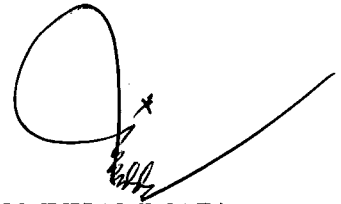


05.04.2022

None for the appellant present.

Notices be issued to the appellant and his counsel.
Adjourned. To come up for preliminary hearing on 24.06.2022
before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

24th June, 2022

Appellant in person present.

Appellant seeks adjournment on the ground that his
counsel is not available today. To come up for preliminary
hearing on 17.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

17.08.2022

Appellant in person present and requested for adjournment
on the ground that his counsel is busy before Hon'ble Peshawar
High Court, Peshawar. Adjourned. To come up for preliminary
hearing on 21.10.2022 before S.B.




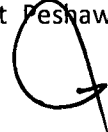
(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 221/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/02/2022	<p>The appeal of Mr. Hussain Akbar presented today in person 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 at Peshawar for preliminary hearing to be put there on <u>05-04-2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p><i>[Faint handwritten notes and a long diagonal line are present in this section.]</i></p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 221 2022

Hussain Akbar, Assistant DC Office Mardan/ Divisional Coordinator Revenue Department, Mardan.....Appellant.

Versus

Government of KP & Others Respondents

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Appellant In Person



Hussain Akbar

Assistant DC Office, Mardan

Contact#: 000-5844549

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 221 /2022

Hussain Akbar, Assistant DC Office Mardan/ Divisional Coordinator Revenue Department, Mardan.

.....(Appellant)

Versus

1. The Govt of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar
2. The Secretary Establishment, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
3. Khyber Pakhtunkhwa Public Service Commission through its Chairman, Peshawar....

.....(Respondents)

APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE DECISION OF RESPONDENT NO.1 COMMUNICATED VIDE LETTER NO. SO(HRD-II)/ED/1-10/2021(RTI)/HUSSAIN AKBAR, DATED 27.01.2022 WHEREBY THE REPRESENTATION DATED 17.12.2020 AND 22.06.2021 MADE BY THE APPELLANT (FOR RECONSIDERATION OF NOTIFICATION NO.SOE(ED)2(14)/2009, DATED 04.10.2010, SUBMITTED IN LIGHT OF ORDER DATED 15.10.2020 BY HON'BLE PESHAWAR HIGH COURT IN W.P NO. 4157-P/2020, HAS BEEN DISMISSED/REGRETTEED.

Respectfully Sheweth,

1. That the Constitution of Islamic Republic of Pakistan aims at protecting civil servants in order to ensure smooth running of affairs of the Government and Institutions so as to benefit the public citizenry.
2. The Constitution of Islamic Republic of Pakistan equally beshields Civil Servants from being treated otherwise than in accordance with law.

In Sheikh Riaz-UI-Haq's case¹, it was held that, "Admittedly, civil servants being citizens of Pakistan have fundamental rights including the right to access to justice as envisaged under Article-9 of the Constitution".

3. That Constitution of Islamic Republic of Pakistan evenly emphasizes on equality for the citizens; by the citizens; aimed at underpinning rule of law.

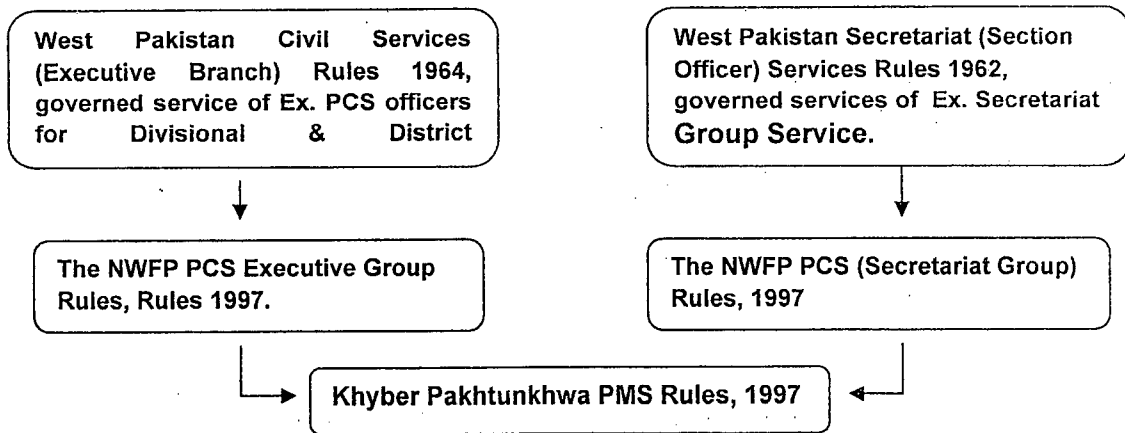
ON FACTS

1. That the appellant is presently serving as Office Assistant at District Collectorate/District Administration, Mardan, and he is also Divisional Coordinator for Revenue Department APCA, Khyber Pakhtunkhwa.
2. That the Provincial Government of Khyber Pakhtunkhwa introduced Provincial Management Service Rules vide notification dated 11.05.2007; wherein specific quotas were reserved for different class of persons.
3. That initially two separate Provincial Services were in place i.e:
 - The Executive Service (related to Divisional/District Administration) and this service would be regulated by the West Pakistan Civil Service (Executive Branch) Rules, 1964 vide which officers of BPS-17 would be appointed for District/ Divisional Administration.
 - The Secretariat Service related to Secretariat Management. The West Pakistan Secretariat (Section Officer) Services Rules 1962 would govern appointments & service matters of Section Officers in the Provincial Secretariat. **(Relevant portion of the West Pakistan Executive Branch Rules, 1964 is Annex-A)**

Pertinent to mention that in the Executive Branch Rules, 37.50% promotion quota was reserved for Tehsildars/Revenue Staff and 12.50% In-Service quota for ministerial staff, whereas, in the Secretariat Branch Rules, 1962, no such In-Service quota was provided.

4. That later on, both of the said rules were repealed and replaced by two different sets of rules i.e. the Khyber Pakhtunkhwa i.e. PCS (Executive Group) Rules, 1997 and PCS (Secretariat Group) Rules, 1997. The former would cover appointments of Extra Assistant Commissioners (BPS-17) for Divisional/District Administration; whereas, the latter would govern appointment of Section Officers (BPS-17) in the Civil Secretariat.

Again in PCS Executive Group Rules, 1997 (Rules governing Service of Revenue/Divisional/District Administration), 37.50% promotion quota was specified for Tehsildars of Revenue Department and 12.50% In-Service quota for ministerial staff through competitive examination; whereas in the Secretariat Group Rules, 1997, no such quota was provided.



(Copy of Relevant portion of PCS (E.G) Rules, 1997 is Annex-B)
 (Copy of Relevant portion of PCS (S.G) Rules, 1997 is Annex-C)

5. That the two separate cadres/services were clubbed and a new Single cadre service formed called the Provincial Management Service (PMS), governed by single rules i.e. PMS Rules, 2007. The PMS BS-17 Officers are now transferable both in the Revenue Department/ District Administration as Assistant Commissioners/Addl Assistant Commissioners and in the Civil Secretariat as Section Officers. Schedule-I of the original PMS Rules 2007, provided the following modes for initial appointment of PMS BS-17 officers:

- 50% by initial recruitment on recommendation of PSC.
- 20% by promotion from amongst Superintendents & Private Secretaries of Secretariat
- 20% by promotion from amongst Tehsildars of Revenue department.
- 10% through competitive exam (In-Service) from amongst ministerial staff of the Provincial Govt.

As such all the quotas reserved in the previous rules were reflected with different ratio in the clubbed version i.e. the 40% and 37.50% promotion quota for ministerial staff of Secretariat and Tehsildars of Revenue Department respectively were reflected as 20% equal. Likewise, the 12.50% In-Service quota was also reflected as 10% (In-Service PMS) through competitive Exam from amongst ministerial staff of all govt departments. As such same criteria and mode was transformed into the new service but with different ratio. (KPK PMS Rules, 2007 is Annex-D).

6. That in the PMS In-Service 10% quota, 53 posts were advertised in 2010, open to persons holding substantive posts details of which is provided in the afore-stated rules.

7. That the Secretary General of the Secretariat Employees Coordination Council made a representation dated 09.08.2010 before the respondent No. 1 to the discredit of present appellant and thousands of his colleagues, stating therein that the 10% quota was actually carved out of their share by reducing their promotion quota from 40% to 20%; therefore, only employees of Secretariat had a right on that quota, in utter disregard of the above-narrated historical and factual background. **(Copy of letter dated 09.08.2010 is Annex-E)**
8. That the respondent No. 1 & 2, without bothering to go through history and background of the matter, put forward their standpoint before respondent No. 3, that the 10% quota PMS in-service meant for ministerial staff of Secretariat employees only and sought clarification to that effect; disfavoring thousands of employees of the revenue department, Commissioners and DCs' offices. **(Letter dated 19.08.2010 is Annex-F)**
9. That respondent No. 3 vide letter dated 30.08.2010 expressed its inability to issue the desired clarification, in violation of rules and suggested for necessary amendments in the rules with clear standpoint that graduate clerks of Commissioners and DCOs Offices; on account of their field experience and know-how would be more deserving and suitable for the said posts. **(Copy of letter dated 30.08.2010 is Annex-G)**
10. That to the uttermost disregard; the respondent No. 1 issued a hasty notification dated 14.09.2010 followed by the impugned notification dated No. SOE-II(ED)2(14)2009 dated 04.10.2010; wherein amendment was brought in PMS Rules, 2007 safeguarding 10% quota for ministerial staff of secretariat only. **(Copy of the amendments dated 14.09.2010 & 04.10.2010, SSRC minutes & Summary are Annex-H)**
11. That afterwards; 69 posts meant for PMS in-service were advertised on 01.12.2017; with astonishing condition being restricted to Secretariat's employees only, enabling the appellant to know about the aforementioned facts. And soon after publication of the advertisement, a detailed representation dated 27.12.2017 was submitted to Respondent No.1 & 2 but no reply was give.

(Copy of advertisement is Annex-I)

(Copy of Minutes/request dated 27.12.2017 is Annex-J)

12. That expecting fruitful result(s) of the said representation; the petitioner along with his colleagues opted for to appear in the competitive examination; out of them he qualified the written exam with 69% marks, but was not called for interview by the Commission by withholding his result.

(Copy of DMC is Annex-K)

13. That the appellant filed a W.P No. 4157-P/2020; which was disposed of vide order dated 15.10.2020; with the direction to respondents to dispose of his representations within 30 days with explicit result. **(Copy of order sheet 15.10.2021 are Annex-L).**

14. That in light of order dated 15.10.2020 by Hon'ble Peshawar High Court, the appellant submitted another representation, dated 17.12.2020, which was replied to through the RTI Commission on 25.05.2021 with vague contents & distorted facts. Therefore, the appellant vide a subsequent representation dated 22.06.2021 submitted additional grounds/counter stance with the request to dispose of his representation in light of the same. The Respondents vide letter dated 27.01.2022, informed regarding fate of the representation that the competent authority had regretted his request on the ground that the said quota meant only for ministerial staff of Secretariat and that attached departments having career progression in their respective departments can apply in General PMS and that issues regarding the said quota have been settled by Supreme Court of Pakistan in its judgment dated 25.02.201

**(Representations dated 17.12.2020, 22.06.2021 & application, dated 07.01.2022 under the RTI Act are Annex-M)
(Letter dated 25.05.2021 and 27.01.2022 are Annex-N)**

15. That for the sake of information of this Hon'ble Tribunal; employees of different department(s) challenged the amendment referred to before Hon'ble Peshawar High Court Peshawar vide Writ Petition No. 3857/2010, with certain assertions pertaining to the amendment dated 04.10.2010 was premised upon malafide and amounted to formation of groups of persons on irrational basis because the one group (secretariat employees) were benefitted twice while the other groups (remaining government employee working out of Secretariat) has been deprived of the benefits already given under the rules. The Honorable Peshawar High Court through its judgment dated 28.05.2014 struck down the amendment and restored the PMS rules to its original version.

(Copy of W.P 3857/2010 alongwith Comments is Annex-O)

(Copy of judgment dated 28.05.2014 is Annex-P)

16. That against the said judgment, the Establishment Department filed CPLA No. 1214/2015 in the Apex Court; which was accepted vide judgment dated 25.02.2016 and judgment of High Court in favour of the then respondents was set aside with the remarks that and as per the settled principle the determination of eligibility of the respondents through amendment fully falls within the domain and policy decision of the Government which does not warrant interference by the Courts..

(Judgment dated 25.02.2016 is Annex-Q)

17. That the respondents now put forward the said judgment to the apeeelant and his colleagues of Revenue Department—a more relevant formation of PMS Service who was neither party in that litigation nor did their standpoint is same.
18. That feeling aggrieved of the same, the instant Service Appeal is filed on the following grounds.

GROUND:

- A.** That the SSRC and Chief Executive was kept in dark by concealing the important facts from them—The reason mentioned by respondents to bring clarity in the rules is wrong and unfounded because it was not an ambiguous part of the rules; rather the In-Service quota, being an integral part of the previous rules, has a long history in all the provinces, including Khyber Pakhtunkhwa.

As explained in the facts, In-Service Quota (12.50%) was reserved for employees of Revenue Department alongwith Secretariat initially in the West Pakistan Civil Service (Executive Branch) Rules 1964 followed by the NWFP PCS (Executive Group) Rules, 1997, which would regulate appointment of EACs BS-17 for the Divisional & District Administration (in KPK as well as other Provinces). Whereas in the West Pakistan Secretariat (Section Officers) Rules, 1962 and the NWFP PCS (Secretariat Group)Rules, 1997 which would govern services of S.Os for Secretariat, had no such In-Service quota. On that analogy, the In-Service 10% quota was made part of combined PMS Rules, 2007, kept open to ministerial staff of Govt Departments.

The said quota was neither new nor did cut from Secretariat share, but it was the misleading letter and pressure applied through rampant strikes by the Coordination Council which compelled the Respondent No.01 & 02 for the amendment. They failed in applying independent & impartial approach to the matter and made a hasty amendment in the rules whereby employees of more relevant formation i.e. Commissioners/DCs' offices were also excluded alongwith employees of other irrelevant Departments.

The amendment is justified to the extent of other irrelevant Departments having no link with PMS, but due to permanent relevancy of Divisional & District Administration and job experience, employees of Revenue Department more deserve to compete for speedy promotion.

- B.** That the 10% is based on relevancy & job experience as explained by respondents in comments of W.P No. 385/2010 that employees of Secretariat which make them well acquainted with job of PMS Officers. Secondly employees of other department are expert of their own field/cadres and get chances of promotion in their cadres through examinations under their respective service rules and that these posts can't be used as learning place for them.

Revenue Department/District Administration is more relevant to PMS on the following grounds:

- PMS Rules, 2007; provided equal weightage in the 20% promotion quota has been given to both sides i.e. Tehsildars of Revenue Department and for Superintendents/Private Secretaries of Secretariat. Ministerial staff of Revenue Department is promoted to PMS via Tehsildar with a small share i.e. around 3% as against 20% reserved for ministerial staff of Secretariat, yet it is good that they have some quota. No other department has such quota, therefore, amendment is correct to the extent of other irrelevant departments.
- Para 4(ii) of the note dated 17.01.2018 for Worthy Chief Secretary by Respondent No.2 further authenticates their relevancy, wherein 05% promotion quota was suggested Ministerial employees of Revenue Department through merit/in-service competition.

- The Board of Revenue vide letter dated 10.01.2019 suggested 05% quota out of 20% share of promotion quota for Tehsildars for promotion of Superintendent/Private Secretaries of Revenue Department.
- The Summary dated 12.08.2021, initiated by Respondent No.02 for Cabinet meeting wherein it has been admitted that "The Tehsildars Cadre already enjoys a lion share in promotion. The Assistants, Computer Operator and Stenographers of District Administration fall within the category of Revenue Staff, hence entitled for promotion to the posts of Tehsildars/Naib Tehsildars and subsequent promotion to the post of PMS 20% quota. The 10% share has been carved from the promotion quota of Secretariat employees.
- Letter dated 30.08.2010 and Para 6 of the Comments by Respondents No.3 in W.P No. 3857 in Hon'ble Peshawar High Court admitted inherent relevancy & job experience of the appellant's & his colleagues.
- About 80% (20 pages J.D) Job Description of PMS Officers BS-17 related to District Administration whilst carrying out duties as ACs/AACs, whereas in Secretariat as S.O he has to deal with very limited and repetitive secretarial work (one & half page J.D). Therefore, supporting staff in field have more experience regarding multiple Administrative, Judicial, implementation of policy matters, which supporting staff in Secretariat don't know about.
- On the other hand every District Collectorate is replica of Civil Secretariat in relation to office management but Civil Secretariat is not a replica of District Administration/ District Collectorate.

(Working Paper dated 17.01.2018 is Annex-R)

(BoR letter dated 10.01.2019 is Annex-S)

(Summary dated 12.08.2021 is Annex-T)

(Letter dated 30.08.2010 is Annex-G)

(Comments by Respondent No.03 are Annex-O)

(Job Description of ACs & S.Os is Annex-U)

Thus no separate structure is available for ministerial staff of Revenue Department. About 3200 ministerial staff of Revenue Department have indirect

3% promotion quota through the post of Tehsildar as against 20% promotion quota for 1900 ministerial staff of Secretariat.

The PMS In-Service is different quota purpose of which was explained by the respondents in reply to W.P No. 3857/2010 that same quota aims to provide an opportunity of quick promotion on the basis of experience cum merit to lower grade employees and to sift out the best lot from the lower grade these 10% seats were reserved to be filled through competitive examination by KPPSC.

Therefore, being more essential formation of PMS Service, employees of Revenue Department are more deserving to have an opportunity of talent based quick promotion.

C. That as per present PMS rules, total three categories of employees are relevant and have promotion quota (although unequal & imbalanced) which are as under:

- 3195 Ministerial staff of Divisional and District Administration have about 03% indirect promotion quota through the 20% quota reserved for Tehsildars.
- 3039 Revenue Staff have 17% promotion quota out of 20% reserved for Tehsildars. (6234 employees of Revenue Deptt have 20% promotion quota collective).
- 1900 Ministerial staff have 30% quota (20% promotion quota & 10% In-Service quota).

(Ministerial Staff Details of Revenue Department & Secretariat is Annex-V)

Although there is imbalance in the internal 20% promotion quota as well, but excluding 3195 employees from a complete different quota of 10% is injustice.

The PMS In-Service is different quota purpose of which was explained by the respondents in reply to W.P No. 3857/2010 that same quota aims to provide an opportunity of quick promotion on the basis of experience cum merit to lower grade employees and to sift out the best lot from the lower grade these 10% seats were reserved to be filled through competitive examination by KPPSC.

The rules were actually amended on the unfounded & baseless stance of Coordination Council and more ironically their wrong stance has repeatedly been made part of Govt correspondence.

- D.** That the 10% is actually a merit-based quota through competitive examination for the ministerial staff of all those departments wherein PMS Officers BPS-17 have major scheduled/cadre postings i.e. Secretariat and Revenue department/Distt Administration only, as such employees of both the formations deserve more to have an opportunity to compete in the 10% In-Service quota.
- E.** That PMS rules of KPK is carbon copy of Punjab PMS rules, 2004 which still provides equal opportunity to ministerial staff of revenue department to compete in the 10% quota reserved for In-Service candidates. Likewise, the Establishment Division has even allowed ministerial staff of all Federal Department to compete with Section Officers Promotional Exam (SOPE) and here the relevant segment is disallowed. **(Copies of PMS Rules Punjab, Sindh & SOPE is Annex-W)**
- F.** That Summaries to the Chief Executive are governed by three set of rules i.e. Rules of Business, 1985, Manual of Secretariat Instructions, 2008 and KPK Estacode. All the three laws/rules have been violated to the extent & discredit of thousands of employees of Revenue Department/Divisional & District Administration Revenue as follows:
- As mentioned in the summary dated 22.09.2010, basis of the amendment was letter dated 09.08.2010 by G.S of Secretariat Employees Coordination Council coupled with letter dated 18.08.2010 by the KP PSC, but main thing pointed out by the Commission was not given any consideration, which says: **“Some of the graduate clerks in the attached departments, Commissioners and DCOs Offices, on account of their field experience and knowledge will be more deserving and suitable for the posts”**. But the SSRC minutes and summary for C.M is silent on actual facts/background and the above observation.

- Likewise, KPK Estacode (Page-257) makes it mandatory to explain all the relevant things related to proposed amendment as: ***“ The administrative departments are requested that all proposals for framing of new Service Rules and amendments in the existing rules should be accompanied by a working paper explaining background and justification for the proposal, particularly where the existing rules are required to be amended.*”**

Further violation of the above has been declared even Misconduct. ***“Despite existence of these statutory provisions in the NWFP Govt. Rules of Business,1985, the Manual of Secretariat Instructions,2008 and other allied instructions, many cases are coming to light where Administrative Secretaries and other officials are not strictly adhering to them. It must be realized that these are not only legally binding requirements whose violation amounts to “misconduct” but also unnecessarily results in red-tapism as well as affects the quality of decisions making”.***

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

In utter disregard of the above, the summary put up to Chief Minister and minutes of the Standing Services Rules Committee, dated 09.09.2010 seems willfully silent regarding background of the PMS Service, its formation, ex. Position and relevancy of revenue department/Distt Administration and the observation made by the Commission regarding Revenue Department/Distt Administration in the letter dated 18.08.2010.

- Rules- 8(1) of the KP Rules of Business, 1985 provides: ***“when the subject of a case concerns more than one Department: (a) the Department Incharge shall be responsible for consulting the other Departments concerned; and (b) no orders shall issue, nor shall the case ordinarily be submitted to the Chief Minister or the Cabinet until it has been considered by all the Departments concerned and they agree to it.*”**

- Likewise, Rule-9 sub rule (i) of the *ibid* rules provides that ***"It shall be the responsibility of the Chief Secretary to coordinate the work of all Departments of Government"***. But in the instant case there seems complete lack of coordination among the Establishment and Revenue department whilst amending the most important civil service rules of the province.

- Further, Sub Rule (3) of rule 9 of the *ibid* rules provide:

"The Establishment and Administration Department shall be responsible for:

- a) the determination of the principles of control of Government Servants, including recruitment, conditions of service and discipline;
- b) The coordination of the policy of all Departments with respect to services under their control so as to secure consistency of treatment;
- c) Securing to all Government servants the rights and privileges conferred on them by or under any law for the time being in force,

The respondents have deviated from the basic procedure by getting approved the unilateral summary of impugned amendment from the Chief Minister, without any consultation and getting input of an integral department of PMS Service (Revenue Department)/Secretary Revenue. Therefore, the impugned amendment is ineffective ab-initio upon the inherent rights of the Petitioner.

- Para-7, Schedule-II of the Khyber Pakhtunkhwa Rules of Business, 1985 further provides that *Revenue Department will deal: "Matters connected with the recruitment, training, pay, allowances, promotions, leave, postings and transfers of Revenue Field staff and District and Divisional Establishment (ministerial, except those entrusted to the Establishment and Administration Department)"*.

But in the instant case its employees have been deprived of due right without bringing into notice of the Revenue Department.

- Section 89 of Manual of Secretariat Instruction, 2008 provides:
"A summary for the Provincial Cabinet shall be prepared in accordance with Rule-21 of Govt of NWFP Rules of Business and shall be in the following form (e)(iv) Contents: views of the department and of any other department if concerned".

Whereas, Section 89(a)(i) makes it mandatory to write about history and background of the case with relevant facts.

Further, section 125 to 137 of the said Instructions further made the meaningful consultation with the relevant department mandatory, and same have not been complied with in the instant case, which show complete malafide on the part of Respondents.

(Working portion of KP Estacode is Annex-X)

(Working Portion of Rules of Business is Annex-Y)

(Working Portion of Manual of Secretariat Instructions is Annex-Z)

- K. That later on, in subsequent similar cases, the Superintendents & Private Secretaries of DC/Commissioner offices submitted an application, dated 04.10.2018 to the Respondent No.1 requesting therein for share in the 20% promotion quota in PMS, on the pattern of quota already reserved for the Superintendents & Private Secretaries of Secretariat. The Respondents letter, dated 29.10.2018 sought comments of Secretary Revenue ^ Estate Department who shared views of the Revenue department vide letter No. dated 10.01.2019 and supported stance of the applicants. In another case, in a note for Chief Minister dated 17.01.2018, the first two respondents suggested to reserve 5% quota in PMS for ministerial staff of Revenue Department, wherein also, input of the revenue department was got.

All these confirm that only in the case of impugned amendment, relevant laws/rules have been violated at the detriment of thousands of deserving candidates of Revenue Department; whereas in the subsequent all cases, same have been followed, which shows discriminatory approach & ulterior motive in this case.

Had the Respondent No.1 and 2 followed the rules, and got comments of the Respondent No.3, circumstances would have been different as Respondent No.3 vide dated 18.01.2021 forwarded stance of the Petitioner to Respondent No.1 and 2 for consideration.

(Application dated 04.10.2018 is Annex-AA)

(Letter dated 29.10.2018 is Annex-BB)

(Letter dated 10.01.2019 is Annex-CC)

(Note dated 17.01.2018 is Annex-R)

(Representation to SMBR dated 18.01.2021 is Annex-DD)

(Letter dated 21.02.2021 is Annex-EE)

Class dealing with more than a dozen of laws with more multiplied Field Job Description, regarding which ministerial staff of the revenue department has experience. (**S.7 of Land LRA,1967 is Annex-F**)

G. That till date, three times vacancies in PMS-Inservice quota have been advertised for 165 position but, but only 42 (34+8) candidates from Secretariat could qualify just the written exam and they all were recommended, which is against the spirit of competition ^ merit, while the rest of vacancies are still vacant even after 15 years of promulgation of the rules; why because the remaining posts mean for the Revenue department. (**Advertisements are Annex-GG; Results are Annex-HH**)

H. That collective will & wisdom i.e. the KP Provincial Assembly is also convinced on the due right of the appellant and his colleagues, therefore, passed a unanimous resolution No. 1141 for retention/restoration of 10% PMS (In-Service) quota for them. Implementation of the said resolution have repeatedly been delisted from agenda of Cabinet meetings due to pressure of time Coordination Council Civil Secretariat.

(Resolution No. 1141 is Annex-ii)
(Pressers/letters by Coordination Council are Annex-JJ)

L. That "Expressio Unis Est Exclusio Alterius", commanding that when law requires a thing to be done in particular manner then, it should be done in that manner as anything done in conflict of the command of law shall be unlawful being prohibited.

M. That "*Ignorantia juris non excusat*", commanding that ignorance of the law excuses not.

N. That the purported omission(s) on the part of Respondents itself speaks volumes engraving danger to the notion of good governance, hence requires interference of the Hon'ble Tribunal.

In Qaisar Iqbal's Case³, it was held that, " Rule of Law meant Supremacy of Laws opposed to arbitrary authority of the Government; said supremacy guaranteed three concepts; first, the absence of arbitrary power; second, equality before law and third the rights of citizens'.

O. That one of the mainstay of the respondent(s) is judgment dated 25.02.2016 rendered by August Supreme Court of Pakistan in CPLA No. 1214/2015; considering the facts and circumstances of the issue at hand.

³ 2018 PLD Lahore 34

P. That the said case was filed by different persons, with totally different cause of action & ground as explained in earlier.

Q. The appellant may be allowed to adduce further grounds during arguments.

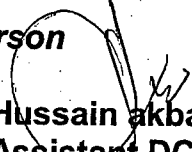
PRAYER

It is therefore humbly prayed and submitted that on acceptance of this Service Appeal:

1. To declare the amendment dated 04.10.2010 ultravires and set aside the same to the extent of Revenue Department/Divisional & District Administration.
2. Respondent No. 03 may be directed to complete necessary process on the withheld result of the appellant.
3. Any such order be passed which this Hon'ble Tribunal deems fit and appropriate as the circumstances may require for determination of the subject at hand.

Appellant

In person


Hussain akbar
Assistant DC Office Mardan
Contact# 0300-5844549

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

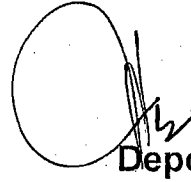
Hussain Akbar, Assistant DC Office Mardan/ Divisional Coordinator Revenue
 Department, Mardan.....(Appellant)

Versus

1. The Govt of Khyber Pakhtunkhwa through Chief Secretary & others.
 Respondents

AFFIDAVIT

I, Hussain Akbar, Assistant, Office of the Deputy Commissioner Mardan,
 appellant do hereby affirm on oath and declare that the contents of the Service
 Appeal are true and correct to the best of my knowledge, belief and nothing
 has been concealed therefrom the Hon'ble Tribunal.


 Deponent

03005844549
 16101-7306270-3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

Hussain Akbar, Assistant DC Office Mardan/ Divisional Coordinator Revenue Department, Mardan.....(Appellant)

Versus

1. The Govt of Khyber Pakhtunkhwa through Chief Secretary & others.
Respondents

MEMO OF ADDRESSES OF PARTIES

Appellant:

1. Hussain Akbar, Assistant office of the Deputy Commissioner, Mardan.

Respondents:

1. Chief Secretary Govt of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.
 2. Secretary Establishment Govt of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
 3. Chairman Khyber Pakhtunkhwa Public Service Commission, Pesjavar.

Appellant in person



Hussain akbar
Assistant DC Officee Mardan
 Contact#: 0300-5844549

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Annex-A

The West Pakistan Civil Service (Executive Branch) Rules, 1964

Service and General Administration Department

Notification

The 10th December 1964

No.SOXVIII-1-81/57- In exercise of the powers conferred by clause (2) of Article 178 and Article 179 of the Constitution of the Islamic Republic of Pakistan, the Governor of West Pakistan is pleased to make the following Rules regulating the West Pakistan Civil Service (Executive Branch) and Prescribing conditions of service for the person appointed thereto, namely

Part I- General

1. Short title commencement and application—(1) These rules may be called the West Pakistan Civil Service (Executive Branch) Rules, 1964.
- (2). They shall come into force at once
2. Definitions- In these rules, unless the context otherwise required
3. The following expressions shall have the meaning hereby respectively, assigned to them that is to say
 - (a) See slip (1)
 - (a) "appointing authority" means the authority specified in rule 4;
 - (b) "Attached Department: and Regional Office" respectively mean and attached Department and a Regional Office, as defined in the Rules of Business of the Government of West Pakistan;
 - (c) "Commission" means the West Pakistan Public Service Commission
 - (c) See slip (2)
 - (d) "Government" means the Government of West Pakistan;
 - (e) "initial recruitment" means appointed made otherwise than by promotion (or transfer from another service);
 - (f) "recognized university" means any university incorporated by law in Pakistan or any other University which may be declared by Government after consultation with the commission to be a recognized University for the purpose of these rules;
 - (g) "Scheduled Castes" means the castes, races or tribes or parts or group within castes, races or tribes, declared to be scheduled castes under law in force in West Pakistan or so declared by Government for the purpose of these rules;
 - (h) "Service" means the West Pakistan Civil Service (Executive Branch): and

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- (i) "Under-Developed Areas" means Quetta and Kalat Divisions, Lasebella District of Karachi, the Triabal Areas of Peshawar and Dera Ismail Khan Division and such other areas as Government may be declare to be Under-Developed Areas for the purpose of these rules.

Part II- RECRUITMENT

3. Number of posts—The Service shall comprise such posts as many be determined by Government from time to time.
4. Appointing Authority—Appointment to the service shall be made by Governor of West Pakistan.

AMENDMENTS

1. In rule 5, for clause (a) of sub rule (1), the following clause shall be substituted:-
- (a) by initial recruitment on the recommendation of the Commission based on the result of a competitive examination conducted by it normally in December every year in accordance with Appendix ' A':
- b. after clause (b), the following new clause (c) shall be ended
- (c) A select list 'C' in Form-3 appended to these rules of persons who hold posts of Private Secretary to the Governor; Chief Minister, Ministers and Chief Secretary and who are graduates and are considered fit for appointment by transfer to the service.

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5. Method of Recruitment—(I) Recruitment to the Service shall be made in the following manner :--

(a) by initial recruitment on the recommendations of the commission based result on the result of a competitive Examination conducted by it in accordance with Appendix A to these rules; or

(b) by promotion. By transfer.

(2) Fifty per cent of the vacancies in the service shall be filled by initial recruitment and the rest by promotion.

Provided that temporary vacancies may, at the discretion of government, be filled by promotion, and such appointment shall be deemed to effect the ration prescribed under his sub rule.

(3) Vacancies to be filled by initial recruitment shall be filled in the following manner:--

(i) twenty percent of such vacancies shall be filled on merit from among candidates domiciled in any part of west Pakistan; provided that Government may, from time to time, by notification in official Gazette, increase the percentage of the vacancies to be filled under this clause; and

(ii) the remaining such vacancies shall be reserved for bona fide resident of the Zones specified in the Appendix B to these rules, in proportion to their population according to the census figures; provided that if no suitable candidate is available from the Zone to which a vacancy is allocated under this clause, the vacancy may be filled in the manner provided in clause (i).

(4) Vacancies to be filled by promotion shall be filled as follows:--

(a) 87 ½ percent such vacancies shall be filled from among members of the regional sub-cadres of the West Pakistan Tehsildars/ Mukhtiarkars, Service whose name appear in Select List 'A' to be maintained in accordance with the provisions of clause (a) if sub-rule (5), in proportion to the strength of such sub-cadres.

(b) The remaining 12 ½ percent of such vacancies shall be filled from among persons whose names appear in Select List 'B' & 'C' to be maintained in accordance with clause (b) and clause (c) of sub rule (5) of this rule.

(5) Government shall maintain:--

(a) a Select list 'A' in Form 1 another, which shall be prepared in consultation with the Board Revenue, the Tehsildars, Mukhtiarkars and Naib-Tehsildars/ Head Munshis who are considered fit for promotion of to the service;

Provided that only Naib-Tehsildars / Head Munshis of outstanding ability and merit shall be considered for promotion to the service; and

(b) a Select list 'B' in Form 2 appended to these rules of persons who hold substantive posts of Superintendents, Personals Assistants / Stenographers, working in the West Pakistan Secretariat, Attached Departments, Commissioners' Offices and Regional Offices, Public Relation Officers attached with the Governor, Chief Minister and Ministers and who are considered fit for appointment to the service.

(c) Inserted see slip-4.

(21)

Annex - "B"

1

¹[Khyber Pakhtunkhwa]
Provincial Civil Service (Executive Group) Rules, 1997

[Gazette of ²[Khyber Pakhtunkhwa], Extraordinary, Page No. 59-61, July 17,
1997]

No. SORIV(S&GAD)3-7/95.Vol. II. Dated 26-06-1996.—In exercise of the powers conferred by section 26 of the ³[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁴[Khyber Pakhtunkhwa] Act XVIII of 1973), the Governor of the ⁵[Khyber Pakhtunkhwa] is pleased to make the following rules; namely:—

PART I—GENERAL

1. Short title and commencement.—(1) These rules may be called the ⁶[Khyber Pakhtunkhwa] Provincial Civil Service (Executive Group) Rules, 1997.

(2) They shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

- (a) "Appointing Authority" means the authority specified in column 3 against serial No. 1 of the Table in rule 4 of the ⁷[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;
- (b) "Attached Department" means a Department as defined in rule 2 (b) of the ⁸[Khyber Pakhtunkhwa] Government Rules of Business, 1985;
- (c) "Commission" means the ⁹[Khyber Pakhtunkhwa] Public Service Commission;

1 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

2 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

3 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

4 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

5 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

6 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

7 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

8 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

9 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

- (d) "Government" means the Government of the ¹⁰[Khyber Pakhtunkhwa];
- (e) "Governor" means the Governor of the ¹¹[Khyber Pakhtunkhwa];
- (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer from another service;
- (g) "Recognised University" means any University incorporated by law in Pakistan or any other University which may be declared as recognised by Government;
- (h) "post" means a post specified in the Schedule appended to these rules, including the post of Extra-Assistant Commissioner;
- (i) "Schedule" means the Schedule appended to these rules at Appendix "A" to be revised from time to time;
- (j) "Secretariat" means the ¹²[Khyber Pakhtunkhwa] Civil Secretariat, as defined in rule 2 (r) of the ¹³[Khyber Pakhtunkhwa] Government Rules of Business, 1985 ;
- (k) "service" means the ¹⁴[Khyber Pakhtunkhwa] Civil Service (Executive Group) of the ¹⁵[Khyber Pakhtunkhwa];
- (l) "share" means the share of the Officers of the service in the posts as allocated under these rules; and
- (m) "Province" means the ¹⁶[Khyber Pakhtunkhwa].

PART II - RECRUITMENT

3. Number and Nature of Posts.--The service shall comprise:--

- (a) the total number of sanctioned posts of Extra-Assistant Commissioners in the Province ; and

10 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
11 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
12 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
13 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
14 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
15 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
16 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

(b) various posts in B-17 to B-21 as per share allocated under rule 6 of these rules.

4. **Appointing Authority.**—Appointment to the service shall be made by the authority as specified in rule 2 (a).

5. **Method of Recruitment.**—The members of the service shall be recruited in BPS-17 as per following method:—

- (i) 50% of posts in B-17 shall be filled by initial recruitment based on the result of a Competitive Examination to be held by the Commission for this purpose in accordance with Appendix B to these rules ; and
- (ii) the remaining 50% of the posts in B-17 shall be filled in by way of promotion as per following manner:—
 - (a) 87.50% of such posts shall be filled on the basis of seniority-cumfitness from amongst the Tehsildars who have passed the prescribed Departmental Examination; and
 - (b) the remaining 12.50% of such vacancies shall be filled on the recommendation of Provincial Selection Board based on the result of competitive examination conducted in the manner specified in Appendix "C" from amongst persons holding substantive appointments as Superintendents, Private Secretaries, Personal Assistants Assistant/Steno in the Provincial Secretariat, Attached Departments, Commissioner Offices and other Divisional Offices, who--
 - (i) hold a degree in 2nd Division from a recognised University;
 - (ii) have rendered at least ten years Government service; and
 - (iii) are not more than forty years of age.

Note.—A common seniority list shall be maintained of the Tehsildars, Superintendents, Private Secretaries, Personal Assistants, Stenographers and Assistants in the Provincial Secretariat, Attached Departments, Commissioner Offices and other divisional offices.

(24)

Annex-C

¹[Khyber Pakhtunkhwa]
Provincial Civil Service (Secretariat Group) Rules, 1997

[Gazette of ²[Khyber Pakhtunkhwa], Extraordinary, Page No. 57-59, July 17, 1997]

No. SORIV(S&GAD)3-7/95.Vol. II, Dated 26-06-1996.—In exercise of the powers conferred by section 26 of the ³[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁴[Khyber Pakhtunkhwa] Act XVIII of 1973), the Governor of the ⁵[Khyber Pakhtunkhwa] is pleased to make the following rules, namely:--

PART I—GENERAL

1. **Short title and commencement.**---(1) These rules may be called the ⁶[Khyber Pakhtunkhwa] Provincial Civil Service (Secretariat Group) Rules, 1997.

(2) They shall come into force at once.

2. **Definitions.**--In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:--

(a) "Appointing Authority" means the authority specified in column 3 against serial No. 1 of the Table in rule 4 of the ⁷[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;

(b) "Attached Department" means a Department as defined in rule 2 (b) of the ⁸[Khyber Pakhtunkhwa] Government Rules of Business, 1985;

(c) "Commission" means the ⁹[Khyber Pakhtunkhwa] Public Service Commission;

(d) "Government" means the Government of the ¹⁰[Khyber Pakhtunkhwa];

1 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
2 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
3 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
4 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
5 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
6 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
7 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
8 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
9 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
10 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

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- (e) "Governor" means the Governor of the ¹¹[Khyber Pakhtunkhwa];
- (f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
- (g) "recognised University" means any University incorporated by law in Pakistan or any other University which may be declared as recognised by Government;
- (h) "post" means a post specified in the Schedule appended to these rules;
- (i) "Schedule" means the Schedule appended to these rules at Appendix "A" to be revised from time to time;
- (j) "Secretariat" means the ¹²[Khyber Pakhtunkhwa] Civil Secretariat, as defined in rule 2 (r) of the ¹³[Khyber Pakhtunkhwa] Government Rules of Business, 1985 ;
- (k) "service" means the ¹⁴[Khyber Pakhtunkhwa] Provincial Civil Service (Secretariat Group);
- (l) "share" means the share of the Officers of the service in the posts as allocated under these rules; and
- (m) "Province" means the ¹⁵[Khyber Pakhtunkhwa].

PART II - RECRUITMENT

3. Number and Nature of Posts.--The service shall comprise--

- (a) 80% of the total number of posts of Section Officers in the Secretariat; and
- (b) various other posts in B-17 to B-21 as per share allocated under rule 6 of these rules.

4. Appointing Authority.-- Appointment to the service shall be made by

11 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
12 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
13 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
14 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.
15 Subs by the Khyber Pakhtunkhwa Act No IV of 2011.

the authority as specified in rule 2 (a).

5. Method of Recruitment.-The members of the service shall be recruited in BPS-17 as per following method:-

- (i) 50% of posts in B-17 shall be filled by initial recruitment based on the result of a Competitive Examination to be held by the Commission for this purpose in accordance with Appendix B to these rules ; and
- (ii) the remaining 50% of the posts in B-17 shall be filled in by way of promotion on the basis of seniority-cum-fitness from amongst the Superintendents and Private Secretaries who have undergone a training course of nine (9) weeks at the Provincial Management Academy / provincial Staff Training Institute.

Note.--A common seniority list shall be maintained of the Superintendents and Private Secretaries for the purpose of promotion to the posts of Section Officers.

6. Share of the Service in Schedule Posts.---(1) The share of Provincial Officers in Schedule posts in various grades shall be distributed between Provincial Civil Service (Secretariat Group) and Provincial Civil Service (Executive Group) at the ratio worked out on the basis of their cadre strength i.e. the total, sanctioned posts of Section Officers and Extra-Assistant Commissioners respectively (less 10% of the Secretariat Posts in B-18 and above which shall be reserved for the Officers of the Technical Departments on tenure basis) as may be revised from time to time.

(2) For the purpose of sub-rule (1) above, the number of posts falling to the share of Provincial Officers shall be worked out at the following ratio:-

<u>BPS/Grade of the Posts</u> <u>Officers</u>	<u>Share of Provincial</u>
21	35 %
20	40 %
19	50 %
18	60 %
17	75 %

7. Age.---(1) No person shall be appointed to the service by initial recruitment in PBS-17 who is less than twenty-one years or more than twenty-eight years of age; provided that in the case of persons serving in connection with the affairs of the Federation (on regular basis) who are domiciled in the Province and the persons serving in connection with the affairs of the Province (on regular basis), with at least

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D
Annex-D

1

GOVERNMENT OF THE ¹[Khyber Pakhtunkhwa]
ESTABLISHMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the 11.05.2007.

No.SOE.II(ED)2(14)2007.---In exercise of the powers conferred by section 26 of the ²[Khyber Pakhtunkhwa] Civil Servant Act, 1973 (³[Khyber Pakhtunkhwa] Act XVIII of 1973), the Chief Minister of the ⁴[Khyber Pakhtunkhwa] is pleased to make the following rules, namely:

THE ⁵[Khyber Pakhtunkhwa] PROVINCIAL MANAGEMENT SERVICE RULES, 2007

1. Short title and commencement.---(1) These rules may be called the ⁶[Khyber Pakhtunkhwa] Provincial Management Service Rules, 2007.

(2) These rules shall come into force at once.

2. Definitions.---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "appointing authority" means the appointing authority as specified in rule 5 of these rules;
- (b) "Commission" means the ⁷[Khyber Pakhtunkhwa] Public Service Commission;
- (c) "Department" means the Establishment and Administration Department;
- (d) "Departmental Examination" means the prescribed examination to be conducted by the Department for confirmation within probationary period or for promotion to higher post, as the case may be;
- (e) "Departmental Training" means any training prescribed by Government, the successful completion whereof is necessary for promotion to BS-18 and BS-19;
- (f) "Schedule" means the Schedule appended to these rules;
- (g) "Service" means the Provincial Management Service;
- (h) "Secretariat" means the ⁸[Khyber Pakhtunkhwa] Civil Secretariat as defined in rule 2(r) of the ⁹[Khyber Pakhtunkhwa] Government Rules of Business, 1985; and
- (i) "share" means the share specified for distribution between All Pakistan Unified Group and Provincial Officers as per Schedule-III.

3. Nomenclature of the posts.---The Service shall consist of the posts as specified in Schedule-I.

¹ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

² Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

³ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

⁵ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

⁶ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

⁷ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

⁸ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

⁹ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

4. Method of recruitment.---(1) The method of recruitment, minimum qualification, age limit and other matters related thereto for the Service shall be as given in Schedule-I.

(2) Fifty per cent of posts in BPS-17 shall be filled in by initial recruitment through Commission and remaining by promotion. Ten percent of Secretariat posts in BPS-17 to 19 shall be reserved for officers of technical departments on reciprocal basis. Government may reserve twenty per cent posts for leave, deputation and training etc in each pay scale.

(3) Posts specified in Schedule-II shall be filled in by Officers borne on Provincial Management Service and All Pakistan Unified Group in the ratio prescribed in Schedule-III.

¹⁰**4-A. Training.**--- On appointment to the post borne on the service in BS-17, whether by initial recruitment or by promotion, every officer so appointed shall successfully complete one and a half year's mandatory training including one year training at the Provincial Services Academy as per Module specified in Schedule-IV and six months training attachment as specified in Schedule-V. The training will be followed by Departmental Examination to be conducted by the Provincial Services Academy as specified in Schedule-VI.

5. Appointing Authority.---The Chief Minister, ¹¹[Khyber Pakhtunkhwa] shall be the appointing authority for posts borne on the Provincial Management Service specified in Schedule-I.]

6. Saving.---In all other matters not expressly provided for in these rules, the members of the Service shall be governed by the ¹²[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and any other rules pertaining to terms and conditions of service made or deemed to have been made under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (¹³[Khyber Pakhtunkhwa] Act No. XVIII of 1973).

7. Transitional:- The condition of graduation as laid down in para 2(a) and (b) of column-5 against serial No. 1 of Schedule-I shall not apply for a period of seven years from the date of coming into force of these rules to the existing incumbents for promotion against BS-17 posts.

8. Repeal.---The ¹⁴[Khyber Pakhtunkhwa] Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50: 50:

¹⁵[Provided that for the purpose of promotion of both the Secretariat Group and the Executive Group of the said service in different pay scales, -

- (i) the incumbents shall continue to be governed by the said service rules till the retirement of the last such incumbent; and
- (ii) the last incumbent of either Group shall rank senior to the first incumbent of the Provincial Management Service.]

SCHEDULE-I

10. Rule 4-A added vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

¹¹ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

¹² Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

¹³ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁴ Subs. by Khyber Pakhtunkhwa Act No. IV of 2011.

15. Amended vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

S.No.	Nomenclature of posts	Minimum qualification for appointment by Initial recruitment	Age limit for initial recruitment	Method of recruitment
1	2	3	4	5
1	PMS(BS-17) as per detail at Schedule-II	2 nd Division Bachelor Degree from a recognized University.	21-30 year	<p>1) Fifty per cent by initial recruitment on the recommendations of the Commission based on the result of competitive examination to be conducted by it in accordance with the provisions contained in Schedule - VII.</p> <p>2) Subject to rule 7, by promotion in the following manner:</p> <p>(a) twenty per cent from amongst Tehsildars, who are graduates, on the basis of seniority-cum-fitness, having five years service as Tehsildar and have passed the prescribed Departmental Examination; and</p> <p>(b) twenty per cent from amongst Superintendents /Private Secretaries on seniority-cum-fitness basis, who are graduate and have undergone a training course of 9-weeks at the Provincial Management Academy/Provincial Staff Training Institute. A joint seniority list of the Superintendents and Private Secretaries shall be maintained for the purpose of promotion on the basis of their continuous regular appointment to the respective posts.</p> <p>3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in</p>

16. The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

				accordance with the provisions contained in Schedule-VII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have atleast five years service under Government.
2.	PMS(BS-18) as per detail at Schedule-II	NIL	-	By promotion, on seniority-cum-fitness basis, from amongst the officers of PMS in BS-17 having at least five years service and have passed the prescribed Departmental Training or Departmental Examination.
3.	PMS(BS-19) as per detail at Schedule-II.	NIL	-	By promotion, on the basis of seniority-cum-fitness, from amongst PMS officers holding posts in BS-18 and having at least 12 years service against posts in BS-17 and above and have passed the prescribed Departmental Training/ Examinations.
4.	PMS(BS-20) as per detail at Schedule-II.	NIL	-	By promotion on the basis of selection-on-merit, from amongst PMS officers holding posts in BS-19 and having at least 17 years service against posts in BS-17 and above and have undergone Advance Training Course from NIPA or any other training course prescribed by Government.
5.	PMS(BS-21) as per detail at Schedule-II.	NIL	-	By promotion, on the basis of selection-on-merit from amongst PMS officers holding posts in BS-20 and having at least 22 years service against posts in BS-17 and above and have undergone Course from Pakistan Administrative Staff College/National Defence College or from any other training Institute prescribed by Government.

=====

17. The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

KHYBER PAKHTUNKHWA



Secretariat Employees Coordination Council

Ref: No.SG/SECC/2-3/2011

Date: - 09.08.2010

To

The Honorable Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

Subject:-

Conversion of 10% Quota Reserved For Examination Under PMS Rules 2007 To Promotion Quota Of Superintendent / Private Secretaries OR Restriction For Ministerial Staff Of Provincial Secretariat.

Dear Sir,

With due veneration it is stated that under the NWFP Provincial Civil Services (Secretariat Group) Rules, 1997 forty percent (40%) quota of Section Officers was reserved for promotion of Superintendents and Private Secretaries borne on the cadre strength of the Provincial Secretariat and forty percent (40%) posts were reserved for initial recruitment.

Under the PMS Rules 2007, the promotion quota of Superintendents and Private Secretaries has been reduced to twenty percent, while the initial recruitment quota has been enhanced from 40% to 50% and further 10% quota has been reserved for competitive examination from amongst the ministerial staff who possesses post graduate qualification and at least five years service under Government.

It is pertinent to mention that prior to PMS Rules 2007, the total strength of Executive Group was 82, whereas the total strength of Section Officers was two hundred (200). Hence the ratio of promotion between Tehsildars (BS-16) and Superintendents/ Private Secretaries (BS-16) under the PMS Rules 2007 should have been determined keeping in view the ratio strength between Executive Group and Section Officers on the one hand and ratio of strength between Tehsildars and Superintendents/ Private Secretaries on the other hand.

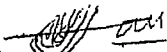
The existing ratio of promotion between Tehsildars (BS-16) and Superintendents/ Private Secretaries (BPS-16) is not based on rational yardstick, because for only 81 posts of Tehsildars the promotion quota is 20%, whereas for 139 posts of Supdts/PSs the promotion quota is also 20%. This shows undue favour on the one hand with Tehsildars and injustice with the Supdts/PSs on the other hand.

Since the 10% quota had been reserved by reducing the promotion quota of Superintendents and Private Secretaries from 40% to 20%, therefore, it should have been reserved for competitive examination only amongst the ministerial staff of the Provincial Secretariat.

In view of the above it is therefore humbly requested that the said 10% quota reserved for competitive examination for the ministerial staff may very kindly be converted to promotion quota of Superintendents/Private Secretaries OR may be restricted/reserved only for the ministerial staff of the Provincial Secretariat.

Thanking your in anticipation,

Yours Faithfully,


(Abbas Khan)
Secretary General



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Khyber Public Service Commission
19 AUG 2010
Dated: 5066

No: SOE-II(ED)3(81)/2010
Dated Peshawar the 18.08.2010

To
The Secretary,
Khyber Pakhtunkhwa
Public Service Commission,
Peshawar

SUBJECT:- PMS (BS-17) (10% IN-SERVICE QUOTA) FOR MINISTERIAL EMPLOYEES OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

I am directed to refer to the above cited subject and to state that several government employees working in various Attached Departments/Subordinate Offices of this Province as well as the employees of Federal Government have sought clarification regarding their eligibility for appearing in the competitive examination to be conducted by Khyber Pakhtunkhwa Public Service Commission for the posts of PMS (BS-17) (10% in-service quota). These vacancies have been recently advertised by the Khyber Pakhtunkhwa Public Service Commission.

2. The matter has been examined in the Establishment Department and it has been decided that the 10% quota in PMS (BS-17) posts is purely meant for only ministerial staff serving in the Administrative Departments of Khyber Pakhtunkhwa Civil Secretariat (excluding the employees of Attached Departments/subordinate offices).

3. You are therefore, requested to kindly issue a clarification to this effect for information of general public, at the earliest.

Yours Faithfully,


Abdul Wahid
(ABDUL WAHID)
SECTION OFFICER (E.H)
PII # 091-9210551

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19/8
pl. put up in file.
effcc
27/8/2010
20/8/2010

ATTESTED
[Signature]

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Annex-C9

 <p>From: Director Examinations, Khyber Pukhtunkhwa, Public Service Commission, Peshawar. Phone # 091-9212688.</p>	<p>KHYBER PUKHTUNKHWA PUBLIC SERVICE COMMISSION (Examination Branch) No. _____ Dated : <u>30/08/10</u></p>
---	---

To: The Secretary to the Govt. of Khyber Pukhtunkhwa,
Establishment Department.

Subject: - PMS (BPS-17) (10% IN-SERVICE QUOTA) FOR MINISTERIAL
EMPLOYEES OF THE PROVINCIAL GOVERNMENT.

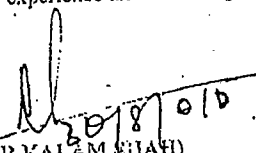
R/Sir,

I am directed to refer to your letter No.SOE-II(ED)3(81)2010, dated 18-08-2010, and to state that:-

- (a) In rule 5 (ii) (b) of the PCS (EG) Rules, 12.5% posts were reserved for graduate superintendents, private Secretaries, Personnel Assistants, Assistants and Stenos of the offices of the Provincial Secretariat, attached departments, Commissioner's Offices and other Divisional Offices. This quota was fixed at 10% for Superintendents, Private Secretaries, Personal Assistant, Assistants, Senior Scale Stenographers, Stenos, Data Entry Operators, Computer Operators, Senior & Junior Clerks who possess post graduate qualification from a recognized university and have at least five years service under Government vide PMS Rules 2007. Accordingly all eligible employees working in any department of the Provincial Government applied for the posts, in response to its advertisement No.05/2010, published in accordance with rules prescribed for the posts.
- (b) The decision of the Government conveyed vide letter dated 18-08-2010, excluding all eligible employees of the attached departments / subordinate offices restricting the quota only to the Ministerial Staff of the Secretariat is against the aforesaid provision of the PMS Rules, 2007. The Commission has been asked to issue a clarification to its advertisement to implement the decision. Obviously, the Commission may not be in a position to issue a clarification which will be inconsistent with the rules prescribed / notified for the posts. In case, it has been decided to restrict 10% quota to the ministerial staff of the Provincial Secretariat only, then necessary amendment would be required to be made in the PMS Rules, whereafter the Commission may be in a position to issue necessary clarification as desired.

In view of the position explained above, the Commission regrets its inability to issue the desired clarification which will be in violation of the notified rules. The Commission will follow the decision in letter and spirit after necessary amendment is notified in the rules. While making amendment in the rules, this fact may also be kept in view that 20% of the promotion posts are already reserved for Ministerial Staff of the Secretariat and that some of the graduate clerks in the attached Departments, Commissioners and DCOs Offices, on account of their field experience and knowledge will be more deserving and suitable for the posts.

ATTESTED


(AMIR KALAM SHAH)
DIRECTOR EXAMINATIONS



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the 04.10.2010

Annex H

NOTIFICATION

No. SOL:II (ED) 2(14)/2009.- In exercise of the powers conferred by Section 26 of the North-West Frontier Province Civil Servants Act, 1973, (NWFP Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules, 2007, the following further amendments, shall be made, namely:-

AMENDMENT

In Schedule I, against Serial No.1, in Column No. 5, for clause (3), the following shall be substituted, namely;

"3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-VIII, from amongst the persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks, borne on the cadres strength of Secretariat who possess post-graduate qualification from a recognized University with atleast five years service as such".

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Endst. No. & date even

Copy of the above is forwarded to:-

1. Additional Chief Secretary, P&D Deptt., Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All Administrative Secretaries, Khyber Pakhtunkhwa.
5. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
6. Secretary (Administration & Coordination) Civil Secretariat IATA.
7. Chairman, Khyber Pakhtunkhwa Public Service Commission.
8. Accountant General, Khyber Pakhtunkhwa, Peshawar
9. Director, SII, E&A Department.
10. Secretary Khyber Pakhtunkhwa Public Service Commission.
11. Manager, Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the official gazette at an early date with the request to supply 20 printed copies to the undersigned.
12. All Section Officers in E&A Department.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Establishment.
15. PAs to all Additional Secretaries/Deputy Secretaries in list Deptt.
16. Office copy file.

Abdul Wahed
(ABDUL WAHEED)
SECTION OFFICER (II.II)

(35)

Annex - H



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

Dated Peshawar the 14.09.2010

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NOTIFICATION

No. SOE.II (E.D) 2(14)/2009.- In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules, 2007, the following further amendments, shall be made, namely:-

AMENDMENT(S)

In Schedule-I, against serial No. 1, --
in Column No. 5, for Clause (3) the following shall be substituted;

" 3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-VIII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographer, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks borne on the cadre(s) strength of Civil Secretariat who possess post graduate qualification from a recognized University with atleast five years service as such."

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

*attested
margnum*

Encls. No. & date even

Copy of the above is forwarded to:-

**Section Officer (E.D)
Establishment &
Administration Dept.**

1. Additional Chief Secretary, Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All Administrative Secretaries, Khyber Pakhtunkhwa.
5. Senior member Board of Revenue, Khyber Pakhtunkhwa.
6. Secretary (Administration & Coordination) Civil Secretariat FATA.
7. Chairman, Khyber Pakhtunkhwa Public Service Commission.
8. Accountant General, Khyber Pakhtunkhwa, Peshawar
9. Director, SII, I&A Department.
10. Secretary Khyber Pakhtunkhwa Public Service Commission.
11. Manager, Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the official gazette at an early date, with the request to supply 20 printed copies to the undersigned.
12. All Section Officers in I&A Department.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Establishment.
15. PAs to all Additional Secretaries/Deputy Secretaries in Establishment Department.
16. Officer order file.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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SUMMARY FOR CHIEF MINISTER, KHYBER
PAKHTUNKHWA

Subject: AMENDMENT IN 10% IN-SERVICE QUOTA UNDER PMS
RULES, 2007.

Several government employees of Attached Departments/
Subordinate Offices and Federal Government employees have claimed
eligibility for appearing in the competitive examination recently advertised by
the Khyber Pakhtunkhwa Public Service Commission for the posts of PMS
(BS-17) (10% in-service quota). The aforementioned misconception is caused
by ambiguous wording of Column No. 5 clause-3 of Schedule-I of PMS Rules,
2007, which reads as under:-

Existing	Amended
"Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Public Service Commission in accordance with the provisions contained in Schedule-VIII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have at least five years service under Government".	"Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Public Service Commission in accordance with the provisions contained in Schedule-VIII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks borne on the cadres strength of Secretariat who possess post-graduate qualification from a recognized University with atleast five years service as such".

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Section Officer (B-1)
Establishment &
Administration Deptt

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2. Establishment Department examined the matter and decided that the 10% in-service quota in PMS (BS-17) posts is purely meant for ministerial staff serving in the Administrative Departments of Khyber Pakhtunkhwa Civil Secretariat (excluding the employees of Attached Departments/subordinate offices). This opinion was conveyed to Public Service Commission (Annexure-1).

3. The Commission while conveying their inability to issue the desired clarification has nonetheless, assured that they would follow, in letter & spirit any amendment made/notified in this regard.

- 4. To discuss the above issues and proposing requisite amendments in the PMS rules 2007, a meeting of Standing Service Rules Committee was convened on 09.09.2010 in the office of Secretary Establishment. Minutes of the said meeting are placed at (Annex-II). Accordingly requisition placed with Khyber Pakhtunkhwa Public Service Commission was withdrawn (Annex-III)
- 5. Approval of the Chief Minister Khyber Pakhtunkhwa to the amendments, as incorporated in the draft notification duly vetted by the Law Department, placed at (Annex-IV), is solicited please.

Rashid Ahmad
27/9
(Rashid Ahmad)
Secretary Establishment

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

CHIEF MINISTER,
KHYBER PAKHTUNKHWA

[Signature]
24.12.2010
Chief Secretary
Govt of Khyber Pakhtunkhwa

6. Approved.

*attested
in presence*

Section Officer (E-11)
Establishment &
Administration Dept

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[Signature]
27-9-10
CHIEF MINISTER
KHYBER PAKHTUNKHWA

SECY ESTAB

[Signature]
28/12/2010
Chief Secretary
Govt of Khyber Pakhtunkhwa

MINUTES OF STANDING SERVICES RULES COMMITTEE
MEETING HELD ON 09.09.2010

Subject: AMENDMENT IN 10% IN-SERVICE QUOTA IN PMS RULES, 2007.

The meeting of the SSRC was held on 9.9.2010 at 1000 hours in the office of Secretary Establishment which was attended by the following:-

- (1) Secretary Establishment
- (2) Special Secretary Regulation
- (3) Additional Secretary (F&SI)
- (4) Deputy Secretary (F&SI)
- (5) Deputy Secretary (R), Finance Department.
- (6) Deputy Secretary, Law Department.

2. The purpose for convening the subject SSRC was to clarify an ambiguity in para-3 of Column-5 of Schedule-I of PMS Rules. The recent advertisement by the Public Service Commission for recruitment of 53 officers under 10% in service quota was misconstrued by the officials of the attached Department's and hence ministerial staff of Attached Departments/Sub-ordinate offices have also applied for the posts. Public Service Commission has now sought clarification on the issue. After thread bare discussion and useful contribution from all participants, the following decisions were taken.

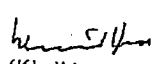
- I. The Committee unanimously agreed that the provision containing in the clause-3 of schedule-I is indeed ambiguous, open to be misconstrued and hence must be amended.
- II. The Committee agreed to amend clause-3 of schedule-I of PMS Rules which shall read as under:-

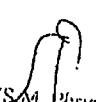
" 3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-VIII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographer, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks borne on the cadre(s) strength of Civil Secretariat who possess post graduate qualification from a recognized University with atleast five years service as such."


Section Officer (E-II)
Establishment &
Administration Dept.

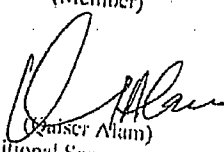
- III. The Committee also agreed to recommend withdrawal of the advertisement for recruitment of 53 PMS Officers currently in the field to avoid any chances of litigation as the final date for submission of applications has passed, rendering any amendment in the criteria open to court jurisdictions.

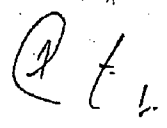
3. The meeting ended with a vote of thanks to and from the chair.


(Khalid Hyas)
Deputy Secretary (Estt.)
Establishment Department
(Secretary)

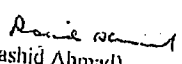

(S.M. Pervaiz Khan)
Deputy Secretary (Regulation)
Finance Department
(Member)


(Rabia Noor)
Deputy Secretary
Law Department
(Member)


(Mansur Alam)
Additional Secretary (Estt.)
Establishment Department
(Member)



(Abdul Latif)
Special Secretary (Regulation)
Establishment Department
(Member)


(Rashid Ahmad)
Secretary
Establishment Department
(Chairman)

*attested
majid*

Section Officer (B-II)
Establishment &
Administration Deptt

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

No. Legis: 2(7)74/II/

Peshawar,
dated the 19.09.2010.

Ps / Secy (L) P
Diry K...
Dated

To

The Secretary,
Government of the Khyber Pakhtunkhwa,
Establishment Department.

**SUBJECT: AMENDMENT IN KHYBER PAKHTUNKHWA
PROVINCIAL MANAGEMENT SERVICE (PMS)
RULES, 2007.**

Dear Sir,

I am directed to refer to your letter No. SOE-II(ED2(14)/2010(B), dated: 14.09.2010, on the subject noted above and to enclose herewith a draft notification duly vetted by this Department. However, the Administrative Department is advised to ensure that the proposed amendment is not the violation of the Fundamental Rights as guaranteed by the Constitution of the Islamic Republic of Pakistan.

2. The Administrative Department is further advised to examine the same minutely and to ensure that it is in order and otherwise serves the purpose.

Yours faithfully,

ASSISTANT LEGAL DRAFTER-I

*attested
mayam*
Section Officer (B-II)
Establishment &
Administration Dept.

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So. G. II

[Signature]

[Signature]
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Annex - I

KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION**2- Fort Road Peshawar Cantt:****Website: www.nwfppsc.gov.pk****091-9214131,9213563,9213750,9212897**Dated: 01.12.2017**ADVERTISEMENT NO. 11 / 2017.**

APPLY ONLINE ONLY FOR THE FOLLOWING POSTS. Applications other than online will not be accepted. To apply, visit any Easypaisa / Jazz Cash Agent, deposit application fee of **Rs.985/-** excluding service charges and get transaction I.D. through SMS. Visit PSC website www.kppsc.gov.pk and apply online by **01.01.2018**. Fill all the columns of application carefully and enter receipt number of application fee got from Easypaisa Agent in appropriate column. Unclaimed qualification, experience etc will not be accepted.

S.No.1. SIXTY NINE (69) POSTS OF PMS OFFICER BS-17 (IN SERVICE QUOTA) IN ESTABLISHMENT DEPARTMENT**Eligibility Criteria**

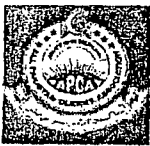
Selection will be on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in syllabus, from amongst persons (Male/Female) holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior & Junior Clerks borne on the cadre strength of Secretariat who possess 2nd Class Bachelor's Degree from a recognized university with at least five years service as such.

Syllabus

The Syllabus and standard for the Competitive Examination for the Provincial Management Service for 10 % quota of ministerial employees of the Provincial Government as mentioned in Schedule-1 of PMS Rules, 2007 shall be as under:

1. The Examination shall include four compulsory subjects.
2. A candidates shall answer the papers in English unless otherwise directed.
3. The Papers, compulsory subjects and maximum marks fixed for each subject shall be as shown in Table below:-

S#	Paper	Subjects	Maximum Marks
1.	2.	3.	4.
1.	Paper-I Pakistan Affairs	i) Constitution of Islamic Republic of Pakistan; ii) History of Pakistan; iii) Economy of Pakistan; and iv) Society / Culture of Pakistan	40 20 20 20 Total: 100
2.	Paper-II English Grammar & Composition	i) English Essay; and ii) English Grammar and its usage/ composition	30 70 Total: 100
3.	Paper-III Office Management	i) The Khyber Pakhtunkhwa Rules of Business, 1985; ii) Manual of Secretariat Instructions; iii) The Khyber Pakhtunkhwa Civil Servants Act, 1973; vi) Fundamental Rules and Supplementary Rules; and v) GFR	20 20 20 20 20 Total: 100
4.	Paper-IV Current Affairs/ Everyday Science	i) Current Affairs; and ii) Everyday Science	50 50 Total: 100
5.	Viva Voce		Total: 100 100



Annex J

ALL PAKISTAN CLERKS ASSOCIATION

DISTRICT MARDAN

MEETING OF:	MINISTERIAL STAFF OF COMMISSIONER & DC OFFICE /APCA MARDAN
Agenda:	10% quota in PMS for In-service Ministerial Staff
Venue:	DC Office, Mardan
Date & Time:	22.12.2017 at 04:PM
In attendance:	<ol style="list-style-type: none">1. Mr. Sajjad Yousufzai President APCA/All Govt Employees Coordination Council, Mardan & Addl Secretary General APCA Pakistan.2. Mr. Syed Maqbool Shah, Sr. Vice President APCA, Mardan (Commissioner Office Mardan).3. Mr. Ihsanullah Stenographer, Commissioner Office, Mardan.4. Ibrahim Khan Stenographer Commissioner Office, Mardan.5. Mr. Hussain Akbar, Assistant DC office Mardan.6. Mr. Musaddiq Hussain, Assistant DC Office, Mardan.7. Mr. Ishtiaq, Assistant Commissioner Office, Mardan.8. Mr. Snaullah Computer Operator, DC Office, Mardan. (President KPOs Commissioner/DC Office, Mardan)9. Mr. Asghar Ali, Computer Operator, DC Office, Mardan.10. Mr. Yousuf Shah, Computer Operator, DC Office, Mardan.

An extraordinary meeting was called on the demand of ministerial staff of Commissioner office Mardan and DC office Mardan as grave resentment was existing among them regarding the 10% PMS quota for In-Service candidates. The meeting was started with the Holy name of Almighty Allah. After welcome note, the forum was apprised regarding the advertisement No. 11/2010 regarding PMS posts for in-service candidates under the 10% merit quota advertised 69 PMS posts for ministerial staff of Civil Secretariat. The original KPK PMS rules, 2007 in schedule-I provides at S# 1 Column 5 (3) provided as under:

"Ten percent by selection on merit, on the basis of competitive examination, to be conducted by the commission in accordance with the provisions contained in schedule VII from amongst the persons holding substantive posts of superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Data Entry Operators, Computer Operators, Senior & Junior Clerks who possess post graduate qualification from a recognized University with at least five years service under the govt". (Annex-A)

The said rules were clear that ministerial staff serving under the Provincial Govt in all departments were eligible for the posts mentioned in category 3 of the said schedule. In 2010, KPPSC announced posts of PMS for in-service candidates and candidates from secretariat as well as attached departments applied. But, later on, these rules were amended through notification dated 04.10.2010, which reads as under: -

(3) Ten per cent by Selection on merit, on the basis of competitive examination to be conducted by the Commission in accordance with the provisions contained in Schedule VII, from amongst the persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistant Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operator, Senior and Junior Clerks borne on the cadres strength of secretariat who possess post graduate qualification from a recognized University with at-least five years service as such. (Annex-B)

The abovementioned notification put a bar on attached departments and. In light of schedule-I, and resultantlly, PMS is now composed of the following break up:

Direct Quota	Promotional Quota	Total	Remarks
50% direct recruitment on merit through competitive exam held by the Commission.	i. 20% from amongst Tehsildars (BoR).	100 %	The said amendment give an edge to employees of Civil Secretariat in 10% Competition based promotional quota over BoR and its subordinate offices.
	ii. 20% from amongst Superintendents & Private Secretaries of Civil Secretariat.		
	iii. The remaining 10% has been reserved for the ministerial staff of Civil Secretariat on merit through Competitive exam held by the Commission.		

LOGIC BEHIND THE AMENDMENT

Govt justified the said amendment/rules in its Para-wise comments in Writ Petition No. 3857/2010 as under: (Annex-C)

1. In order to encourage the talented lower staff and to sift out the best lot from amongst employees of the Civil Secretariat (BS-07 to BS-16), 10% seats were reserved for them which were to be filled through a competitive examination, to be conducted by the PSC.
2. The employees of attached departments get sufficient chances of promotion in their cadres through examination against the quota reserved specifically for them under their respective service rules, whereas the ministerial employees of Civil Secretariat cannot appear in those examinations, for instance the Sub Accountants in the District Accounts Offices accorded promotion after qualifying SAS examination. Similarly, the Junior Instructors (BS-14) of Technical Education Department with diploma of Engineering i.e., equal to FA/F.Sc are promoted to BS-17 within 5 to 10 years period. Likewise, Sub-Engineers (BS-11) of C&W, PHE and Irrigation Department having B.A. degree are considered or accelerated promotion to the post of Assistant Engineer (BS-17) after qualifying the departmental exam prescribed under their respective service rules, as such the respondents (Secretariat Staff) are entitled to get further promotion to the post of PMS BS-17 in their own service cadre.

Stance of the forum (ministerial staff of DC/Commissioner office)

The plea taken by provincial Govt is right for other attached departments but not for revenue department and its subordinate offices because its ministerial staff has no chance to get promotion via in-service competitive exam like other attached departments. Their journey either stops on the post of office assistant or very rarely on office Superintendent; ministerial staff of Secretariat has also this chance to be promoted to the posts of Superintendents/Private Secretaries.

Like ministerial staff of Secretariat, ministerial staff of revenue department should not have been excluded ifrom the 10% merit quota on the basis of competitive examination mentioned in Clause 3 of schedule-1, because in the 50% promotion quota civil secretariat and revenue attached department owes equal share of 20%, whereas the remaining 10% competition-based promotional quota has tilted the balance in favour of Secretariat staff.

3. Another justification given by the Govt was that the ministerial staff of Civil Secretariat is transferable in different departments of Civil Secretariat which

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make them well acquainted with the nature of job of PMS Officers. Whereas, the employees of other departments/cadre are experts in their own field and their job profile is quite different from that of PMS Officers. Thus reserving 10% quota for ministerial staff of Civil Secretariat is justified as these posts cannot be used as learning place for others".

Stance of the forum

Staff of revenue department is also well-acquainted with work nature of PMS. If the ministerial staff of secretariat is acquainted with secretarial work; the ministerial staff of revenue deptt is equipped both with office as well as field work being assistants of field officers. The matter should be understood that the ministerial staff of revenue department do not vie for share in seniority based promotional quota, rather want to be part of the competition, hence their stance is just and genuine.

Worth-mentioning to add that when the Establishment Department vide its letter No. SOE-II(ED)3(81)/2010, dated 18.08.2010. (Annex-D) requested the KPPSC to clarify that the 10% quota was meant only for ministerial staff of Civil Secretariat the KPK Public Service Commission regretted the same vide letter No. 42523, dated 23.08.2010 with the remarks: "In rule 5(ii)(b) of the PCS (EG) rules, 12.50% posts were reserved for the graduate Superintendents, Private Secretaries, Personal Assistants, Assistants & Stenós of the offices of the Provincial Secretariat, attached departments, Commissioners' offices..... Hence all employees of Provincial govt are eligible....."

"While amendment in the rules, this fact may also be kept in view that 20% of the promotion posts are already reserved for the ministerial staff of the secretariat and that some of the graduate clerks in the attached departments, Commissioner and DCO offices on account of their field experience & knowledge will be more deserving & suitable for the post"

(Annex- E)

4. JUSTIFICATION GIVEN BY SECRETARIAT STAFF

The Gen Secretary of Secretariat employees vide letter No.SG/SECC/2-3/2011, dated 09.08.2010, addressed to the Honorable Chief Secretary KPK, it was pleaded that in the erstwhile Secretariat Group rules, 1997, Private Secretaries & Superintendents of Secretariat had 40% and now same has been reduced to 20% as such the 10% merit quota is for secretariat employees only.

Stance of the forum

This version was declared unjust by the forum as before the said rules in the erstwhile PC EG rules, 1997, Tehsildars too had 38% quota and they did not speak against reduction of 18.50% as in combined PMS both have almost the same share but share of ministerial staff provided for in the old PCS rules, but now right of ministerial staff of revenue attached deptt and its subordinate offices has been jeopardized, which was held totally unjust and unacceptable by the participants. The 40% promotion quota and 10% merit quota are two different things as the former is on seniority cum fitness on equal share from amongst the Tehsildars and Secretariat staff whereas the latter 10% is an initiative to encourage talented ministerial staff, hence ministerial staff of revenue offices should also be given this opportunity. (PSC EG and Secretariat rules, 1997 are Annex-F)

Actually, the said amendment was brought to exclude candidates of attached departments which they are looking convinced too being silent on the matter, but revenue department should not have been excluded vide the impugned amendment on the following grounds:

1. FPSC holds every year Section Officer promotional Exam wherein ministerial staff of all of the federal departments are eligible to apply. In Punjab also 10%

quota in PMS is reserved for ministerial staff of govt servants of all the Provincial departments.

(Advertisement of FPSC promotional exam for Section Officers -2016 is Annex-G .. Punjab PMS rules is annex-H).

Originally, the Khyber Pakhtunkhwa govt also followed suit and rules were framed on the pattern of federal and Punjab, but subsequently the employees of secretariat applied their leverage and got the 10% restricted only to ministerial staff of Secretariat, ignoring the fact that staff of revenue department should not have been excluded vide the impugned amendment as PMS is combination of Secretariat + PCS -EG) the former represents Secretariat while the latter Revenue Department.

2. There is very small number of eligible ministerial staff for the PMS merit quota who have 5 years service coupled with graduation degree, hence, by including them in the said quota will be a drop in the ocean and will not affect the secretariat staff because they will go in competition instead of seniority based promotion.
3. The 20% quota is for Tehsildars not for ministerial staff, if any imbalance is made while framing the rules, same should have been corrected vide the impugned amendment instead affecting the ministerial staff of revenue department. The said amendment affected ministerial staff of revenue subordinate offices as total quota of the ministerial staff of secretariat is now 30% and revenue attached depts is NIL.
4. PMS is fusion of Secretariat and PCS Executive group, in that context 10% quota should also either be distributed in Secretariat and revenue attached deptt or both the groups may be given equal chance in the competition. This is quite unfair, unjust and incongruent that being sitting at the helm of affairs, the secretariat authorities snatch rights of the revenue subordinate offices. Where it served their purpose, they fused Secretariat group and PCS EG; but on the other hand notification was issued for excluding the revenue attached department/subordinate offices staff from the competition quota.
5. Even the federal and Punjab govt also provided for the In-service merit quota, but unlike Khyber Pakhtunkhwa it is equitable and non-discriminatory as same has not been restricted only to secretariat staff.
6. Secretariat staff have influence in making, amending, influencing and manipulating of rules; for they have proximity with political and bureaucratic authorities, which is unfair to seek ones own benefit in everything no matter it adversely affect others. They put forward just one stance for defending the said arrangement that Govt has right and power to make rules, but we are aloof from govt while making such rules nobody bothered to seek input of all stake-holders (particularly revenue deptt), what has been proposed to the competent authority by the beneficiaries, was approved. This is against the Islamic injunctions:

"Let not the hatred of a people swerves you away from justice. Be just, for this is closest to righteousness..." (Quran 5:8)

"He commands them what is right and forbids them what is wrong, he makes lawful the things that are wholesome and makes unlawful the things that are bad and lifts from them their burdens and the yokes that were upon them." (7:157)

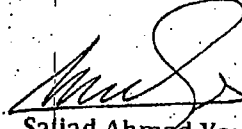
This is against the article 4 (2)(b), art 8, art 26 and art 37 of Constitution of Islamic Republic of Pakistan.

DEMANDS

Over the above discriminatory and ill-treatment, there is serious anxiety and annoyance among the ministerial staff of revenue department Mardan Division. It was unanimously decided with the best hope to put their rational and genuine demands before the provincial govt with the request to review the said amendment and consider the ministerial staff of revenue attached deptt/subordinate offices eligible for the merit competitive exam based PMS quota, as the Honorable Chief Secretary looked keen in resolving crucial issues of the province, particularly service related issues of the employees of all categories, and that they expect justice in this matter from him, therefore, the forum presented the following demands:

1. The rules may be restored to its original position or else chance of competition for 10% quota may be given to ministerial staff of revenue attached department at least.
2. KPPSC has advertised posts for the second time against the said quota, hence a corrigendum may be issued to this effect by allowing ministerial staff of revenue attached department/Subordinate offices to apply for the same.

The meeting was called off with mutual vote of thanks and with the commitment to be recalled for onward course of action in light of any outcome of these demands.


Sajjad Ahmad Yousufzai
 President APCA/AGECC, Mardan
 & Addl Secretary General APCA
 Pakistan

No. 786/12/2017/APCA/MDN

Dated 28/12/2017

Forwarded to:

1. The Honorable Chief Minister Khyber Pakhtunkhwa, Peshawar.
2. The Honorable Chief Secretary Govt of Khyber Pakhtunkhwa, Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar with the request to properly take up the just and genuine demand by the ministerial staff of revenue department with the concerned quarters please.
4. The Secretary Establishment Govt of Khyber Pakhtunkhwa, Peshawar.
5. The Commissioner Mardan Division, Mardan.
6. The Deputy Commissioner, Mardan.
7. Mr. Fazal Ghaffar Bacha, Central President APCA, Pakistan.
8. Mr. Sareer Khan President APCA, KPK, APCA, House Peshawar.

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To

1. The Honorable Chief Secretary,
to Govt of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt of Khyber Pakhtunkhwa,
Establishment Department, Peshawar.

Subject: **RESERVATION OF QUOTA IN PMS-INSERVICE FOR MINISTERIAL STAFF OF REVENUE DEPARTMENT**

Respected Sir,

With due regard it is submitted:

1. That KP PMS rules, 2007 originally provided 10% quota in PMS Service (In-Service PMS) through competitive Exam from amongst ministerial staff of all govt departments. Later on, in pursuance of letter by Secretary General of Secretariat Employees Coordination Council (Annex-A), the Establishment Deptt amended the said rules vide Notification No. SOE-II(ED) 2(14)2009, dated 04.10.2010, and restricted the 10% quota for ministerial staff of Civil Secretariat, only.
2. That PMS Service is mainly related to Secretariat & Revenue Department. As per schedule of the ibid rules, PMS officers (BPS-17) are either posted in Secretariat as S.Os or in Revenue Departments as ACs/AACs; therefore, an opportunity provided to the ministerial staff of Secretariat (being helping hands of PMS officers and PMS Secretariat assignment) should equally be provided to ministerial staff of Revenue Department, being helping hands of PMS officers & PMS related work assignment in field.
3. That being an essential and related department for PMS Service, views/comments of Revenue department (particularly its subordinate offices of Commissioners/DCs) should have been sought, and that the notification/amendment should not have been made unilaterally & hastily. The said amendment is correct & justified to the extent excluding ministerial staff of other irrelevant departments, but employees of revenue department- tasked with more important PMS related assignment- should not have been excluded.
4. That before the promulgation of PMS rules 2007, in the EX PCS (Executive Group) 12.5 % quota was reserved for ministerial staff of both revenue department and secretariat, as such being a successor service formation, same quota was fixed in the original PMS rules, 2007, but was later on amended arbitrarily and hurriedly even by excluding ministerial staff of revenue department & its subordinate offices.
5. It is worth informing your good office that earlier a representation dated 22.12.2017 was made, which has not yet been worked on (Annex-B). Therefore, W.P No. 5390/2018 was filed which has been disposed of by the Honorable PHC with the advice to withdraw the same and submit a fresh application directly addressed to this Honorable office, with a speaking pray. (Annex-C).

In view of the above, depriving clerical staff of revenue department to take part in competition under the said quota is permanently causing sense of discrimination & deprivation amongst ministerial staff of Revenue Department. Therefore, it is humbly requested that sympathetic consideration may be given to this application and an appropriate percentage in PMS In-Service quota may be reserved for ministerial staff of revenue department & its subordinate attached offices, by reconsidering the 20% quota reserved for Tehsildars & 10% PMS In-Service quota, and make the rules, acceptable and beneficial to all, please.

Thanking you in anticipation.

(Muhammad Ibrahim)
Sr Scale Stenographer
Commissioner Office, Mardan
(General Secretary, Clerks Association
Local Unit, Commissioner Office, Mardan)

Yours Faithfully
30/08/19
(Hussain Akbar)
Assistant DC Office, Mardan
(President, Clerks Association
Local Unit DC Office, Mardan)

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Annex - K



**KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION**

2-Fort Road Peshawar Cantt.

PH No. 9214131, 9212897, 9213583, 9213750

www.kppsc.gov.pk

No. KP-PSC-PMS-2017

Dated: 18 / 03 / 2021.

To

HUSSAIN AKBAR S/O MOMIN SHAH

Address:- Village Dheri, PO Dheri Likpani, Tehsil Katlang, Mardan

Subject:- **COMPETITIVE EXAMINATION FOR THE POST OF PROVINCIAL
MANAGEMENT SERVICE (IN-SERVICE QUOTA) ADVT NO. 11/2017**

Compulsory Subject	Marks	Qualifying Marks	Obtained Marks
Pakistan Affairs	100	40	66
English Grammar & Composition	100	40	52
Office Management	100	40	77
Current Affairs/ Everyday Science	100	40	79
	400	200	274

Remarks:-

Obsolete, candidate being ineligible

[Signature]
Controller Examination
(Secrecy)



Obsolete, candidate being ineligible

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Annex - L

PESHAWAR HIGH COURT PESHAWAR

ORDER SHEET

Date of Order or Proceedings <i>1</i>	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary <i>2</i>
15.10.2020	<p><u>Writ Petition No. 4157-P of 2020.</u></p> <p>Present: Mr. Farhan Tariq, Advocate for the petitioner.</p> <p>Mr. Muhammad Riaz, Khan, AAG on behalf of respondents.</p> <p>****</p> <p><u>WAQAR AHMAD SETH, CJ:-</u> At the very outset, learned counsel for the petitioner requested that if the respondents are directed to dispose of the pending appeal/representation of the petitioner, he will withdrawal the instant petition. As such on accord of request of learned counsel for the petitioner, this petition is dismissed as withdrawn however, the respondents are directed to dispose of the appeal/representation of petitioner with explicit result within a period of 30 days.</p> <p style="text-align: right;"> CHIEF JUSTICE</p> <p style="text-align: right;"> JUDGE</p> <p>Announced 15.10.2020</p>

M.Fiaz, SSS

D.B

Hon'ble Mr. Justice Waqar Ahmed Sethi, CJ
Hon'ble Mr. Justice Muhammad Nasir Mahfooz, J

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Annex-M⁴

To

The Worthy Chief Secretary,
Govt of Khybre Pakhtunkhwa, Peshawar.

Subject: REQUEST FOR RESTORATION OF QUOTA IN PMS-IN-SERVICE FOR MINISTERIAL STAFF OF REVENUE DEPARTMENT & ITS SUBORDINATE ATTACHED OFFICES;

Dear Sir,

With due regard the applicant submits as under:

1. That KP PMS rules, 2007 originally provided 10% quota in PMS Service (In-Service PMS) through competitive Exam from amongst ministerial staff of all govt departments.
2. That later on the Establishment Deptt amended the said rules vide Notification No. SOE-II(ED) 2(14)2009, dated 04.10.2010, without consulting the revenue department, vide which the 10% quota in PMS In-Service was restricted to ministerial staff of Secretariat, only. (Copy of notification dated 04.01.2010 is Annex-A).
3. That 69 posts of PMS In-Service were advertised through KPPSC advertisement No. 03/2017, dated 01.12.2017. The applicant alongwith other colleagues came to know about their exclusion, therefore, vide No. 788/12/2017/APCA/MDN, dated 28.12.2017, submitted a detailed representation to the Worthy Chief Secretary to restore their right to compete in the PMS (In-Service) quota.
4. That in the meanwhile (in March, 2018), KPPSC conducted competitive exam for PMS (In-Service). wherein the applicant appeared with the hope that the representation would be acceded to. The KPPSC declared its result wherein 34 candidates for 69 posts qualified the exam; but result of the Petitioner was not displayed.
5. That feeling aggrieved, the applicant filed a Writ Petition No. 5390/2018, wherein during the course of arguments, dated 27.08.2019; the petition was withdrawn so as to submit another representation directly addressed to the Chief Secretary and Secretary Establishment; as such the said Writ Petition was dismissed as withdrawn. The applicant accordingly submitted series applications dated 30.08.2019, 12.10.2019, 01.01.2020, and 28.05.2020 to the Worthy Chief Secretary & Secretary Establishment, but he could be replied to.
6. That feeling dishearten, the applicant once again resorted to the Honourable Peshawar high Court and filed W.P No. 4157/2020 which has been disposed of vide order dated 15.10.2020. (Annex-B)

GROUNDS

- A. That as per PMS rules, 2007, only two formations have promotion quota in PMS (20% for Superintendents/Private Secretaries of Secretariat and 20% for Tehsildars of the Revenue Department) which shows equal relevancy of both the formations to PMS Service.
- B. That para 4(i) of the Note for Worthy chief Secretary regarding Rationalization of Promotion quota of Tehsildars to the Posts of PMS further authenticate relevancy of employees of revenue department to PMS, wherein 05% quota has been proposed for ministerial staff of the Revenue Department, and corroborates the pre amendment position of the rules to the extent of revenue department. (Annex-C)
- C. That the 10% is actually a merit-based quota through competitive examination for the ministerial staff of departments which are cadre/schedule place of posting for PMS Officers BPS-17 i.e. Secretariat and revenue department/Distt Administration, as such employees of both the formations deserve for equal opportunities and rights.

(51)

- D. That PMS rules of KPK is carbon copy of PMS rules, Punjab which still provides equal opportunity to ministerial staff of revenue department to compete in the 10% quota reserved for In-Service candidates.
- E. As mentioned in the summary, the impugned amendment has been triggered by letter by GS of Secretariat Employees Coordination Council coupled by letter dated 19.08.2010 by the KPPSC, but regrettably main thing pointed out by the Commission was not kept in mind, which was as under:
"Some of the graduate clerks in the attached departments, Commissioners and DCOs Offices, on account of their field experience and knowledge will be more deserving and suitable for the posts"
- (Copy of the Summary is Annex- D; letter by the SG of Secretariat Employees Council is Annex-E; letter dated 19.08.2010 is Annex-F)
- F. That in light of Section 7 of the Land Revenue Act 1967, PMS Officers/ACs & AACs are basically revenue officers with wide-ranging field responsibilities, as such their helping hands equally deserve to compete in the said quota.; as such unilateral exclusion of employees of the revenue department is against the relevant rules.
- G. That since promulgation of the PMS rules in 2007, total 70 posts in the said quota have been advertised twice, and both times, only 44 candidates (34+8) could qualify only the written exam, and the remaining posts are still vacant, which corroborate the stance that one basic formation/revenue deptt should also have been included.
- H. That the Board of Revenue, Khyber Pakhtunkhwa vide its letter No. Estt:L/PSB/172/1021, dated 10.01.2019, identified hitches and imbalance in the PMS rules, 2007. Therefore, time is ripe to do away with the said lacuna and Loopholes once for all and make the rules reasonable and all-acceptable.

In view of the above, it is requested:

1. That another clarification may be issued in the Scheduled-II, S#:01, Sr No.3 of Column 05, and right of ministerial staff of revenue department and its Subordinate Offices may be restored in the said quota ab-initio
2. KPPSC may be approached to retain candidature of the applicant and complete the recruitment process against the withheld result of the applicant.

Thanking you in anticipation.

Yours Faithfully

17/12/2020
Hussain Akbar (Assistant)
President APCA Local unit DC
office, Mardan

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

To

1 (52)

The Worthy Chief Secretary,
Govt of Khybre Pakhtunkhwa, Peshawar.

**Subject: REQUEST FOR RESTORATION OF QUOTA IN PMS-INSERVICE FOR
MINISTERIAL STAFF OF REVENUE DEPARTMENT/DISTT
ADMINISTRATION**

Dear Sir,

With due regard the applicant submits as under:

1. That KP PMS rules, 2007 originally provided 10% quota in PMS Service (In-Service PMS) through competitive Exam from amongst ministerial staff of all govt departments.
2. That later on the Establishment Deptt amended the said rules vide Notification No. SOE-II(ED) 2(14)2009, dated 04.10.2010, without consulting the revenue department, vide which the 10% quota in PMS In-Service was restricted to ministerial staff of Secretariat, only.
3. That 69 posts of PMS In-Service were published through KPPSC advertisement No. 03/2017, dated 01.12.2017. The applicant along with other colleagues came to know about their exclusion, therefore, vide No. 786/12/2017/APCA/MDN, dated 28.12.2017, submitted a detailed representation to the Worthy Chief Secretary to restore their right to compete in the PMS (In-Service) quota.
4. That in the meanwhile (in March, 2018), KPPSC conducted competitive exam for PMS (In-Service), wherein the applicant appeared with the hope that the representation would be acceded to. The KPPSC declared its result wherein 34 candidates for 69 posts qualified the exam; but result of the Petitioner was not displayed. The result was later on provided on request under the RTI Act, 2013, which shows that the applicant has qualified the written exam with 274/400 Marks.
5. That eligibility for PMS (In-Service) of employees of revenue department/District Administration merits on the following grounds:

GROUND

- A. That before introduction of PMS rules 2007, PCS (Executive Group) rules, 1997 were in place wherein 12.50% quota, through competitive exam, was reserved for clerical staff of the Revenue Department/Distt Administration as well as Secretariat.
- B. That before PMS Rules 2007, PCS (Secretariat Group) Rules, 1997 were in place, wherein no such In-Service quota was reserved.
- C. That PMS, 2007 is clubbed form of PCS (E.G), 1997 and PCS (S.G), 1997, wherein originally in 2007, all the quota i.e. direct quota (50%), promotion quota (20-20% and In-Service quota (10%) was reflected accordingly.
- D. That through the impugned amendment, irrelevant other departments have correctly been excluded, but exclusion of employees of District Administration was quite unwarranted, unjustifiable, against the facts and ground realities. Because Distt Administration is most important and most sought after assignment for PMS BS-17 Officers as against Secretariat, wherein they have to deal major field Revenue, administrative, Judicial and enforcement tasks which only supporting staff of the Distt Administration have acquaintance with. Therefore, they are more deserving to compete in the In-Service quota.

- E. That Every District Collectorate is replica of Secretariat and works on the model/mechanism of Secretariat, but on the other hand Secretariat is not working on the model of Distt Administration as the Distt Administration carries out both office work as well as wide ranging field work.
- F. That as per PMS rules, 2007, only two formations have promotion quota in PMS (20% for Superintendents/Private Secretaries of Secretariat and 20% for Tehsildars of the Revenue Department) which shows equal relevancy of both the formations to PMS Service and same has been acknowledged as well to the extent of promotion quota.
- G. That the 10% is actually a merit-based quota through competitive examination for the ministerial staff of departments which are cadre/schedule place of posting for PMS Officers BPS-17 Officers i.e. Secretariat and revenue department/Distt Administration, as such employees of both the formations deserve for equal opportunities and rights.
- H. That PMS rules of KPK is carbon copy of PMS rules, Punjab which still provides equal opportunity to ministerial staff of revenue department to compete in the 10% quota reserved for In-Service candidates.
- I. As mentioned in the summary dated 22.09.200, the impugned amendment has been triggered by letter of Secretary General of Secretariat Employees Coordination Council, dated 09.08.2010, coupled with letter dated 30.08.2010 by the KPPSC, but regrettably main thing pointed out by the Commission was not kept in mind, which was as under:
"Some of the graduate clerks in the attached departments, Commissioners and DCOs Offices, on account of their field experience and knowledge will be more deserving and suitable for the posts"
 (Summary is Annex- A; letter by the S.G of Secretariat Employees Council is Annex-B; letter dated 30.08.2010 is Annex-C)
- J. That in light of Section 7 of the Land Revenue Act 1967, PMS Officers/ACs & AACs are basically revenue officers with wide-ranging field responsibilities, as such their helping hands equally deserve to compete in the said quota.
- K. That since promulgation of the PMS rules in 2007, total 71 posts in the said quota have been advertised twice, and both times, only 44 candidates (34+8) could qualify only the written exam, and the remaining posts remained left over, which affirms the stance that one basic formation/revenue deptt should also have been included. Interviewing only 34 candidates against 69 posts and 08 candidates against 34 posts is an irony and against the spirit of merit for such a high level positions.
- L. That the Provincial Legislature has also sensed that it is right of the staff of Commissioner/DC offices to compete in the said quota and passed a Joint Resolution No. 1141 in this regard, as such the legislature through its collective will and wisdom also supported stance of the applicant. (Annex-D)
- M. That reply by Establishment Department vide No. SOE-II(ED)3(81)2020, dated 25.05.2021, to earlier representations of the applicant is against the facts on the following grounds:

S#	Reason shown by the Estt Deptt to regret the application	Stance by the applicant
1	"attached departments having carrer progression in their respective	• Employees of Commissioner and DCs offices has no career progression. Their journey either stops on promotion to the post Superintendent and PS or the Assistants get promotion to the post of Tehsildars and

(54)

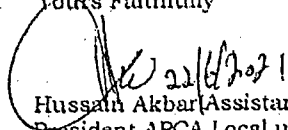
<p>departments can apply in general PMS.</p>	<p>then to PMS in the 20% quota reserved for Tehsildars. The same opportunity has been available to staff of Secretariat as well because they also get promotion to the posts of Superintend & PS and then to PMS in the 20% quota. This confirms the stance of relevancy of Distt Administration/Rev Deptt to PMS as well.</p> <ul style="list-style-type: none">• The General PMS under the 50% direct quota is open to all citizens of KPK upto the age of 30 including the employees of Secretariat, as such this stance is quite misleading.• The PMS Service is neither open competition (wherein employees of both wings have equal opportunities) nor it is Promotion quota (20%) wherein both wings have equal chances. Rather it is experience-cum-competition based quota for those having acquaintance with PMS Job description and where PMS BS-17 cadre has major scheduled posting which is only Secretariat and Distt Administration.
<p>2 "In light of Supreme Court Judgment dated 25.02.2016 and relevant rules policy, the request of the applicant regarding restoration of quota in PMS In-Service for Ministerial Staff of revenue Deptt and its attached subordinate offices is not tenable".</p>	<ul style="list-style-type: none">• The said judgment was given against the restoration of rules to its original version as prayed for by employees of other irrelevant department, and was mainly based on withdrawn of the advertisement by the Estt Department and that the then respondents were not appeared in written exam.• Secondly, the said judgment clarifies that determination of eligibility for service is domain of the Govt, subject to observance of relevant laws/rules, which has been clarified in lot of other judgments as well by the Apex Court. Besides, main contention of the Respondents in the said CPLA was that through the impugned amendment two groups i.e Secretariat Employees and Non-Secretariat Employees have been created with malafide intention. But stance of the applicant is different-- relevant rules have been violated while making the amendment to the extent of Revenue deptt/ Administration. Besides, the actual facts were not shared with the competent authority at the time of amendment. Therefore, we request the competent authority to rectify the said anomaly.

In view of the above mentioned facts and grounds coupled with judgment by the August Supreme Court, the Estt Department is in better position to correct the said hitch as the said facts/grounds were neither pointed out to the competent authority at the time of amendment nor were same raised in the previous litigations culminated on Judgment of the August SCP dated 25.02.2016; therefore, it is requested that:

1. That clarification may be issued in the Scheduled-II, S#:01, Sr No.3 of Column 05, and right of ministerial staff of revenue department/District Administration may be restored in the said quota ab-initio
2. KPPSC may be approached to retain candidature of the applicant and complete the recruitment process against the withheld result of the applicant and call him for interview.

Thanking you in anticipation.

Yours Faithfully


Hussain Akbar (Assistant)
President APCA Local unit DC
office, Mardan

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

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To

The Public Information Officer (P.I.O),
Establishment Department, Khyber Pakhtunkhwa, Peshawar.

Subject: PROVISION OF INFORMATION UNDER THE KP RTI ACT, 2013

Dear Sir,

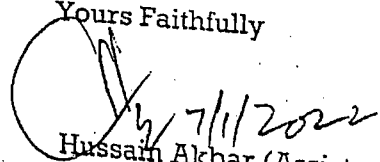
The applicant had submitted applications/representations dated 30.08.2019, 12.10.2019, 01.01.2020, 28.05.2020 and 17.12.2020 to the Worthy Chief Secretary Khyber Pakhtunkhwa via registered post, having the title given below:

REQUEST FOR RESTORATION OF QUOTA IN PMS-INSERVICE FOR MINISTERIAL STAFF OF REVENUE DEPARTMENT & ITS SUBORDINATE ATTACHED OFFICES:

The Establishment department after long time sent reply vide letter dated 25.05.2021. The applicant vide a subsequent representation dated 22.06.2021 submitted some facts and requested office of the Worthy Chief Secretary to dispose of the representation in light of the same. After lapse of more than 06 month, no stance of the Establishment Department could be conveyed to the applicant.

In view of the above, it is requested that the applicant may be informed regarding decision of the competent authority on the representation dated 22.06.2021 (copy enclosed), under the KO RTI Act, 2013, please.

Yours Faithfully


Hussain Akbar (Assistant)
President APCA Local unit DC
Office, Mardan.

Copy forwarded to:

The Assistant Registrar (Legal), KP Information Commission.



1 Reg

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Annex - N^o

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

No. SO (HRD-II)/ED/1-10/2021 (RTI)/Hussain Akbar
Dated Peshawar the 27th January, 2022

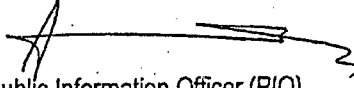
To

Mr. Hussain Akbar (Assistant),
President APCA Local Unit, DC Office, Mardan.

Subject: PROVISION OF INFORMATION UNDER THE KP RTI ACT, 2013.

I am directed to refer to your application dated 07-01-2022 on the above subject noted above and to forward herewith copy of the requisite information under Right to Information Act 2013 for information.

Encl: As above:


Public Information Officer (PIO)
Establishment Department

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

6

NO.SOE-II(ED)/1-3/2021
Dated Peshawar the January 26, 2021

To
The Section Officer (HRD-II),
Establishment Department (HRD Wing).

Subject: PROVISION OF INFORMATION UNDER RTI ACT, 2013

I am directed to refer to your letter No.SO(HRD-II)/ED/1-10/2022 (RTI)/Akbar Hussain dated 12.01.2022 on the subject noted above and to state that the requester may be apprised that Competent Authority has regretted/ filed your latest representation dated 22.06.2021 as the matter-in-question has once for all been decided by passing a speaking order 25.05.2021 (copy enclosed), on his earlier representation/application and the same has already been communicated to him.

M. A. Khan
SECTION OFFICER (E-II)

ENDST: NO & DATE EVEN

Copy forwarded to the:-

- 1) PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
- 2) PS to Special Secretary (Estt), Establishment Department,
- 3) PA to Additional Secretary (Estt:), Establishment Department,
- 4) PA to Deputy Secretary (Estt:), Establishment Department

M. A. Khan
SECTION OFFICER (E-II)



(58)
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the May 25, 2021

ORDER

NO.SOE-II(ED)3(81)2020: WHEREAS Mr. Hussain Akbar, Assistant, President APCA Local unit DC Office, Mardan submitted an application, wherein, he has shown grievance that 69 posts of PMS In-service were advertised through KP-PSC on 01.12.2017, wherein he appeared in the exam but KP-PSC did not declare his result. Being aggrieved he filed Writ Petition No.5390/2018, which was withdrawn. However, after submitting several applications to Chief Secretary, Khyber Pakhtunkhwa and Secretary Establishment for the said purpose, he filed Writ Petition in Peshawar High Court, Peshawar which was also dismissed with the direction the respondents to dispose of the appeal of the petitioner with explicit result within a period of thirty days.

AND WHEREAS the applicant has requested that a clarification may be issued in the Scheduled-II, of PMS Rules 2007 of column 05, and right of ministerial staff of revenue department and its subordinate offices may be restored in the said quota ab-initio. He further requested that KP-PSC may be approached to retain him and complete his recruitment process.

AND WHEREAS as per PMS Rules 2007, 10% In-Service quota in PMS (BS-17) posts is specified for the persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks borne on the cadres strength of Secretariat, while, attached departments having career progression in their respective departments, can apply in general PMS. As far as issues regarding amendment in the PMS Rules, 2007 is concerned Supreme Court of Pakistan has clear Judgment dated 25.02.2016 in the same matter, saying therein "The amendment was made in the Rules in order to clarify certain anomalies, which had duly been taken care of, as such no malafide can be attributed to the Government and as per the settled principle the determination of eligibility of the respondents through amendment fully falls within the domain and policy decision of the Government which does not warrant interference by the Courts. Resultantly, these appeals are allowed and the impugned judgment of the High Court is set aside".

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25/5/2021

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AND WHEREAS, In light of the Supreme Court of Pakistan Judgment dated 25.02.2016 and relevant rules/ policy, the request of the applicant regarding restoration of quota in PMS In-service for ministerial staff of Revenue Department/ subordinate attached offices is not tenable. In this connection, KP-PSC is justified in withholding the result of the applicant being ineligible for the PMS In-Service quota under PMS Rules, 2007.

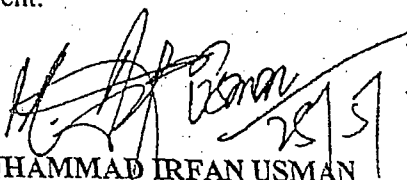
NOW THEREFORE, after due consideration of all the points voiced in the application and record, rules / polices in vogue, the competent authority has found no reason to accede to the request of the applicant, which is regretted being devoid of merit.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Endst. No. & Date even

Copy forwarded to the:-

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. PS to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Secretary Establishment.
5. PS to Special Secretary (Estt.), Establishment Department.
6. Applicant concerned.
7. Manager, Government Printing Press.


25/5/17
MUHAMMAD IRFAN USMAN
SECTION OFFICER
(ESTABLISHMENT-II)

(60)

Annex-0

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 3857/2010

Mr. Hayat Hussain, Superintendent,
KPK Public Service Commission, Peshawar.

PETITIONER

VERSUS

1. The Provincial Government through Chief Secretary, Government of KPK, Peshawar.
2. The Secretary, Government of KPK, Establishment Department, Peshawar.
3. The Public Service Commission through its Chairman, KPK, Peshawar.
4. The Secretary, Public Service Commission, KPK, Peshawar.
5. The Secretary, Government of KPK,
6. Nisar Hussain Sp Nazir Muhammad, Stenographer.
7. Muhammad Naveed Sp Saifullah, Stenographer vide order dt-25.2.14

RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF PAKISTAN 1973
AS AMENDED UPTO-DATE.**

Handwritten:
KPK
18/10/14

RESPECTFULLY SHEWETH:

Brief Facts giving rise to the present petition are as under:

1. That the petitioner is serving as Superintendent and has good record of service at his credit.
2. That Provincial Government notified various service groups in BPS-17 and its rules vide notification dated 29.9.1997 and in this rules the method of recruitment for secretariat group BS-17 and executive group B-17 were given. According to which for secretariat group 50% initial recruitment in B17 shall be filled in through competitive exam to be held by the Public Service Commission and the remaining 50% of the post in B-17

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(secretariat group) shall be filled in by promotion on the basis of seniority cum fitness from amongst the superintendent and private secretaries and have undergone training course of 9 weeks at provincial management academy/provincial staff training institute. The method of recruitment to the executive group was given as 50% by initial recruitment 87.50% shall be filled in on the basis of seniority cum fitness from amongst Tehsildars and the remaining 12.50% on the basis of recommendation of Public Services Board basis on the result of competitive exam conducted in the manner specific in Appendix from many persons holding substantive appointment as Superintendent, PS, PA, Assistant Stenographer in the Provincial Secretariat, attached Departments, Commissioners office and other Divisions offices who hold 2nd degree in 2nd division, rendered at least 10 years as government servant and not more than 40 year of age. Copies of Notification is attached as Annexure-A.

3. That on 11.5.2007, the government of KPK introduced the new rules for the above mentioned group (secretariat group and executive group) with nomenclature as Provincial Management Service (PMS). IN the said rules, the formula for PSS BS-17 was given as:
 - (i) 50% by initial recruitment on the recommendation of commission based on the result of competitive examination.
 - (ii) 20% from amongst the tehsildar who are Graduate, on the basis of seniority cum fitness they have 5 years as tehsildar and to pass the prescribed departmental examination.
 - (iii) 20% from amongst the superintendent, Private Secretaries on the basis of seniority cum fitness who are Graduate and have undergone training of 9 weeks at the Provincial Management Academy/Provincial Staff Training Institute;
 - (iv) 10% by selection on merit on the basis of competitive examination to be conducted by Commission from amongst the persons holding substantive posts of Superintendent, Private Secretaries, Personal Assistant, Senior Scale Stenographer, Stenographer, Date Entry Operator, Computer Operator, Senior and Junior Clerk who possess post-graduate qualification from the recognized universities and have at-least 5 years service under government. The Government of PMS rules is attached as Annexure-B.

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 Dr. *[Signature]*
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[Signature]

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4. That the requisition was placed before Public Service Commission for filling of posts mentioned at Sl NO.4 of the rules. The PSC advertised 53 posts in pursuance the said advertisement / publication, the petitioner also applied under 10% quota reserved in the rules. Copies of Advertisement and Application are attached as Annexure-C and D.
5. That on 20.8.2010 news was published in the Daily "AAJ" in which advertisement seek have been declared specific for the employee of civil secretariat only. For the said purpose a letter from the Establishment Department was issued to the Public Service Commission on 18.8.2010 in which it was conveyed that 10% PMS quota is purely meant for only ministerial staff serving in the civil secretariat (excluding the employee of attached department / subordinate office. Copies of Press Cutting and Establishment letter are attached as Annexure-E and F.
6. That in response to the above letter of Establishment Department, the Commission replied with clear refusal on 30.8.2010. The commission in the said letter clarified that until and unless rules are amended the commission can not specify the advertisement passed for the employee of the secretariat only. Copy of Order is attached as Annexure-G.
7. That due to monopoly of secretariat employee the Establishment Department issued a letter on 9.9.2010 in which requisition of 53 posts of PMS Officers (under 10% in service group) has been declared as withdrawn. A copy of letter is attached as Annexure-H.
8. That at last the respondent NO. 2 modified the PMS Rules on 4.10.2010 to deprive the petitioners from the chances of service against PMS posts against which the petitioner has already applied. Copy of the notification is attached as Annexure - I.
9. That having no other remedy the petitioner constrained to file the writ petition against the illegal action of the Establishment Department on the following grounds amongst the others:

GROUND:

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That the letter dated 9.9.2010 and notification dated 4.10.2010 is against the law, rules and norms of justice.

- B) That in the rules it is provided that all the employees mentioned at S.No.3 of the rules are eligible and have 5 years service under government, irrespective of the fact whether they are employee of the secretariat / other attached department, therefore, the letter dated 9.9.2010 & notification dated. 4.10.2010 is against the very basis of the rules.
- C) That the letters & Notification dated 9.9.2010 and 4.10.2010 is without lawful authority and based on malafide because it amounts to benefit one group and to deprive the other group.
- D) That the impugned letter dated 9.9.10 & 4.10.2010 are discriminatory and amount to deprive the eligible candidates from the rights of service of higher posts because the promotion order at S.No.2(a) and 2(b) have already been passed and when the petitioner's turn came the establishment department issued the impugned notifications. Copies of Orders are attached as Annexure- J,K&L.
- E) That the impugned letter dated 9.9.2010, letter dated 18.8.10 and notification dated 4.10.2010, amount to formation of groups of persons on irrational basis because the one group (secretariat employee) has been benefited twice while the other groups (remaining government employee working out of secretariat) has been deprived of the benefits already given to them under the rules.
- F) That the petitioner has not been treated according to law and rules.
- G) That the letter and Notification dated. 9.9.2010 and 4.10.2010 are in violation to the Articles 4, 25, 27 of the Constitution.

It is, therefore, most humbly prayed that on acceptance of this writ petition, the order dated 18.8.2010 and 9.9.2010 and 4.10.2010 may be declared as illegal, un-constitutional, without lawful authority, ultra-vires of the constitutional rights of the petitioner and based on malafide. It is further prayed that the respondent No.3 may be directed to proceed with the process of appointment as per given advertisement dated. 31.7.2010 Any other remedy which this august court deems appropriate and not specifically prayed for that may also be awarded in favour of the petitioner.

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INTERIM RELIEF

It is humbly prayed that the respondents may be directed not to disturb the quota of the petitioner as fixed in Rules dt. 11.5. 2007 and to restrain from making appointments till the disposal of main writ petition.

PETITIONER

Hayat Hussain

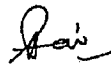
THROUGH:



M. ASIF YOUSAFZAI
ADVOCATE.

VERIFICATION:

It is verified that no other similar writ petition has been filed between the same parties earlier in this august court.



DEPONENT

List of Books:

1. Constitution of Pakistan 1973.
2. Any other laws as per needs.

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Deputy Registrar
25 OCT 2010



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Annex-0

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION NO. 3857/2010

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Mr. Hayat Hussain, Superintendent, Khyber Pakhtunkhwa Public Service Commission, Peshawar..... (Petitioner)

Versus

1. The Provincial Government through Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Govt. of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
3. The Public Service Commission through its Chairman, Khyber Pakhtunkhwa.
4. The Secretary, Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
5. The Secretary, Govt of Khyber Pakhtunkhwa.....(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 2

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- a. That the petitioner has got no cause of action / locus standi to file the instant petition against the respondents.
- b. That the petition is not maintainable.
- c. That the petitioner has not come to this Honourable Court with clean hands.
- d. That the petition is bad for non - joinder and mis - joinder of necessary parties.

ON FACTS:

1. No comments as pertains to the record of Khyber Pakhtunkhwa Public Service Commission.
2. Correct.
3. Correct.
4. Correct to the extent that a requisition was placed before the Khyber Pakhtunkhwa Public Service Commission for filling of 53 posts of PMS BS-17 against the 10% quota reserved for ministerial staff.
5. Correct.
6. Correct to the extent that the Commission has sought clarification in the matter.
7. Incorrect. The requisition for filling of 53 posts meant for 10% ministerial staff was withdrawn on the recommendation of the Standing Service Rules Committee meeting held on 09.09.2010.
8. Correct to the extent that on 04.10.2010 amendment in the PMS Rules, 2007 was made in order to remove ambiguity in Para-3 of the Column-V of Schedule-I of the said rules.
9. Incorrect.

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GROUNDS:

- A. Incorrect. The letter dated 09.09.2010 and Notification dated 04.10.2010 is according to law/rules and norms of justice. 64
- B. Incorrect. The employees mentioned at Sr. No.3 of the Rules i.e. Superintendents/Private Secretaries are the employees of Civil Secretariat and only they are eligible for promotion to the post of PMS BS-17 against 20% of the posts falling to their share. Moreover, letter dated 09.09.2010 is not against the very basis of the rules as Para-3 of Column-5 of Schedule-I of PMS Rules was not clear.
- C. Incorrect. The letters and Notification dated 09.09.2010 and 04.10.2010 are according to law as amendment in the rules was made on the recommendation of SSRC and approval of Competent Authority i.e. Chief Minister, Khyber Pakhtunkhwa.
- D. Incorrect. The petitioner and employees other than Civil Sectt: have no right to be promoted/appointed against the posts of PMS BS-17 which are meant for Civil Sectt: employees only. Moreover, there is a 50% initial recruitment quota for the post of PMS BS-17 and petitioner as well employees of attached Departments and Federal Government can compete on the said quota.
- E. Incorrect. The impugned order has not led to formation of groups and no one has been deprived of its benefit. Earlier these 10% seats (alongwith 20% reserved for promotion) were meant for promotion of ministerial staff of the Secretariat but in order to encourage talented low grade staff and to sift out the best lot from the lower grades, these 10% seats were reserved to be filled through a competitive examination conducted by Public Service Commission for Civil Secretariat employees of BS-16 and below.
- F. ~~Incorrect.~~
- G. In correct. The letter and Notification dated 09.09.2010 and 04.10.2010 are in accordance with the rules/laws.

It is, therefore, most humbly prayed that the instant petition may very graciously be dismissed with costs.

Rasid Ahmad
Secretary to Govt. of
Khyber Pakhtunkhwa
Establishment Department
(Respondent No.2)

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Deputy Registrar
17 JAN 2011

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 3857/2010

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Mr. Hayat Hussain, Superintendent, Khyber Pakhtunkhwa Public Service Commission, Peshawar.....(Petitioner)

Versus

1. The Provincial Government through Chief Secretary, Khyber Pakhtunkhwa.
 2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
 3. The Public Service Commission through its Chairman, Khyber Pakhtunkhwa Peshawar.
 4. Secretary Public Service Commission, Khyber Pakhtunkhwa Peshawar.
 5. The Secretary, Govt. of Khyber Pakhtunkhwa..
- (Respondents)

IUSTIFICATONS / BETTER STATEMENT REGARDING AMENDEMENT IN PMS RULES, 2007 FOR RESTRICTIONS OF 10% QUOTA FOR THE MINISTERIAL STAFF OF CIVIL SECRETARIAT ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

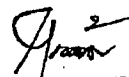
The reservation of 10% quota only for ministerial staff of Civil Secretariat, Khyber Pakhtunkhwa through amendment in the relevant provision of PMS Rules, 2007 was quite justified due to the following reasons:-

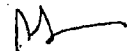
1. Provincial Civil Service comprised of two occupational groups i.e PCS (Executive) & PCS (Secretariat). In the wake of promulgation of LGO 2001, District Govt. was created under which the recruitments to Executive Group ceased, while induction in Secretariat Group continued. This created a vacuum and thus gave rise to the need for a unicadre, multidimensional, all encompassing provincial service, capable of shouldering challenging responsibilities. Therefore, in July 2007, PMS Rules were promulgated which replaced the bicadre PCS.
2. In order to encourage talented lower staff and to sift out the best lot from amongst the employees of Civil Secretariat (BS-07 to BS-16), 10% seats were reserved for them which were to be filled through a competitive examination, to be conducted by Public Service Commission.
3. A number of applications were received from various quarters including Provincial & Federal Government employees in order to clarify as to whether they can appear in the examination to be conducted by Public Service Commission for appointment to the post of PMS BS-17 against 10% quota meant for ministerial staff of Civil Secretariat. In order to clear this anomaly PMS Rules, 2007 were amended and 10% quota was restricted to ministerial staff of Civil Secretariat only.

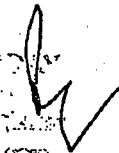
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4. Under PCS(SG) Rules 1997, 40% seats of Section Officer were reserved for promotion of Superintendents/Private Secretaries of Civil Secretariat. However, their share in the PMS Rules, 2007 has been reduced to 20%. Aggrieved upon this Khyber Pakhtunkhwa Secretariat employees Coordination Council put forth a demand that either to merge the 10% quota reserved for appointment through competitive examination in their 20% share or restrict the same to the ministerial staff of Civil Secretariat only. As their demand was having weightage and seemed justified therefore, PMS Rules were amended and 10% quota was restricted to ministerial staff of Civil Secretariat only. Copy of demand of Khyber Pakhtunkhwa Secretariat Employees Coordination Council is enclosed.
5. Most importantly the employees of attached Departments get sufficient chances of promotion in their cadre through examination against the quota reserved specifically for them under their respective service rules. Whereas the ministerial employees of Civil Sectt: can not appear in those exams. For instance the Sub Accountants in the Distt: Accounts Offices accorded promotion after qualifying SAS examination. Similarly the junior Instructors (BS-14) of Technical Education Deptt: with diploma of Engineering i.e. equal to FA/F.Sc are promoted to BS-17 within 05 to 10 years period. Likewise, Sub-Engineers (BS-11) of C&W, PHE & Irrigation Department having B.A Degree are considered for accelerated promotion to the post of Assistant Engineer (BS-17) after qualifying the departmental exam prescribed under their respective service rules.
6. The ministerial staff of Civil Sectt: is transferable in different departments of Civil Sectt: which make them well acquainted with the nature of job of PMS officers. Whereas, the employees of other departments/cadre are experts in their own field and their job profile is quite different from that of PMS officers. Thus reserving 10% quota for ministerial staff of Civil Sectt: is justified as these posts can not be used as learning place for others.

Since the petitioners can get further promotion to the post of PMS BS-17 in their own service cadre. It is, therefore, most humbly prayed that the instant petition being devoid of merit, may very graciously be dismissed with costs.


 Chief Secretary,
 Khyber Pakhtunkhwa
 (Respondent No.1)
 Chief Secretary
 Govt. of Khyber Pakhtunkhwa


 Secretary to Govt of Khyber
 Pakhtunkhwa
 Establishment Department
 (Respondent No.2)
 27.7.2012


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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR. 59

Writ Petition No. 3857 / 2010.

Hayat Hussain Petitioner.

VERSUS

Govt: of Khyber Pakhtunkhwa and others..... Respondents.

**PARAWISE COMMENTS OF
(RESPONDENT NO. 4).**

RESPECTFULLY SHEWETH:

1. No comments.
2. No comments.
3. Admitted.
4. Admitted.
5. No comments.
6. Admitted. The Commission advised the Establishment Department that while making amendments in the rules, this fact may also be kept in view that 20% of the promotion posts are already reserved for Ministerial staff of the Secretariat and that some of the graduate clerks in the attached Departments, Commissioners and D.C.Os offices, on account of their field experience and knowledge will be more deserving and suitable for the posts. (Annexure-A)
7. No comments.
8. No comments.
9. No comments.

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Dist. Registry

14 JAN 2011