC / C&WD

Dated Peshawar the 02 / 04 / 2021

To

The Secretary to Govt of Khyber Pakhtunkhwa  
C&W Department Peshawar

Subject: PROMOTION TO BPS-19  
Sir,

Enclosed please find herewith a through proper channel application in respect of Engr. Hasnain Javed, Superintending Engineer C&W Circle Kohat on the subject cited above, for favour of further necessary action & onward submission to the competent forum.

DA/As above

CHIEF ENGINEER (CENTRE)

Copy to Engr. Hasnain Javed, SE C&W Circle Kohat for information.

CHIEF ENGINEER (CENTRE)

ATTESTED

2/1/2021

17



BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR

W.P.No. \_\_\_\_\_/2021

Eng Hasnain Javed S/o Amjad Uddin Hassan R/o Armour Housing Society  
Manki Road Hous No.49, Nowshera

..... Petitioner

**VERSUS**

1. Government of Pakistan through Chief Secretary Khyber Pakhtunkhwa, Peshawar
2. Secretary Communication and Works Khyber Pakhtunkhwa, Peshawar
3. Secretary Finance, Khyber Pakhtunkhwa, Peshawar
4. Secretary Establishment & Admin department, Khyber Pakhtunkhwa
5. Accountant General, Khyber Pakhtunkhwa, Peshawar

..... Respondents

WRIT PETITIONER UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

**PRAYER IN PETITION:**

On acceptance of this writ petition the Honorable Court may please be directed the respondents to consider the petitioner for Performa/ante-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of Superintendent Engineer BS-19 with all back benefits according to rules and law.

Any other relief which the petitioner is found fit for in law, justice and equity.

FILED TODAY

Deputy Registrar

06 JUL 2021



**ATTESTED**  
EXAMINER  
Peshawar High Court

RESPECTFULLY SHEWETH:

1. That the petitioner is the permanent resident of Armour Housing Society Manki Road Hous No.49, Nowshera.

2. That the petitioner was initially appointed as Assistant Engineer BS-17 in the C&W Department on 26-07-1989. (Copy of appointed order is attached as annexure A)
3. That the petitioner was promoted on 16-11-2010 to BS-18 and did his duties on different posts and lastly as Superintendent Engineer BS-18.
4. That in wake of Peshawar High Court Peshawar Judgment dated 19-02-2020 regarding age of retirement of Civil Servant which was dismissed by the August Supreme Court of Pakistan and through Ordinance age of retirement was re-fixed as 60 years and petitioner was retired from service on 31-03-2021 with effect from 29-03-2021. (Copies attached as annexure B)
5. That the Finance Department has also been created various posts/positions including 13 Nos of post of Superintendent Engineer BS-19 on 17-02-2021 and all the post are referred to be filled by way of promotion amongst Superintendent Engineers (BS-19) C&W department. It is to mention here that the C&W Department has submitted working paper of petitioner to Establishment Department through letter dated 23-02-2021.
6. That the petitioner being eligible for promotion to BS-18 and was a senior officer as per seniority list of the employees of BS 18 and stood on S.No.3 applied for promotion but in vain. It is pertinent to mention here that despite of written request for promotion to the next higher grade BPS-19 pretty a long time before retirement of petitioner, no action was taken in this very important service matter and petitioner was retired 31-03-2021 while working on the post of superintendent Engineer BS-19. (Copy attached as annexure C)
7. That the petitioner submitted an application through proper channel to the Honorable Chief Secretary Khyber Pakhtunkhwa on 26-04-2021 for Special PSB and to promote the petitioner to BS-19. (Copy attached as D)
8. That petitioner aggrieved from the said act by not promoting the petitioner from back date, (3 4 (b)) Service Tribunal Act,

**ATTESTED**  
 EXAMINER  
 Peshawar High Court

FILED TODAY  
 Deputy Registrar  
 06 JUL 2021



1973 barred the petitioner by approaching Tribunal, having no other adequate and efficacious remedy is available to petitioner except filing this constitutional petition on the following grounds.

**GROUNDS:**

- A. That the impugned action of the respondents is illegal, unlawful and against the law.
- B. That the petitioner was as being most senior officer as per seniority list of the employees of BS 18 and stood on S.No.3.
- C. That the act of the respondents is in violation of article 4,8,25,27,30, of the Constitution of Islamic republic of Pakistan 1973.
- D. That as usual, the petitioner's case for promotion fell prey to the red-tappism and it was delayed till his retirement from service vide notification dated 31-03-2021.
- E. That the petitioner had served the department for almost 32 years on the lower posts and was entitled for the post of Superintendent Engineer BS-19 as the posts were vacant before retirement of the petitioner.
- F. That the petitioner was moved written request for the promotion to the next higher grade, but it seems that it was buried and no order, whatsoever, either of the grant or refusal of promotion was conveyed to the petitioner before retirement.
- G. That the petitioner had not been dealt with in accordance with law, rather has been discriminated and deprived from legal right bestowed on him by the law and rules of the subject.

FILED TODAY  
Deputy Registrar  
06 JUL 2021

**ATTESTED**  
EXAMINER  
Peshawar High Court

H. That there is no reason for denial of the grant of promotion to the petitioner to the subject post, when he

fulfills all the prescribed criteria when the posts are required to be filled on promotion.

1. That the case of the petitioner was delayed upto his retirement for no reason, other than malafide and malice on the part of the respondents.

2. That the petitioner had been deprived from his legal right and was ignored with malafide intention which is illegal, unlawful, against the law and natural justice.

3. That the petitioner has the right to agitate any other additional grounds/fact in the time of arguments after the stance of the respondents with permission of this Honorable court.

It is, therefore, humbly prayed that on acceptance of this writ petition the Honorable Court may please be directed the respondents to consider the petitioner for Performance-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of Superintendent Engineer BS-19 with all back benefits according to rules and law.

Any other relief, which the petitioner is found fit in law, justice and equity.

Petitioner

Through

GOHAR KALIMAN KHATTAK

Advocate,

High court Peshawar

Cell (313-9147724

&

Muhammad Aft (Birdous)

Advocate, High Court

Office: 1/A Nasir Mansion

Shoba Bazar, Railway Road

II, Peshawar, Cantt.

0334-9215356

Email: khattak\_law\_chamber@yahoo.com

ADVOCATE

1. Constitution of Islamic Republic of Pakistan 1973  
2. Any other book related to case.

ATTENDED  
EXAMINER  
Peshawar High Court

FILED TODAY  
Deputy Registrar  
06 JUL 2021

Dated: 01-06-2021

FILED TODAY  
Deputy Registrar  
06 JUL 2021

ATTESTED  
EXAMINER  
Peshawar High Court

10/06/2021

28009

Certified that the above was verified on solemnly affirmed before me

Signature of Notary Public

Signature of Applicant

Signature of Opponent

EME 17201-2175302-32  
0336-9474353

Dependent  
*[Signature]*

Identified by:  
*[Signature]*  
Gohar Rehman Khanlax  
Advocate, High Court Peshawar

I, Eng. Hasnain Javed S/o Anjad Uddin Hassan K/o Amour Housing Society Manki Road Hous No.49, Nowshera, do hereby solemnly declare on oath that contents of the Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

AFFIDAVIT

Government of Pakistan through Chairman Federal Board of Revenue Islamabad and others

VERSUS

Eng. Hasnain Javed S/o Anjad Uddin Hassan K/o Amour Housing Society Manki Road Hous No.49, Nowshera  
Petitioner

W.P.No. /2021

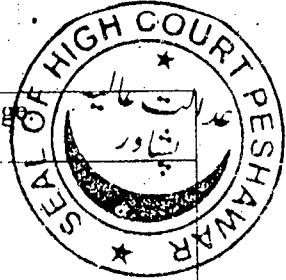
BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR

21

22

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET



Date of Order/ Proceedings	Order or other Proceedings with Signature of Judge
<u>04/11/2021</u>	<p><u>WP No. 2871-P/2021 with IR</u></p> <p><b><u>Present:</u></b> Mr. Noor Muhammad Khattak, Advocate, for the petitioner.</p> <p>Mr. Arshad Ahmad Khan, AAG, for the respondents.</p> <p>===</p> <p><b><u>SYED ARSHAD ALI, J.-</u></b> Eng. Hasnain Javed, the petitioner, who is a retired civil servant, has approached this Court, through the instant constitutional petition, praying that:-</p> <p><i>It is, therefore, humbly prayed that on acceptance of this writ petition the Honorable Court may please be directed the respondents to consider the petitioner for proforma/ante-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of Superintendent Engineer BS-19 with all back benefits according to rules and law.</i></p> <p><i>Any other relief, which the petitioner is found fit in law, justice and equity"</i></p> <p>2. Arguments heard and record perused.</p> <p>3. The record is very clear and straight forward, according to which, the present petitioner was a civil servant and he seeks direction of this Court for proforma/ante-dated promotion. It is by now settled law that claim for ante-dated promotion is one of the terms and conditions of a civil servant, therefore, in view of the judicial contour envisaged under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973,</p>

5/11/21

**ATTESTED**  
EXAMINER  
Peshawar High Court

this Court lacks jurisdiction in the matter in relation to enforcement of terms and conditions of a civil servant. When the learned counsel for the petitioner was confronted with the said legal position, he has produced a judgment of this Court dated 27.10.2021 passed in Writ Petition No. 3210-P/2021, whereby instead of dismissing the petition, the same was converted into appeal and transmitted to the worthy Service Tribunal in view of the law laid down by the Apex Court in the case of Mian Asghar Ali vs. Govt. of Punjab through Secretary (Colonies) BOR Lahore and others" (2017 SCMR 118) with further direction that the petitioner in that case may file an application for amendment in the appeal.

4. Since a Division Bench of this Court has formed an opinion in a similar matter, therefore, keeping in view the judgment of this Court, we convert this petition into appeal and send the same to the worthy Service Tribunal for adjudication, copy whereof be retained in office for the purpose of record.

5. Writ Petition along with Interim Relief stands disposed of accordingly.

43821

Date of Presentation of Application: 6-7-22  
 No of Pages: 7  
 Copying fee: 22  
 Total: 22  
 Date of Preparation of Copy: 6-7-22  
 Date of Delivery of copy: 6-7-22  
 Received By: M. Akbar

*[Signature]*  
 Judge  
*[Signature]*  
 Judge

NOT TO BE FILED  
 High Court, Lahore  
 Registrar General, Lahore  
 12, Lahore Cantt. Station, Lahore, Pakistan  
 Date: 06 JUL 2022

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR**

W.P.No. 28717 /2021

Service Appeal No. 7750/2021



Eng Hasnain Javed S/o Amjad Uddin Hassan R/o Armour Housing Society  
Manki Road Hous No.49, Nowshera

..... Petitioner

**VERSUS**

1. Government of Pakistan through Chief Secretary Khyber Pakhtunkhwa, Peshawar
2. Secretary Communication and Works Khyber Pakhtunkhwa, Peshawar
3. Secretary Finance, Khyber Pakhtunkhwa, Peshawar
4. Secretary Establishment & Admn department, Khyber Pakhtunkhwa
5. Accountant General, Khyber Pakhtunkhwa, Peshawar

..... Respondents

**WRIT PETITIONER UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.**

***PRAYER IN PETITION:***

On acceptance of this writ petition the Honorable Court may please be directed the respondents to consider the petitioner for Performa/ante-dated promotion as Superintendent Engineer BS-19 from the date on which vacancy had become vacant/available/created of Superintendent Engineer BS-19 with all back benefits according to rules and law.

FILED TODAY

Deputy Registrar

06 JUL 2021

Any other relief which the petitioner is found fit for in law, justice and equity.

**RESPECTFULLY SHEWETH:**

**Certified to be true copy**

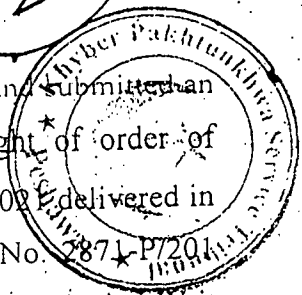
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

1. That the petitioner is the permanent resident of Armour Housing Society Manki Road Hous No.49, Nowshera.

31.05.2022

Learned counsel for the appellant present and submitted an application to file amended appeal in the light of order of Honourable Peshawar High Court dated 04.11.2021 delivered in Writ Petition of the present appellant bearing No. 2871-P/2021 with IR. Perusal of the order dated 04.11.2021 reveals that Writ Petition of the present appellant has been converted in to service appeal for adjudication by Service Tribunal. Request of learned counsel for the appellant is allowed. To come up for amended appeal on 26.07.2022 before S.B.

25



*(Handwritten signature)*

(Mian Muhammad)  
Member (E)

**Certificate to feature copy**

*(Handwritten signature)*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**Date of Presentation of Application** 03/06/22

**Number of Copies** 800

**Cost** 10/-

**Time** 10/-

**Date** 06/06/22

**Date of Delivery of Copy** 06/06/22