


10.08.2022

Security & Process Fee

10/8

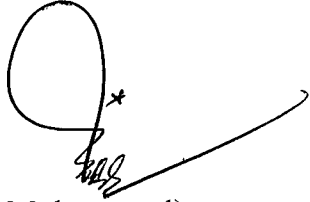
Learned counsel for the appellant present and submitted an application for submission of security and process fee. Application allowed with direction to submit security and process fee within 3 days, thereafter notices be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 06.10.2022 before S.B.


(Fareeha Paul)
Member (E)

06.10.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Written reply/comments have not been submitted. Learned AAG requested for further time. Request is accepted. To come up for written reply/comments on 28.11.2022 before S.B.


(Mian Muhammad)
Member (E)

14.12.2021

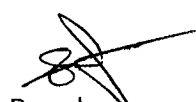
Learned counsel for the appellant present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 23.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

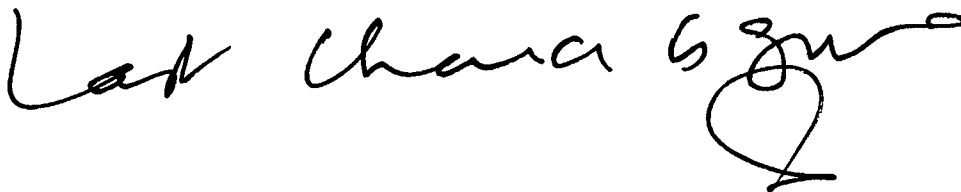
24.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 23.05.2022 for the same before D.B.


Reader

23rd May, 2022

Counsel for the appellant present and seeks adjournment in order to properly assist the court. Adjourned. To come up for preliminary hearing on 06.07.2022 before S.B.

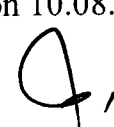


(Kalim Arshad Khan)
Chairman

06th July, 2022

Learned counsel for the appellant present.

Learned counsel says that appeals against the same order, filed by other appellants have already been admitted and are fixed for 10.08.2022. Therefore, this appeal is also admitted to full hearing, subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee within 10 days. Respondents be summoned through process serving agency of the learned Senior Civil Judge, Peshawar. To come up for written reply/comments on 10.08.2022 before S.B.

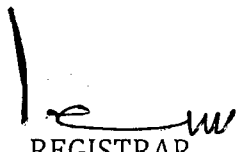

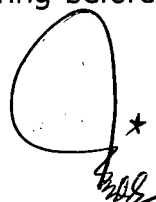

(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7192 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/08/2021	<p>The appeal resubmitted today by Mr. L. Nawab Ali Noor Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR,</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11-10-21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	11.10.2021	<p>Clerk of learned counsel for the appellant present.</p>
		<p>Clerk of learned counsel for the appellant seeks adjournment due to General Strike of the Peshawar Bar Association. Adjourned. To come up for preliminary hearing before the S.B on 14.12.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

7192/2021

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

S. Appeal NO of 2021.

1. Sami Ullah S/O Muhammad Dervish R/O Kolal Dheri
P/O Bashigram Tehsil Lal Qila Distt Dir Lower.

.....(Appellant).

VERSUS

1. Govt of K.P.K through chief secretary and others

.....(Respondents).

Index

S.NO.	Description	Annexure	Pages
1.	Appeal and affidavit		1-5
2.	Stay application		6
3.	Notification dated 24.7.14	A	7-10
4.	Notification dated 24.7.18	B	11-13
5.	Departmental Appeal	C	14-15
6.	Waklat Nama		16

Through

Appellant
L.Nawab Ali Noor
Advocate High Court
Peshawar.
03469076945

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

1

S. Appeal No. of 2021.

1.Sami Ullah S/O Muhammad Dervish R/O Kolal Dheri
P/O Bashigram Tehsil Lal Qila Distt Dir Lower.

.....Appellant

VERSUS

1.Govt of K.P.K through Chief Secretary Civil Secretariat
Peshawar.

2.Secretary Elementary and Secondary
education K.P.K Civil Secretariat , Peshawar.

3.Director Elementary and Secondary
education K.P.K Civil Secretariat , Peshawar.

.....Respondents

APPEAL UNDER SECTION - 4 OF THE KHYBER PUKHTOONKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED
SERVICE RULES NOTIFICATION DATED 24.7.2014 WHEREBY NOT
INCLUDING THE COMPUTER SCIENCE SUBJECT/DEGREE HOLDER
IN THE CRITERIA OF ELIGABILITY FOR THE PROMOTION OF
PST, IT TO THE POST OF SST BPS -16 SAME IS AGAINST THE
SERVICE RULES NOTIFIED IN THE NOTIFICATION DATED
24.4.2018 TO THE EXTENT OF SERIAL NO.2 COLUMN NO.5 OF
THE TABLE WHEREBY NO QUOTA HAS BEEN ALLOCATED FOR
APPELLANT CATER AS PST IT AND SAME TIME AWARDED TO
ALL OTHERS AND TAKING ANY ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE
STATUTORY PERIOD OF NINETY DAYS.

PRAYERS:

On acceptance of this service appeal this honorable court may graciously be pleased to set aside / declare, null and void / amended / modified the impugned service rules / notification dated 24.7.2014 to the extent of the S.NO. 1 B Column NO.3 the table by including / inserting / amending / Modifying service rules as well as service rules 24.2.2018 also may kindly be / inserting / amending / Modifying to the extent of S.NO. 2 column no. 5 and may please allocate promotion quota for appellant as PST IT for the promotion to the post of SST IT BPS -16 with all back benefit

It is further requested to consider the appellant for promotion for the post of SST IT BPS-16 with all back benefit from 2014 i.e from the date of notification benefit granted to others.

May also awarded the relief of 7 years duration of service also.

RESPECTFULLY SUBMITTED,

1. That appellant is civil servant doing their job in education department as PST.

2. That appellant is highly educated hiring master decree holder in their relevant computer science subject along With PST/CT, BED / MED decrees etc.

3. That it is to be noted by your honor that following six cadres of SST (BPS -16) are there in which the appellant cadre is PST (IT) which is only and lonely cadre of the appellant whom ignored, deprived from the promotion rights.

4. That It is further to be noted that till date even for the appellant cadre as PST .IT, even rules of promotion are complete silent which is further question mark before this honorable court ?.

5. That so much so may visit the notification dated 24.7.14 in which for

category a,b,c,d qualification for which properly promotion rules are there and they are awarded the same from the date of notification while on other side appellant with qualification / degree of Computer science , Math A, Math B along with others subject ignored reason best known to them .**Copy of the notification 24.7.14 as annexure A.**

6. That It is further to be noted that till date even for the petitioners cadre ,whose subject is computer science at bachelor level even rules of promotion are complete silent which is further question mark before this honorable court ?.

7. That so much so may visit the notifications dated 24.7.14 ,24.4.2018 very interesting to see that in 24.7.2014 where cadre is there but subject subject ignore while 24.4.2018 subject of computer is there but cadre ignore which is great joke and pure question of discrimination before this Honorable court .

Copy of notification 24.4.18 is attached as annexure B.

8. That appellant filed departmental appeal before the competent authority but same is with no response within the statutory period.

Copy of the Departmental appeal as annexure C.

That appellant aggrieved from the same having others no adequate remedy approach this Honorable court on following amongst others

GROUND:

aaaaa. That awarding the promotion , seniority back benefit to others while deprived the appellant cadre was/is illegal , unlawful, unconstitutional act of the respondents hence need modified, amend, and set aside the same up to the asking relief .

bbbbb. That awarding the same relief to rest of five categories and deprived from the same benefit appellant and his cadres is question of

discrimination before this Honorable tribunal.

cccc. That notifications in questions is against the service rules, law, constitution hence no way except to award the promotion quota to appellant/appellant cadre along with back benefit from the date of notification.

dddd. That under what law and circumstances only appellant/appellant cadre deprived from promotion while rest of all are benefited through same notification and awarded relief with back benefit reason best known to them.

eeee. That under the constitution appellant has the same rights like others civil servant but same not extend equally which is injustice.

ffff. That act of the respondent to pick and chose is not justified at any cost which is against the basic provision of the constitution, law service rules.

ggggg. That action on the part of respondents amount to misuse of power and approach beyond from the jurisdiction under the law mentioned for.

hhhhh. That superior court repeatedly delivered judgment in respect ART.4, 25 etc and present case respondents violated the same also.

It is therefore most humbly prayed that on acceptance of this service appeal your honor may graciously be to set aside / declare, null and void/amended /modified the notification dated 24.7.2014 to the extent of the S.NO. 1B column NO.3 of the table by including / inserting/ amending / Modifying service rules as well as service rules 24.2.2018 also may kindly be / inserting/ amending / Modifying to the extent of S.NO. 2 column no. 5 and may please allocate promotion quota for the appellant/appellant cadre.

It is further requested to consider the appellant for promotion for the post of SST IT BPS-16 with all back benefit from 2014 date of notification.

May also awarded the relief of 7 years duration of service also.

May please awarded any other relief for which appellant entitled not specifically mentioned deem appropriate may also awarded.

Dated:

Through

Appellant

L.Nawab Ali Noor
Advocate High Court
Peshawar.

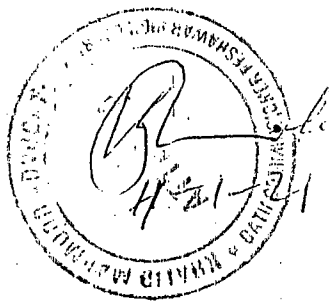
Certificate: certified that no such like service. appeal filed before this Honorable tribunal.

L.Nawab Ali Noor
Advocate High Court
Peshawar.

AFFIDAVIT.

I Sami Ullah S/O Muhammad Darwesh KoLal Dheri P/O Beshigram Lal Qila Dir Lower , do solemnly affirm and declare on oath that the contents of the accompanying service Appeal are true and correct to the best of my knowledge and belief and nothing been kept concealed from this Honorable tribunal.

Deponent



BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

6

S. Appeal No. of 2020.

1. Sami Ullah S/O Muhammad Darwesh KoLal Dheri P/O Beshigram Lal
Qila Dir Lower. Appellant.

VERSUS

1. Govt of K.P.K Through Chief Secretary K.P.K Peshawar and others.
..... Respondents

Application for stay over the appointment of SST till decision.

RESPECTFULLY SUBMITTED.

1. That above titled service appeal is pending before this honorable court for adjudication, and no date of hearing has been fixed so far.
2. That service appeal is read as an integral part of this application.
3. That appellant have a good prima facie and arguable case, balance of convince lies in their favor if temporary injunction not granted will suffer irreparable loss and injury.

Under the above circumstances, humbly prayed that respondent may kindly be restrained from further any promotion till final decision of the instant service appeal

Through

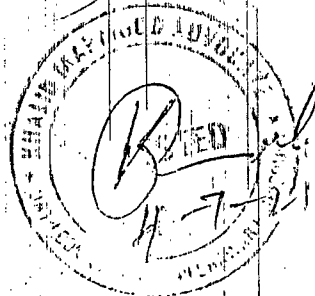
Applicant/Appellant

L. Nawab Ali Noor Advocate
High Court Peshawar.

AFFIDAVIT.

I, Sami Ullah S/O Muhammad Darwesh KoLal Dheri P/O Beshigram Lal Qila Dir Lower, do solemnly affirm and declare on oath that the contents of the accompanying service appeal are true and correct to the best of my knowledge and belief and nothing been kept concealed from this Honorable tribunal.

Deponent.



Ans. B.P.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT



Peshawar, dated the 24th July, 2014.

NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17) <i>IT subject</i>	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or MA Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3. NOTE: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

Attached to
File
A

SSRC Meeting
Subject Specialist
IT subject
BPS-17
23 to 35 years
50% promotion



Am B 10

(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

3/16

1	2	3	4	5
1B.	Secondary School Teacher (BPS-16) (SST) (Handwritten notes in Urdu)	I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject (a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject; (Handwritten notes in Urdu) and II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or MA Education or equivalent qualifications from a recognized University.	21 to 35 years. (CT) DM	1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner: (a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3; Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No.3; (b) four per cent from amongst the Senior Drawing Masters (BPS-1), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3;

(Handwritten notes) f:- P.S

(Handwritten notes) Subject, Computer Science is not present

(Handwritten note) Computer Science

(Handwritten note) Computer Science is not present

Attached to b-7 copy of

			<p style="text-align: center;">(4)</p> <p style="text-align: center;">Qari</p> <p style="text-align: center;">PST</p> <p>Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No. 3;</p> <p>Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3;</p> <p>Provided that if no suitable candidate is available from amongst</p>
--	--	--	--

(5)

1.57 Exp. High

Attached to
Finance Cell

Mr. B. B. (12)

				<p>Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:</p> <p>Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and:</p>
				<p>(ii) twenty five percent by initial recruitment.</p>
				<p>Note:</p> <p>i. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.</p>
				<p>ii. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."</p>

Noted do
J. S. S. S.
A

Aux. C-13

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P11
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 24th APRIL, 2018. →

GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

NOTIFICATION

Peshawar, dated: 24th April 2017

No. SO(GVT&SE/I-85/I.T/2017:- In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of the notification issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment & Administration Department and Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in column No. 2 to 5 of the Appendix to the Notification which shall be applicable to the posts of Information Technology Teaching Cadre (Male/Female) in the Elementary and Secondary Education Department as specified in column No.2 of the said Appendix:

APPENDIX:

S.No	Nomenclature of the post	Minimum qualification for appointment by initial recruitment transfer	Age limit	Method of recruitment
1	2	3	4	5
1	Subject Specialist- Information Technology (SS-IT) (BPS-17)	At least Second Class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours 4 years) or equivalent qualification from a recognized University; and ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University. Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.	21-35	a) Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Secondary School Teacher-IT with at least five years service; and b) Fifty percent by initial recruitment. Provided that if no suitable candidate is available for promotion, then by initial recruitment

اس میں سے

(P.T.)

IT

33
to CIT subject
of PST/IT cadre

نوٹیفکیشن کے لیے مخصوص ہے اس میں سے
A Heated No
P. 11
Copy

Pr. C-14

2.	Secondary School Teacher-Information Technology (SST-IT) (BPS-I i)	<p>i. At least Second Class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours 4 years) or Bachelor's Degree with a subject of Computer Science or equivalent Qualification from a recognized University; and</p> <p>ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University.</p> <p>Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	21-35	<p>a). Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Certified Teacher-IT with five years service as such and having the qualification prescribed for the post of Secondary School Teacher-IT.</p> <p>b). Fifty percent by initial recruitment.</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p>
1.	Certified Teacher Information Technology (CT-IT) (BPS-12)	<p>i. At least 2nd Division Intermediate School Certificate or equivalent qualification from a recognized Institution or Board with one year Diploma in Information Technology Computer Science from any recognized institution; and</p> <p>ii. Certified Teacher Certificate (CT) or Associate Degree in Education (ADE) from any recognized institution/ University</p> <p>Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	18-35	By initial recruitment.

(CT)

pa 15

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
 ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Printed and published by the Manager,
 Slaty. & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

CTC
 eltd

Attended to
 by Mr. [Signature]

Ann - C (15)

(15)

No	Nomenclature of the post	Minimum Qualification for appointment by initial recruitment or by transfer.	Age Limit	Method of recruitment
1	Subject Specialist-Information Technology (ES-IT) (B-17) Government Higher Secondary Schools/ Govt. comprehensive: High Schools and other equivalent posts in the Teaching Cadre.	i.) Master Degree in Computer Science/IT at least in 2 nd Division or equivalent qualification from any recognized University. ii.) Bachelor Degree of Education (B.Ed) at least in 2 nd Division from any recognized University.	21-35	a). Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Secondary School Teacher-IT with at least five years' service AND Secondary School Teacher (SST) (General/Science) possessing master degree in IT or equivalent qualification with 05 years' experience b). Fifty percent by initial recruitment. Note: If no suitable candidate is available for promotion in the relevant cadre then by initial recruitment. Their seniority may be clubbed with SS and amendment may be made in the existing service rules.
2	Secondary School Teacher Information Technology (SST-IT) (B-17) Govt. High / Higher Secondary Schools	i). Bachelor Degree with the subject of Computer Science at least in 2 nd Division or equivalent Qualification from any recognized Institution. ii). Bachelor Degree of Education (B. Ed) at least in 2 nd Division from any recognized Institution.	21-35	a). Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Computer Lab In-charge with (05) years' service having the qualification prescribed for the post of IT Teacher. b). Fifty percent by initial recruitment. Note: If no suitable candidate is available for promotion in the relevant cadre then by initial recruitment.
3	Junior Teacher- Information Technology (J-T-IT) (B-12) Govt. High/Higher Secondary Schools	Intermediate or equivalent qualification from any recognized institution with one-year Diploma in IT/Computer Science from any recognized institution and Certified Teacher Certificate/Diploma or equivalent qualification from any recognized institution.	18-35	By initial recruitment.

(SST-IT)

(SST-IT)

IT

The committee members discussed the proposed amendments in the service rules/structure for the SST (General/Science) & SST (IT) in depth and were agreed upon unanimously.

for to be
SST-IT
SST-IT

Ann. D- 16

TO, THE SECRETARY EDUCATION KHYBER PUKHTOON
KHWA.

DEPARTMENTAL APPEAL NO OF 2021.

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
SERVICE RULES NOTIFICATION DATED 24.7.2014
WHEREBY NOT INCLUDING THE COMPUTER SCIENCE
SUBJECT/DEGREE HOLDER IN THE CRITERIA OF
ELIGABILITY FOR THE PROMOTION OF PST,S TO THE
POST OF SST BPS -16 SAME IS AGAINST THE SERVICE
RULES NOTIFIED IN THE NOTIFICATION DATED 24.4.2018
TO THE EXTENT OF SERIAL NO.2 COLUMN NO.5 OF THE
TABLE WHEREBY NO QUOTA HAS BEEN ALLOCATED FOR
APPELLANT/ APPELLANT CADRE AS PST*IT* AND SAME
TIME AWARDED TO ALL OTHERS.

RESPECTFULLY SUBMITTED,

1. That with great respect it is stated that I am performing my
duty as PST BPS-12. That I am highly educated master degree
holder in relevant computer science subject along With PST/
CT, BED / MED decrees etc. I done my duty with full devotion
and never raised any objection from the student or any other side.
it is to be noted by your honor that following six cadres of
SST (BPS -15) are there in which my cadre is PST (IT) which
is the only and lonely cadre whom, ignored, deprived from the
promotion rights. That my cadre PST IT, even rules of promotion
are complete- silent which is further question mark before your
honor? That notification dated 24.7.14 in which specifically
mentioned the promotion on base of strength of service which
is 7 years as well as 75% quota on basis of seniority cum

