

GOVERNMENT OF PUNJAB SERVICE TRIBUNAL, PESHAWAR

Case No. 7992/2021

Appellant
Versus
Respondents

REPLY TO THE COMMENTS ON BEHALF OF THE RESPONDENT NO. 02 TO 06

DEFENDENTLY SUBMITTED:

FACTS AND CONTENTIONS:

- 1. The appellant has not produced any evidence in support of his claim.
- 2. The appellant has not appeared to the court in clean hands.
- 3. The appellant has concealed some material facts from this Hon'ble Court.
- 4. The appellant is not eligible for the post of BS-18.

REPLY TO THE COMMENTS:

- 1. The appellant is a civil engineer and not mechanical engineer. The rules quoted in paragraph were applicable to the appellant. In other word the Irrigation Department vide notification no. SOE/Irr/2021/24.08.2021 in consultation with Establishment Department, Finance Department and Law Department, has a posted 12% quota for promotion of SC holders having Honor Degree Holder and 08% quota for promotion of Diploma Holder. The procedure of Standing Service Rules Committee (SSRC) is attached as Annex-II.
- 2. The Law Department is not a member of the standing service rule committee. The Law Department (Annex-III), the B-Tech and Diploma holders were granted quota for promotion to BS-18 through proper SSRC procedure. The Establishment, Finance Departments and properly vetted by Law Department. It is clarified that the C. Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
- 3. It is clarified that B-Tech and Diploma Holder Sub Engineers of Irrigation Department were granted quota for promotion to BS-17 in 2011. It is also clarified that the C. Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
- 4. The career of the appellant was properly examined and filed being deviated.

CONCLUSIONS:

- 1. The SSRC was convened in accordance with law.
- 2. The appellant's promotion of Constitution of Pakistan has been done.
- 3. The appellant is not eligible for the amendment in service dated 24.08.2021, the B-Tech and Diploma holders are also eligible for promotion to BS-18.
- 4. The appellant is not eligible for the post of BS-18.
- 5. The appellant is not eligible for the post of BS-18.
- 6. It is clarified that the committee was constituted, however, in consultation with Establishment Department, Finance Department and Law Department, has allowed the promotion of SCs having B-Tech Honor Degree Holder and 08% quota for promotion of SCs through proper procedure of Standing Service Rules Committee (SSRC).

- 1. Incorrect. The Service Rules of Irrigation Department were amended and 12% share quota for Sub Engineers having B-Tech Honor Degree and 8% quota for Diploma Holders and Sub Engineers was reserved on 25.06.2012.
- 2. Incorrect. As per amended service rules of Irrigation Department dated 24.08.2020, the B-Tech Degree Holder and Diploma Holder SDOs are eligible to be posted against ES-18 post.
- 3. Incorrect. Para-7 above is reiterated.
- 4. Incorrect. The Civil Servants are governed under Civil Servant Act, 1973 and not under PFC Act, 1976.
- 5. Incorrect. Para 9 above is reiterated.
- 6. Incorrect. The Hon'ble Supreme Court of Pakistan in its decision in CP No. 78-K/2015 announced on 08.10.2018 has allowed 12% quota for B-Tech Degree Holder and 8% for Diploma Holder SDOs for promotion to the post of ES-18.
- 7. Incorrect. Para-7 above is reiterated.
- 8. Incorrect. Para-9 above is reiterated.
- 9. Incorrect. Para-9 above is reiterated.
- 10. Incorrect. Para-9 above is reiterated.
- 11. Incorrect. Para-9 above is reiterated.
- 12. No comments.
- 13. Incorrect. Para-9 above is reiterated.
- 14. Incorrect. Hence, denied.
- 15. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Service Tribunal.

It is, therefore requested that the status quo may be lifted and service appeal being devoid of merits may be dismissed with cost, please.

*Submitted for lifting pls
amt
11/3/22.*

Secretary to Govt. of Khyber
Pakhtunkhwa, Irrigation Department
Respondent No. 2

Secretary to Govt. of Khyber
Pakhtunkhwa, Establishment
Department Respondent No. 3

Secretary to Govt. of Khyber
Pakhtunkhwa, Law, Parliamentary
and Human Rights Department
Respondent No. 6

Secretary to Govt. of Khyber
Pakhtunkhwa, Finance Department
Respondent No. 5

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

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Ps/ Sec. Irrigation
Diary No. 1882
Date: 15-3-2023

To,

The Secretary to Govt: of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.

Subject: - JOINT APPLICATION FOR RESERVATION OF PROMOTION QUOTA IN BS-18 AND ABOVE FOR B.TECH (HONS) DEGREE HOLDER SUB DIVISIONAL OFFICER'S / ASSISTANT ENGINEERS (BS-17) ON THE ANALOGY OF B.SC ENGINEERING DEGREE HOLDER SUB DIVISIONAL OFFICER'S.

Dear Sir

We the following B.Tech (Hons) degree holder Sub Divisional Officer's /Assistant Engineers (BS-17) invite your kind attention to the step mother treatment/injustice, done with us in the Irrigation Department by depriving the said Engineers from promotion in BS-18 and onward and other benefits which are enjoying by the Sub Divisional Officer's / Assistant Engineers, having B.Sc, Engineering / B-E degree. This attitude of the Provincial Government in works Department is not only in violation of article-25 of the Constitution of Islamic Republic of Pakistan but also tantamount to contempt of the apex court's order passed in Suo Moto Review Petition No.52 of 1993 dated 25-06-1995, whereby B.Tech (Hons) degree has held at par and competent to that of B.Sc Engineering / B.E degree for the purpose of pay, grade, promotion and other benefits (Annex-I). In this context necessary steps taken by the Federal Government and Provincial Governments as well are reproduced below for perusal of your good-self and sympathetic consideration please:-

i. That pursuant to the Supreme Court of Pakistan judgment dated 25-06-1995, the Government of Pakistan, Ministry of Education, Islamabad vide Office Memorandum No.F.8-1/94-Polytechnic dated 17-04-1996 declared that B.Tech (Hons) degree shall be treated at par to B.Sc Engineering / B-E degree (Annex-II). Moreover, the Cabinet Secretariat Establishment Division Government of Pakistan vide its letter dated 01-04-1996 has withdrawn the condition of registration with Pakistan Engineering Council in Government Departments (Annex-III). Furthermore, Lahore High Court, Peshawar High Court, Sindh High Court, Hyderabad Bench, Apex Court and Service Tribunal, Islamabad etc in their respective judgments have admitted stance of the B.Tech (Hons) degree holder Engineers and have allowed them for further promotion in BS-18 and above alongwith other benefits on the basis of equality with B.Sc Engineering degree holder Engineers (Annexures-IV-VII).

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Secretary Irrigation

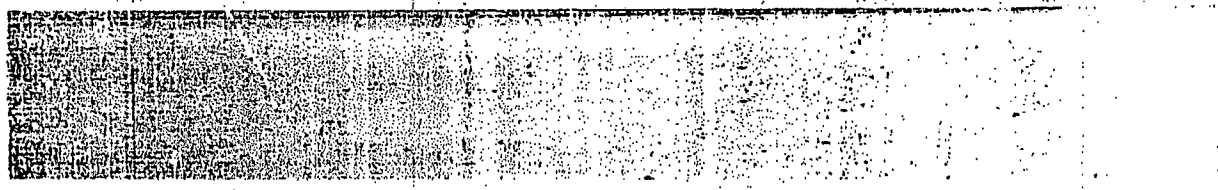
ii. That in light of the Apex Court orders and Sindh High Court, Hyderabad Bench judgment, Government of Sindh Works and Services Department, Irrigation

Department and Energy Department Karachi amended their respective service recruitment rules and provided suitable quota to B.Tech (Hons) degree holder Sub Divisional Officers / Assistant Engineers / Asstt. Directors (BS-17) for promotion to the rank of Executive Engineer (BS-18) and onward vide notifications dated 19-03-2014, 16-12-2013 and 11-01-2013 (Annexures-VIII-X). Similarly the Government of Khyber Pakhtunkhwa, Local Government & Rural Development Department made amendments in the existing recruitment rules and provided separate 20% quota to B.Tech (Hons) degree holder Sub Divisional Officers / Assistant Engineers (BS-17) for onward promotion vide notification dated 13-05-2016 (Annex-XI). Besides, the Public Health Engineering Department - Khyber Pakhtunkhwa also allowed promotion in BS-18 and above to B.Tech (Hons) degree holder Engineers through Standing Service Rules Committee on 13-03-2017. Minutes of the SSRC are added (Annex-XII).

iii. That the C & W Department, Khyber Pakhtunkhwa, Peshawar while considering application of the B.Tech (Hons) degree holder Sub Divisional Officers / Assistant Engineers (BS-17), pertaining to the reservation of quota for promotion in BS-18, referred the case to the Law Department and Establishment Department for advice in light of the "note of caution" recorded by the apex court in its judgment dated 03-10-2018 in C.P No.78-K of 2015 (Annex-XIII). Both the Departments in their respective letters, tendered advice that as per rule 3 (2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the case may be placed before the SSRC (Annex-XIV & XV).

iv. That back ground of the note of caution, referred to in pre-sub Para of the instant joint application is that aggrieved by the notification dated 19-03-2014 issued by the Works & Services Department Karachi, whereby 7% promotion quota was allowed for promotion in BS-18 and above to the B.Tech (Hons) degree holder Engineers, Moula Bux Sheikh and others B.Sc Engineering degree holder Sub Divisional Officers / Assistant Engineers (BS-17) of the W&S Department, Karachi, challenged in the Sindh Service Tribunal on the plea that the post of Executive Engineer (BS-18) is being that of purely professional Engineering work, could only be performed by a professional Engineer, holding accredited Engineering qualification, as provided in the Pakistan Engineering Council Act. The Tribunal did not agree with the stance and rejected the service appeal of the appellants. Later on they filed C.P No.78-K of 2015 in the Supreme Court of Pakistan against the decision of Sindh Service Tribunal. The apex court after examining all aspects of the case in light of the arguments of counsels of the parties, dismissed the CPLA with the clear directions that the application dated 19-03-2014 can not be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of the Pakistan Engineering Council Act, 1976 and thus would be ultravires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the Government exercises its own power under the domain of law with regard to promotion of civil servants / employees under Sindh Civil Servants Act, 1973 and rules made thereunder while Pakistan Engineering Council Act does not overreach or put an embargo upon the Government in the matter of prescribing of qualification and other conditions of services of civil servants / employees for their promotion to higher grade. Furthermore, the PEC Act as its preamble itself shows so also reading of the whole Act that it essentially deals

* F/A



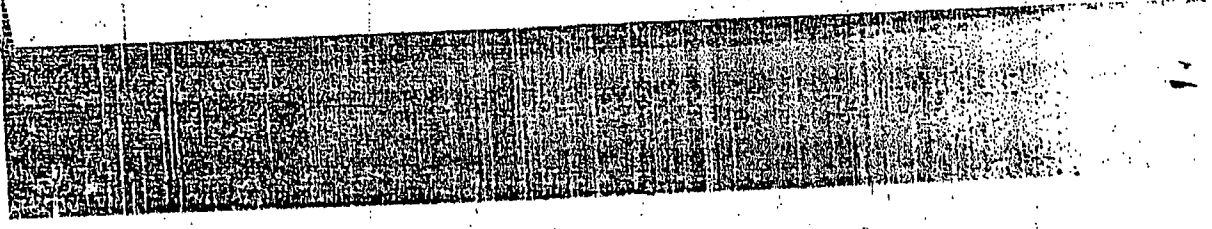
quantification of professional work of engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required.

v. That in order to remove confusion with regard to the note of caution, recorded by the apex court, referred to above, the Advocate General Sindh in his letter dated 18-6-2019 addressed to Secretary to Govt. of Sindh Law Department, has categorically clarified that "there is no embargo on the posting of B.Tech (Hons) degree holder as engineers in Government Departments, nor is there any embargo on their being promoted or their being assigned field posts provided the nature of the work to be performed by them etc." (Annexure-XVI). The Law Department, Sindh has endorsed the Advocate General's letter to the Secretaries of W&S, Local Govt., School Education & Literacy, Agriculture, Industries, PHE and Irrigation Departments with the further clarification that advice of the Advocate General has addressed many points about admissibility of posting of B.Tech (Hons) degree holders as Engineers in the field and considering them for their subsequent promotions (Annex-XVII).

vi. That Chairman, Pakistan B. Tech. Engineers Council (Regd) in his letter dated 23-12-2020 addressed to Chief Secretary, Khyber Pakhtunkhwa has pointed out that promotion cases of Engineers possessing B.Tech (Hons) degree are pending since long relying upon mis-interpretation of Hon'able Supreme Court of Pakistan judgement dated 3-10-2018 in CP No. 78-K of 2015 made by Pakistan Engineering Council and its biased mind agents in the KPK engineering departments. Through going the contents of the said judgement it has been observed that there is nothing debarring/refusal or pending the promotion cases of B.Tech (Hons) degree holder Engineers and has requested to direct all the works departments of the KPK to consider/finalize promotion cases of all the Engineers having B.Tech (Hons) degree (Annex-XVIII).

vii. That in the W.P No. 2609 of 2020 filed by Muhammad Khurshheed) v/s Federation of Pakistan and others, in the Islamabad High Court the respondents in their comments has mentioned/recorded that B.Tech (Hons) and B.E/B.Sc.Engineering degrees prepares aspirants for two distinguished jobs, the former focuses on implementation while latter emphasis on the research and design. Moreover, engineers generally operate in conceptual design, innovating solution and product development while technologists generally work in applied nature of jobs like testing, construction, field work, operations etc (Annexure-XX).

In light of the numerous orders of the different courts of law, declaration of the Government of Pakistan, Ministry of Education, Cabinet Secretariat, Establishment Division Islamabad pertaining to the bringing at par / compitable degree of B.Tech (Hons) to that of B.Sc



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Engineering / B.E degrees for the purpose of pay, grad, promotion and other benefits and rules amended by the different Departments of Sindh Government and Provincial Government of Khyber Pakhtunkhwa as well, it is humbly prayed that separate 20% quota for promotion to the rank of Executive Engineer (BS-18) and onward may be provided/reserved for the deprived category of B.Tech (Hons) degree holder Sub Divisional Officers / Assistant Engineers (BS-17) of Irrigation Department on the analogy of Local Government Department Khyber Pakhtunkhwa at the earliest please



Yours Faithfully,

By Director
Jabba Dam project.

Amanullah Khan

S.O. Drainage
Sub Divn Peshawar
Dist Peshawar.

Niaz Dastgir

S.O. Charsada Sub Divn

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SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Gulzar Ahmed
Mr. Justice Qazi Faez Isa
Mr. Justice Sardar Tariq Masood

C.P.No.78-K of 2015
[On appeal against order dated 21.11.2014
passed by the Sindh Service Tribunal,
Karachi, in Appeal No.195 of 2014]

Maula Bux Shaikh & others

Petitioner(s)

VERSUS

Chief Minister Sindh & others

Respondent(s)

For Petitioner No.1 : Mr. Salah-ud-Din Ahmed, ASC
For Petitioner Nos.2-3 : Mr. Rasheed A Rizvi, Sr. ASC
For Respondent Nos.1-4 : Mr. Sabtain Mehmood, Asstt.A.G. Sindh
For Respondent No.5 : Mr. Ghulam Halder Shaikh, ASC
For Respondent Nos.6-7 & 9 : Nemo
For Respondent Nos.8 & 12 : Dr. Muhammad Farough Naseem, ASC
For Rspdnt Nos.10-11, 13-17 : Mr. M. Aqil Awan, Sr. ASC
Date of Hearing : 24.04.2018

JUDGMENT

GULZAR AHMED, J. — Maula Bux Shaikh, Petitioner No.1, (the Petitioner) had filed a Service Appeal before the Sindh Service Tribunal, Karachi, (the Tribunal) challenging Notification No.SOI(W&S)E/12-1/2005 dated 19.03.2014 to be ultra vires the Pakistan Engineering Council Act, 1976 (PEC Act). The circumstances under which the Service Appeal was filed by the Petitioner are that he was employed as Sub Engineer BS-11 in the year 1985 in the Works and Services Department, Government of Sindh, Karachi. He was

promoted as Assistant Engineer BS-17 in the year 1997 and since then has been serving in such post in his said department. The case of the Petitioner is that he is a qualified engineer holding degree of Bachelor of Engineering. He has unblemished service record and is eligible for promotion to the post of Executive Engineer BS-18 but on account of the notification, referred to above, his chance for promotion as Executive Engineer BS-18 has been gravely diminished for the reason that said notification has provided 13% promotion quota to Diploma holders and 7% promotion quota to B.Tech (Hons) Degree holders for the post of Executive Engineer BS-18. The grievance of the Petitioner is that the post of Executive Engineer BS-18 being that of a purely professional engineering work could only be performed by a professional engineer holding accredited engineering qualification, as provided in the PEC Act.

*is it applicable
to professional
work of post?*

2. We have heard learned ASCs for the parties at length and have gone through the record of the case. The learned ASCs for the parties have also filed their written note of arguments, which too have been perused by us.

3. The notification dated 19.03.2014 is as follows:

NOTIFICATION

No.SOI(W&S)E.W/12-1/2005: In pursuance of Sub-Rule (2) of Rule-3 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 and in consultation with the Services, General Administration & Coordination Department, Government of Sindh, and in partial modification of this Department's Notification No. FI(C&W)1-34/81-84(86) dated 14.01.1987, the method, qualification and other conditions for appointment in respect of the post of Executive Engineer (BPS-18) (Civil/Mechanical/Electrical) in Works & Services Department, Government of Sindh mentioned in column-2 of the table below:-

TABLE

Name of the post with BS	METHOD OF APPOINTMENT	
	1	2
Executive Engineer (Civil/Mechanical & Electrical) (BPS-18)	i)	Eighty percent by promotion from amongst the Assistant Engineers B.E. in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.
	ii)	Thirteen percent by promotion from amongst the Diploma holder Assistant Engineers having Diploma in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology and
	iii)	Seven percent by promotion from amongst the Assistant Engineers having B.Tech (Hons) degree in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.

QAZI SHAHID PERVEZ
SECRETARY TO GOVT. OF SINDH

4. In order to regulate the engineering profession, the Parliament has passed PEC Act on 10.01.1976. Section 2(ii) of the PEC Act defines accredited engineering qualification, which is as follows:

"accredited engineering qualification" means any of the qualification included in the First Schedule or the Second Schedule"

5. It is common ground that neither Diploma nor B.Tech (Hons) Degree are accredited engineering qualification for the reason that there is no reference to the Diploma and B.Tech (Hons) Degree in the accredited engineering qualification provided in the first and second schedule of the PEC Act. Thus, accredited engineering qualification is ascribed to those who hold Bachelor Degree in Engineering from

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accredited Engineering Universities/Institutions in Pakistan and abroad.

6. Professional Engineer is defined in Section 2(xxiii), which is as follows:

for service
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"professional engineer" means a person who holds an accredited engineering qualification and after obtaining a professional experience of five years, whether working privately or in the employment of an engineering public organization, has passed the prescribed engineering practice examination and is registered as such by the Council.

7. Professional Engineering Work is defined in Section 2(xxv) as follows:

"professional engineering work" means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection and supervision of engineering works, in respect of—

(a) railways, aerodromes, bridges, tunnels and metalled roads;

(b) dams, canals, harbours, light houses;

(c) works of an electrical, mechanical, hydraulic, communication, aeronautical power engineering, geological or mining character;

(d) waterworks, sewers, filtration, purification and incinerator works;

(e) residential and non-residential buildings, including foundations framework and electrical and mechanical systems thereof;

(f) structures accessory to engineering works and intended to house them;

(g) imparting or promotion of engineering education, training and planning, designing, development, construction, commissioning, operation, maintenance and management of engineering works in respect of computer engineering, environmental engineering, chemical engineering, structural engineering, industrial engineering, production engineering, marine engineering and naval architecture, petroleum and gas engineering, metallurgical engineering, agricultural engineering, telecommunication engineering, avionics and space engineering, transportation engineering, air-conditioning, ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil

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engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;

8. Registered Engineer is defined in Section 2(xxvii) as follows:

"registered engineer" means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design.

9. Section 10(1) of the PEC Act provides:

"The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act."

10. While section 11(1) provides:

"The engineering qualifications granted by engineering institutions outside Pakistan which are included in the Second Schedule shall be accredited engineering qualifications for the purposes of this Act."

11. Section 27 of the PEC Act provides for penalties and procedure, which is as follows:

"27. Penalties and procedure.— (1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) After the date appointed as aforesaid, whoever employs for any professional engineering work any person whose name is not for the time being borne on the Register shall be punishable, on first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) Whoever willfully procures or attempts to procure himself or itself to be registered under this Act as a registered engineer, professional engineer, consulting engineer, constructor or operator by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) Whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name of title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) No person undertaking any professional engineering work shall, unless he is registered under this Act, be entitled to recover before any court or other authority any sum of money for services rendered in such work.

(5A) No person shall, unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work.

(6) No court shall take cognizance of any offence punishable under this Act save on complaint made by, or under the authority of, the Council.

(7) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act."

12. The main gist of the arguments of the learned ASC appearing for the petitioners is that the work of Executive Engineer BS-18 is strictly that of a Professional Engineer and it can only be performed by a Professional Engineer, who has engineering degree from an Accredited Engineering Institution of Pakistan or abroad as included in the first and second schedule of the PEC Act, Diploma holders and B.Tech

(Hons) Degree holders are not professional engineers and cannot perform work of a Professional Engineer and that law specifically provides penalties to those who perform professional engineering work without possessing accredited engineering qualification and registered as Professional Engineer by the Pakistan Engineering Council (the Council).

13. On the other hand, learned ASC appearing for the respondents have contended that this very issue has come up before this Court number of times and this Court has dealt with it time and again and held that in the matter of employment and promotion etc, the Government Institutions are legally entitled to take decisions as a matter of policy to grant promotion to employees in Engineering Public Organization who are Diploma holders in engineering and B.Tech (Hons) Degree holders.

14. We have noted that the Tribunal in the impugned judgment has referred to number of judgments of this Court and the point in issue in those judgments substantially also deals with the present controversy before us. Thus before dilating upon the matter, it is essential that we examine the judgments, which this Court has already delivered and are also referred in the impugned judgment of the Tribunal. The first case in line is a judgment of three members bench of this Court in the cases of PAKISTAN DIPLOMA ENGINEERS FEDERATION (REGISTERED) THROUGH ITS CHAIRMAN V/s FEDERATION OF PAKISTAN THROUGH SECRETARY MINISTRY OF WATER & POWER, GOVERNMENT OF PAKISTAN, ISLAMABAD & 9 OTHERS (1994 SCMR 1807). In this case the question involved was whether the Diploma Engineers employed in Pakistan Railways can be debarred from promotion to Grade-18 on the

ground that they are not registered as "professional engineers and consulting engineers" with Pakistan Engineering Council even though they were otherwise by reasons of their seniority etc eligible for promotion to Grade-18. While referring to the case of MUHAMMAD AZIM JAMALI AND 11 OTHERS V/S GOVERNMENT OF PAKISTAN THROUGH SECRETARY/ CHAIRMAN, MINISTRY OF RAILWAYS, AND 33 OTHERS (PLJ 1992 Karachi 1) = (1992 PLC(CS) 637), where split decision was given by two Hon'ble Judges of Sindh High Court and ultimately it was referred to a Referee Judge for his opinion. This Court in dealing with the case before it relied upon the conclusion reached by the Referee Judge and quoted the same in the judgment as follows :

"16. The conclusion of the learned Chief Justice was expressed as follows:

"A careful reading of subsections (1) and (2) of section 27 of the Act will show that the penalties prescribed in the section are attracted only against those persons who are not registered under the Act but undertake any professional engineering work as defined in the Act. Similarly, the person who employs a person who is not registered under the Act, on a professional engineering work, is equally liable for punishment under the Act. The above provisions are wide enough to include the cases of those persons who may be employed in any private or Governmental organization and are called upon to undertake any professional engineering work. The provisions of the Act, regarding registration of professional engineer and consulting engineer, therefore, in my view, would not be applicable to the persons serving as engineer with the Railways, as in course, of their such employment they neither act as 'professional engineer' nor as 'consulting engineer'. However, if such persons undertake any professional engineering work as defined under the Act, then the provisions regarding registration under the Act will be attracted and they could also be punished in accordance with the provision of section 27 of the Act for violating the provision of the Act."

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15. On the basis of such conclusion of the Referee Judge, this Court proceeded to make its own observation, which is as follows:

17. The above judgment of the High Court was not challenged either by the qualified engineers who held degrees from recognized Institutions of Pakistan nor by the diploma-holders but only by the Pakistan Engineering Council (which was one of the respondents in the Constitution Petition filed in the High Court). According to the Pakistan Engineering Council, the provisions of the Pakistan Engineering Council Act had not been correctly interpreted because the judgment of the majority in the High Court, it appeared to the Council had laid down that the Act applied to engineers engaged in professional engineering works in the private sector whereas the application of provisions of the Act according to them, could not be restricted only to the private practitioners alone.

18. We on the other hand after hearing Mr. Abid Hassan Minto learned Advocate for the appellant at considerable length consider that this is not a correct interpretation of the judgment of the High Court. The High Court has clearly stated that the provisions of the Act were wide enough to include cases of those persons engaged in professional engineering works whether employed in any private or Governmental organization, if they are called upon to undertake any professional engineering work, as defined under the Act. In fact in the connected case C.A.No.31 of 1992 a Committee of Secretaries constituted by the Punjab Government correctly summed up the true position obtaining in the Act as follows:--

"The Committee was of the view that the Government could appoint a non-graduate engineer to a post in any grade but if the post involved performance of professional engineering work such appointment would attract penalties prescribed in the Act.

The finding of the Referee Judge in this case is to the same effect and in our opinion this finding is quite correct."

16. The next case in line is a judgment of five member bench of this Court in the case of FIDA HUSSAIN V/S THE SECRETARY, KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION, ISLAMABAD & ANOTHER (PLD 1995 Supreme Court 701). In this case facts were that petitioner was appointed as Overseer/Sub-Engineer in northern area PWD in

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1971. The Federal Government, in order to encourage the diploma holders to improve their academic qualification resolved to prescribe courses namely B.Tech (Pass) and B.Tech (Hons). The later was treated as equivalent to B.Sc. (Engineering) and Bachelor of Engineering for the purpose of promotion. Petitioner having passed B.Tech (Pass) and B Tech (Hons) was denied promotion in BPS-17 for the reasons that B.Tech (Hons) was not recognized by Pakistan Engineering Council as equivalent to B.Sc. (Engineering) Degree. Petitioner filed Service Appeal, which was dismissed. The Appeal filed by the petitioner before this Court was also dismissed. The petitioner then applied for review, which was allowed and the judgment dismissing the Civil Appeal was recalled and his appeal was allowed with directions to consider the petitioner's case of promotion to BS-17. The Court while allowing relief to the petitioner observed as follows:

"9. In this regard, we may point out that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is in the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular Grade to a higher Grade. The main object of the Act as pointed out by one of us (Ajmal Mian, J.) and Salduzzaman Siddiqui, C.J. (as he then was) in the above High Court judgment is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in the Government or semi-Government departments. The definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Act are to be read together and, therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 of the Act is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 of the Act, which defines the functions of the Pakistan Engineering Council as under:-

8. Functions of the Council.--- The following shall be the functions of the Council, namely:--

- 92 28
- (a) maintenance of a Register of person qualified to practice as professional engineers and consulting engineers;
 - (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers;
 - (c) removal of names from the Register and restoration to the Register of names which have been removed;
 - (d) laying down of standards of conduct for the members;
 - (e) safeguarding the interest of the members;
 - (f) promotion of reforms in the engineering profession;
 - (g) management of the funds and properties of the Council;
 - (h) Promotion of engineering education and review of courses of studies in consultation with the Universities;
 - (i) levy and collection of fees from applicants for registration or temporary licences and members;
 - (j) exercise of such disciplinary powers over the members and servants of the Council as may be prescribed;
 - (k) formation of such committees as may be prescribed; and
 - (l) performance of all other functions connected with, or ancillary or incidental to, the aforesaid functions."

A perusal of the above quoted section shows that the Pakistan Engineering Council is vested with the functions to regulate the persons qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organisations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracted and not otherwise.

10. Reverting to the merits of the present case, as pointed out hereinabove, that the petitioner pursuant to the above decision of the Government of Pakistan dated 26.10.1973 passed his B.Tech (Pass) in 1977 and B.Tech (Honours) in March, 1981, from the NED University Karachi, and, therefore, acted upon the above representation of the Government. In this view of the matter, it is not just and fair not to consider the petitioner

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for promotion to BPS-17 keeping in view the admitted fact that a number of other civil servants/employees in the same department in the same position have been promoted by the departments/organisations concerned. In this behalf, it may be pertinent to refer to the case of Mukhtar Ahmad and 37 others v. Government of West Pakistan through the Secretary, Food and Agriculture, Civil Secretariat, Lahore and another (PLD 1971 SC 846). The fact of the above case were that the persons possessing the qualifications mentioned in Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963 were not available. The Government launched a scheme for training of Assistant Agricultural Engineers, whereunder 46 Graduates in B.Sc. Agriculture were to be selected for appointment as Assistant Agricultural Engineers after their successful completion of two years' diploma course at an Agricultural University. The above scheme was discussed by the government with the Public Service Commission. The candidates selected by the Public Service Commission, who were about to complete their training of two years, were informed by the government that they would have to appear again before the Public Service Commission to be selected for appointment to the posts of Assistant Agricultural Engineers (Class-II). The candidates asserted that after the completion of their training they were entitled to be appointed as Assistant Agricultural Engineers (Class-II) in terms of the offer made to them and they could not be required to appear again before the Public Service Commission for such appointment. On the other hand, the Government contended that the candidates did not possess the qualification prescribed by Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963, for appointment to such posts. The matter came up for hearing before this Court in the form of an appeal with the leave of this Court filed by the candidates against the judgment of a Division Bench of the erstwhile High Court of West Pakistan. The same was allowed and inter alia the following was concluded:--

"The offer of the Government and its acceptance by the appellants constituted a valid agreement and they Governor's order dated the 1st July, 1965 provided the authority for such an agreement. This agreement is capable of being enforced in law. The Government was both competent and obliged to implement that agreement. When the Governor's order, dated the 1st July, 1965, provided a special authority for recruitment to the 46 posts of Assistant Agricultural Engineers, rule 7 of the Recruitment Rules was not applicable in this case."

11. The above case supports the petitioner's stand. Another aspect which escaped notice of this Court in the judgment under review is that some of the other civil servants/employees placed in the same position as the petitioner was had been considered for promotion to BPS-17 and in fact were promoted, whereas the petitioner was

denied the above benefit which amounted to violation of inter alia Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In this regard, reference may be made to the case of I.A. Sherwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

12. The judgment of this Court in the case of Muhammad Siddique Nasim (supra) relied upon by the Tribunal is distinguishable for more than one reason, firstly, in the above case the notification of the Government of Punjab dated 8.2.1961 equating B.Tech (Honours) with B.Sc Engineering degree was withdrawn on 15.03.1985, whereas the petitioner received degree of B.Tech (Honours) in June, 1985, i.e. after the withdrawal of the notification whereas in the present case, admittedly the petitioner passed his B.Tech (Honours) in March, 1981, before the Pakistan Engineering Council through its Registrar's above letter dated 24.4.1984 stated that there was typographical error in the above-quoted portion of its Registrar's letter dated 30.04.1981. Secondly, in the judgment in the case of Pakistan Diploma Engineers Federation (Registered) through its Chairman (supra), this Court affirmed the majority view of the High Court of Sindh in the case of Muhammad Azim Jamali (supra), in which it has been held that the provisions of the Act are applicable only to professional engineers and consulting engineers who are in practice and not to the persons working in the Government departments, autonomous bodies, local authorities and private firms or companies.

13. We may again observe that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy. However, it cannot abdicate its power to decide the above question in favour of a corporate body which is not in its control nor it can act in a manner which may be violative of Article 25 of the Constitution on account of being discriminatory. It is still open to the Government for future to provide that academic qualification of B.Tech (Honours) will not be considered sufficient for promotion from BPS-16 to BPS-17 if the same does not violate the above principle."

17. Next case is a judgment of two members bench of this Court in the case of MUHAMMAD YOUNUS AARAIN V/S PROVINCE OF SINDH THROUGH CHIEF SECRETARY, SINDH, KARACHI & 10 OTHERS (2007 SCMR 134). The case before the Court was of promotion to BS-20 by a Diploma holder employee. The Court dealt with the subject and observed as follows:

*Power of Govt.:-
entitled to designate
its power to any other authority
no discrimination.*

95: 20

7. The basic qualification for a professional engineer under the law is B.Sc. degree in engineering from a recognized institution in Pakistan and diploma in engineering is not a recognized qualification for a professional engineer in terms of PEC Act, 1976. The service rules governing the service of the petitioner (SCUG Service Rules, 1982) and the promotion policy of the Government of Sindh, would neither override the provisions of the above Act nor relax the requirement of basic qualification of professional engineer for a promotion to BPS-20 in the engineering branch of Government of Sindh. The relevant provision of SCUG Service Rules, 1982, is reproduced hereunder:-

Case of DAE
not of B-Tech

"V-Engineering Branch.

1. Grade 20 By selection on merit from among the members of the service in Grade-19 of the Engineering Branch with at least 17 years experience as such in Grade-17 and above."

8. The above rule envisages clearly that a person can be considered for promotion to BPS-20 in the Engineering Branch of Government of Sindh, subject to fulfilment of the condition of basic qualification of a professional engineer prescribed under Pakistan Engineering Council Act, 1976 and a diploma holder being not a professional engineer in terms of PEC Act, 1976 cannot hold a post carrying responsibilities of a qualified professional engineer. The eligibility of a person for promotion from BPS-19 to BPS-20 in the Engineering Department of Government of Sindh is subject to the fulfilment of the requirement of basic qualification with requisite experience as provided in SCUG Service Rules, 1982 in the relevant field therefore, neither any concession could be given to the petitioner in the matter of his eligibility to hold the post in BPS-20 nor the requirement of basic qualification could be relaxed by the Court or by Selection Board. The careful examination of rules on the basis of which petitioner asserted the claim of promotion to BPS-20 against the post carrying responsibilities of a professional engineer, would show that his claim was without any substance and that a diploma holder on the basis of his experience alone, would stand at par to a person registered as professional engineer with Pakistan Engineering Council."

18. The other case is a judgment of three members bench of this Court in the case of NAZIR-UL-HASAN & 2 OTHERS V/S SYED ANWAR IQBAL & OTHERS (2014 SCMR 1827). In this case, respondent No.1 was working as an Assistant Director BS-17. The petitioners were senior to him and were promoted to BS-18 despite the fact that petitioners were holding qualification of Diploma whereas respondent

96. ~~96~~

No.1 was Bachelor of Engineering (Electrical). The respondent No.1 challenged the promotions of petitioners in the High Court. The High Court set aside all promotions of petitioners on the ground that they did not hold valid engineering degree. This Court in the reported judgment has dealt with the matter and observed as follows:-

6. Admittedly the petitioners were Assistant Directors in the respondent Authority with at least 5 years service in the relevant field and hence in our opinion they fulfill the requirement. It would be seen that when the petitioners were considered for promotion in 2012 the rules in force were the Pakistan Standards Institution Recruitment Rules for class one posts wherein per rule 5 the post of deputy Directors to be filled in by promotion could be done from amongst Assistant Directors category one with at least 5 years service in the Institution. Nowhere in the said rules was it provided that they would be professional engineers or for that matter even diploma holders. If fact such condition is prescribed in rule 6 which provides for direct appointments whereby per the schedule to the same an Assistant Director must hold a Master's Degree in Science or Bachelors Degree in Engineering in the specified field from a recognized university with at least 3 years experience in that field etc. Admittedly, the petitioners were appointed by promotion and hence in our opinion no such condition can be placed upon them as in the case of a direct appointees. Insofar as the case of Muhammad Younus Aarain (supra) is concerned, the same is distinguishable on facts as therein it was found that under Sindh Council Unified Grades Services Rules the basic qualification for promotion to BS-20 was that the candidates should have B.Sc. Degree in Engineering. As observed above this is not the case in the present matter. It would further be seen that now per section 26 of the Pakistan Standards and Quality Control Authority Act, 1996 rules have been framed which have been notified in the official gazette on 15th May, 2013. Under Rule 5 promotion to the post in BS-1 to 19 shall be made on the basis of seniority-cum-fitness etc. and he or she should also fulfill the conditions contained in schedule to the rules according to which for promotion to the post of Deputy Director Technical the eligible person would be an Assistant Director Technical and he should have 5 years experience in BS-17 in technical matters. Nowhere has it been prescribed that he or she should be a qualified engineer.

7. In the circumstances, we find that the impugned order has unnecessarily been influenced by the comments of the Pakistan Engineering Council that no post carrying any Engineering responsibility could be entrusted to non-engineering graduates. In our opinion, it is for the department/institution itself to determine as to whether the persons in its service are fit to hold a particular position. In the present case it has been done by the

authority and rules have been framed thereunder which have been followed by the promotes/petitioners. Consequently the impugned order is set aside and the promotion of the petitioners is upheld."

19. On examination of above case law, we note that nowhere in the judgments, the government power to prescribe for qualification and other conditions of service for promotion to a post has been assailed nor the judgments have put any sort of embargo on the government in prescribing the qualification and other conditions of service for a post for the purpose of promotion. Having said this, the judgments as discussed above, have rather focused on the government power in this regard to be unfettered to the extent that it is not in derogation of any law or provisions of the Constitution.

20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultravires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the government exercises its own power under the domain of law with regard to promotion of civil

servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.

21. The PEC Act as its preamble itself shows so also reading of the whole Act shows that it essentially deals with regulations of engineering profession. In it, *inter alia*, it prescribes for qualification of professional engineers, maintenance of register of professional engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required. For example, technician, mechanic, draftsman, foreman,

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supervisor and overseer etc at best could be a skilled workman who may work independently or under the supervision of professional engineer and for such technician, mechanic, draftsman, foreman, supervisor and overseer, ^{etc} the employer may not require holding of professional engineering degree. However, if the person is required to perform any of professional engineering work as defined under the PEC Act, the provisions of this Act will come into operation for ensuring as the work of professional engineer can and only be performed by professional engineer as recognized by PEC Act. The professional engineering work has been clearly defined under section 2(xxv) of the PEC Act which has already been reproduced above and lays down in sufficient details the works which are noted to be as professional engineering works and such works as mandatorily required by the PEC Act to be performed by a professional engineer possessing accredited engineering qualification from accredited engineering institutions in Pakistan and abroad with experience and passing of test of the Council and no other person is allowed to perform professional engineering works be that be a diploma holder or B.Tech. degree holder. This aspect of the matter has been substantially addressed by the PEC Act itself when making provision of section 27(5A) that "no person shall unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work." Thus professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution.

ANNOUNCED IN OPEN COURT ON 03-10-2018

JUDGE
JUDGE

APPROVED FOR APPROVAL
RECEIVED
RECEIVED

25. The net result of above discussion is that this petition fails. It is
dismissed and leave refused, however with note of caution that
government shall not allow or permit any person to perform
professional engineering work as defined in the PEC Act, who does not
possess accredited engineering qualification from the accredited
engineering institution and his name is not registered as a registered
engineer or professional engineer under the PEC Act.

under PEC Act.
professional engineering work whose name is not borne on register
section 27 if they undertake or allow a person to undertake
and their employer would be liable to penalty as provided under
as prescribed in the PEC Act itself. This both civil servant/employee
perform professional engineering work, shall also be liable for penalty
person whose name is not, for the time being, borne on the Register to
employer who employs for any professional engineering work any
work if his name is not borne on the Register but it also makes the
for penalty for a person who undertakes any professional engineering
22. We may further observe that section 27 of the PEC Act provides

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IN THE PESHAWAR HIGH COURT PESHAWAR

W. P No. _____/2021

1. Aman Ullah S/O Hamesh, Sub Divisional Officer
2. Niaz Badshah, Sub Divisional Officer Irrigation sub division Charsadda.
3. Saif Ullah, Deputy Director at Jabba Dame
4. Javed Ahmad, Sub Divisional Officer Irrigation sub division Swabi
5. Muhammad Shoib, Sub Divisional Officer Irrigation sub division Haripur.
6. Khurshid Ahmad, Assistant Director Small Dam Abbottabad.
7. Jahan zeb, Assistant Director PHLC Swabi

(Petitioners)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil secretariat Peshawar.
2. Additional Chief Secretary P & D, Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Irrigation Civil Secretariat Peshawar.
4. Government of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat Peshawar.
5. Government of Khyber Pakhtunkhwa through Secretary Finance Civil Secretariat Peshawar.
6. Government of Khyber Pakhtunkhwa through Secretary Law Department Civil Secretariat Peshawar.

(Respondents)

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

Prayer in Writ Petition:

On acceptance of this Writ Petition an appropriate writ may please be issued declaring the acts and omission of the respondents by bulldozing the due process of amendments in reservation of Promotion quota for B.Tech Degree holders and DAE Diploma Holders, carried out in accordance with law and laydown procedure by placing the same to the committee which already finalized/notified by the competent authority is illegal, unlawful, without lawful authority and violative upon the rights of the petitioners, the honorable court may also declare the due process of amendment is done in accordance with law by fulfilling all the legal and codal formalities, furthermore respondents may also be direct to do the needful for publication of the notification in the official gazette if so required under the law. Or any remedy deem just and proper under the circumstances may also be allowed in favour of the Petitioners and against the respondents.

Respectfully Submitted:

1. That petitioners are the law abiding citizen of Pakistan and having every rights guaranteed by the constitution of Islamic Republic of Pakistan 1973.
2. That the petitioners are performing their duties as Assistant Engineer BPS-17 in the respondent department and performing their duties with great zeal and devotion to the entire satisfaction of their superiors without any complaint whatsoever regarding their performance.

3. That there was no promotion quota for the B.Tech degree holders and (DAE) diploma holders in the department who were performing their duties in a capacity of Assistant Engineers BPS-17 to Executive Engineers BPS-18 as they have no future prospects of promotion from BPS-17 to BPS-18.
4. That the Assistant Engineers BPs-17 submitted representation /application for reservation of promotion quota for B.Tech Degree holders and (DAE) Diploma Holders in the light of judgment dated 03.10.2018 of the Honourable Supreme Court of Pakistan in case titled Maula Bux vs Govt of Sindh and also on the analogy of different department of Sindh and Punjab Government. *(Copy of the representation and judgment dated 3.10.2018 are attached as annexure A & B).*
5. That the application/appeal of the petitioners was processed and a note was placed before the worthy Chief Secretary Khyber Pakhtunkhwa regarding the reservation of promotion quota from BPS-17 to BPS-18 for B.Tech Degree and Diploma Holders, upon which the chief secretary form a committee i.e. Standing Service Rules Committee, the establishment department upon the note of the worthy chief secretary recommended its placement before the Standing Service Rules Committee (SSRC), vide dated 29.04.2021 the committee/forum, after detailed discussion from various dimensions of career progression as well as abiding by the principle of equality and recommended for promotion to the next higher grade/post.
6. That Standing Service Rules Committee recommended the promotion to the higher grade by awarding 20% quota for promotion from BPS-17 to BPs-18 by giving future prospects of Promotion as 12% were reserved for B.Tech Degree holders and 8% reserved for Diploma Holders.
7. That before issuing minutes of the meeting of the SSRC, the BSc Engineers submitted the formal representation and protested against the decision of the committee, the Secretary Irrigation moved a note to the worthy chief secretary regarding

the reservation of quota under the TOR to review the decision of SSRC meeting, the proposed recommendation for the reserving quota of the deprived cadre of B.Tech and DAE working in various works department of the province and request for approval by constituting a committee under the chairmanship of Secretary Establishment. *(Copy of the note dated 17.06.2021 and minutes of the meeting of SSRC are attached as annexure C & D)*

8. That upon the note of Secretary Irrigation to the Worthy Chief Secretary the Establishment Department examine and further submit a note to the worthy chief Secretary regarding the reservation of quota for B.Tech Degree holders and DAE Diploma Holders, the administrative department proposed not to finalize the recommendation of the SSRC Committee and to constitute another committee to adjust the issue, whereas under Rule 3 (2) of the Khyber Pakhtunkhwa APT Rules 1989, stipulates the method of appointment qualification and other eligibility criteria for the post shall be such as laydown by the department concerned in consultation with the services and general administration department and the finance department and decline/did not support the proposal of the administrative department for the constitution of the new committee. *(Copy of the note dated 16.07.2021 is attached as annexure E).*
9. That the respondent department through Secretary Irrigation further move the note to the secretary Establishment for amendment in the existence service rules of irrigation department for approval of amendments in the light of the recommendation of SSRC duly vetted by the law department, the Establishment department in the light of instructions for amendment in the service rules of irrigation department duly recommended by the SSRC and vetted by Law Department approved the same under the standing procedure. *(Copy of the letter dated 11.08.2021 and 17.08.2021 are attached as annexure F & G).*

10. That in the light of the above recommendation and approval of the competent authority in accordance with law, rules and procedure the amendment was made and notified by the secretary irrigation in consultation with the establishment and finance department vide notification dated 24.08.2021. *(Copy of the notification dated 24.08.2021 is attached as annexure H).*

11. That the Secretary C & W who is BSc Engineer by qualification malafidely being biased on the subject matter as the issue relates to the BSc Engineers and B.Tech and Diploma Holders and their reservation of quota for promotion moved a biased note to the worthy Chief Secretary to revisit his earlier decision and to constitute another committee by challenging the competency of the approved recommendation of the competent forum/authorities in all aspects and also not to finalize or to notified the same in the official gazette. *(Copies of notification dated 07.09.2021 and note dated 31.08.2021 are attached as annexure I & J)*

12. That the Petitioners have not been dealt in accordance with law and malafidely with biased intention depriving the petitioners from their due right of promotion in accordance with law and having no other adequate and alternate remedy available in law is constrained to invoke the constitutional jurisdiction of this Honourable Court inter-alia on the following ground.

GROUND OF WRIT PETITION:

A. That the Petitioners have not been treated in accordance with law and their rights secured and guaranteed under the law have been badly violated.

B. That the amendment in service rules has made by the competent authority i.e. on the recommendation of SSRC which is duly approved by the competent authority while taking into consideration all the legal and required aspects for such reservation of Promotion quota, and the amendment was made after following all the legal and codal formalities.

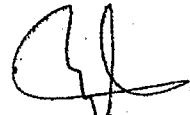
- C. That there was no future prospects of the Assistant Engineer BPS-17 of B.Tech Degree holders and DAE Diploma Holders to the next higher post of BPS-18 and they served the respondent department with all their capabilities since decades, which compel the respondents on amendments but now taking back the decision is against the law, violative upon the rights of the petitioners.
- D. That the Secretary C & W who is BSc Engineer by qualification malafidely being biased on the subject matter as the issue relates to the BSc Engineers and B.Tech and Diploma Holders and their reservation of quota for promotion moved a biased note to the worthy Chief Secretary to revisit his earlier decision and to constitute another committee by challenging the competency of the approved recommendation of the competent forum/authorities in all aspects and also not to finalize or to notified the same in the official gazette, which is illegal unlawful and against the law and violative upon the rights of the petitioners
- E. That the amendment so made in accordance with Rule 3(2) of the Khyber Pakhtunkhwa Civil Servant APT Rules 1989. Which stipulates that the method of appointment/qualification and other condition applicable to a post shall be such as laid down by the department concerned in consultation with the services and general administration department and the finance department.
- F. That the amendment so made in the promotion quota from the post of Assistant Engineer BPS-17 to Executive Engineers BPS-18 was duly amended with the consultation of the Establishment Department and Finance department, vetted by the law department as well as recommended by the forum competent for such matter i.e. SSRC duly attend the finality as approved by the competent authority and having its legal binding force.

- G. That the words used in the notification left no doubt that it was issued under Rule 3 (2) of APT Rules 1989, it is rather unjust and even unrealistic to treat such notification as administrative instruction and can be struck down at any time when it takes its legal effect and gets finality, when it is admittedly rescinded and replaced by the existing mode of promotion.
- H. That the Honourable Supreme Court of Pakistan in its reported judgment 2017 SCMR Page 2066 head note "D"
"Non publication in the official gazette failure to have the notification published in the official gazette would not shear it of its statutory status"
- I. That the process carried out for amendment while deserving quota for the B.Tech Degree and DAE Diploma Holders was done perfectly in accordance with law, rules and the laydown procedure, the inaction of the respondents seems to be a result of extreme malafide and biased intention and designed to promote favorites who are already enjoying much space for their promotion i.e. 80% quota, thus the decision to bulldoze the already due process done in accordance with law so made has no legal sanctity.
- J. That the decision of the respondent to deprive the petitioners of their genuine need of promotion in an unjust, arbitrary and illegal manner is constitutionally guaranteed rights of every citizen.
- K. That the mandate of the administrative department to frame rules to streamline and strengthen service requirements of departments and employees and the government business should not be used for the personal favor/agendas of an individual or service group.
- L. That the Petitioners seek the permission of this Honourable Court to rely on additional grounds at the hearing of the instant Petition.

INTERIM RELIEF:

By way of interim relief the respondents may kindly be restrained from withheld the recommendation of SSRC and notification of amendment till the final decision of this Writ petition.

It is, therefore, prayed that on acceptance of this Writ Petition an appropriate Writ as prayed for in the heading of this Petition may please be issued in favour of the Petitioners and against the respondents.



Petitioners

Through

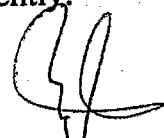
ZARAJ ANWAR
Advocate Peshawar

&

IMRAN KHAN
Advocate Peshawar

Certificate:

Certified that no writ petition on the same subject and between the same parties has been filed previously or concurrently.



Petitioner

②-8
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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 3943-P/2021

Mr. Aman Ullah, Sub Divisional Officer and othersPetitioners

Versus

Chief Secretary, Khyber Pakhtunkhwa and others Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01 TO 04

RESPECTFULLY SHEWETH:

Preliminary objections:

1. That the appellant has got no cause of action/locus standi because, the Irrigation Department, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 8% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSRC) (Annex-A).
2. That the Petitioners have not come to this court with clean hands.
3. That the Petitioners have concealed some material facts from this Hon'ble Court.
4. That the Petitioners are estopped by their own conduct to institute that instant Writ Petition.
5. That the Petitioners are disentitled for the relief claimed.
6. That this Hon'ble Court has no jurisdiction to entertain the instant petition under Article 212 of the Constitution of Islamic Republic of Pakistan.

ON FACTS

1. No Comments.
2. Pertain to the personal record of the Petitioners.
3. Correct.
4. Correct.
5. Correct. The Irrigation Department has convened a meeting of the SSRC, wherein after consultation with Establishment Department, Finance Department and Law Department, allocated 12% quota for promotion of Sub Divisional Officers (SDOs) having B-Tech Honor Degrees whereas 8% quota was reserved for promotion of Diploma Holder Sub Divisional Officers (SDOs).
6. As explained in Para-5 above.
7. Incorrect, hence denied. However, it is submitted that after agitation and formal representation submitted by the BSC Engineers, the Irrigation Department forwarded a proposal for Constitution of a Committee under the Chairmanship of Secretary Establishment Department in order to review the decision of the SSRC i.e. allocation of 12% quota for promotion of Sub Divisional Officers (SDOs) having B-Tech Honor Degrees and 8% quota for promotion of Diploma Holder Sub Divisional Officers (SDOs) but Establishment Department did not agree to the proposal.
8. As explained in Para-07 above.
9. Correct. The Administrative Department submitted a note to Secretary Establishment alongwith a copy of draft notification, duly vetted by the Law Department, for approval.
10. Correct. After approval of the Establishment Department, the Irrigation Department issued notification for amendments in services rules on 24.08.2021.
11. Relates to Secretary C&W Department, hence, no comments.
12. Incorrect, the petitioners have been dealt in accordance with law.

RE-FILED TODAY

Deputy Registrar

31 JAN 2022

FILED TODAY

Deputy Registrar


26 JAN 2022


Grounds:


- 9/10 (2) 8
- A. **Incorrect**, the petitioners have been treated in accordance with law and no law has been violated.
 - B. **Correct**, the service rules were amended after fulfillment of all codal formalities.
 - C. **Incorrect**, nothing is under consideration in this Department to reverse the decision of the SSRC.
 - D. **Relates to Secretary C&W Department, hence, no comments.**
 - E. **Correct**, the amendment in the service rules were made in accordance with Rule-03 (2) of the Khyber Pakhtunkhwa Civil Servants Appointment, Promotion and Transfer Rules, 1989.
 - F. **Correct.**
 - G. **Correct** but nothing is under consideration in this Department to reverse the decision of the SSRC.
 - H. **The Hon'ble Court can better interpret its judgment, hence, No Comments.**
 - I. **Correct** to the extent that amendment was done in accordance with law, rules and laid down procedure but there is no malafide intension involved.
 - J. **Incorrect**, no decision has been taken to deprive the petitioners from their genuine need of promotion.
 - K. **Correct** to the extent that this is the mandate of the Administrative Department to frame rules to stream line and strengthen service requirements of the Department and employees.
 - L. **That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Court.**


It is, therefore, requested that the writ petition being devoid of merits may be dismissed with cost.


Chief Secretary, Khyber Pakhtunkhwa
Respondent No. 1


Additional Chief Secretary to Govt. of
Khyber Pakhtunkhwa, P&D Department
Respondent No. 2


Secretary to Govt. of Khyber
Pakhtunkhwa, Irrigation Department
Respondent No. 3


Secretary to Govt. of Khyber
Pakhtunkhwa, Establishment Department
Respondent No. 4


FILED TODAY
Deputy Registrar
26 JAN 2022

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PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET.



Court of
Case No.

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	24.09.2021.	<p><u>WP No. 3943-P/2021.</u></p> <p><u>Present:-</u></p> <p>Mr. Zartaj Anwar Advocate, for the petitioners.</p> <p>Qazi Jawad Ehsanullah Advocate, for the applicants in CM No.1872-P/2021.</p> <p>****</p> <p>Let comments of respondents No.1 to 4 be called for, so as to reach this Court within a fortnight. Adjourned to <u>13.10.2021.</u></p> <p><u>Interim Relief.</u> Notice. Meanwhile, respondents shall continue with the process; however, no final order shall be passed.</p> <p><u>CM No.1872-P/2021.</u></p> <p><u>S M ATTIOUE SHAH , J:-</u> Through instant application (CM) applicants/petitioners seek their impleadment in the panel of respondents of main writ petition being necessary party. As such, this application is allowed and all the petitioners</p>

Attested
Zafar Ulla
ZAFAR ULLA
Superintendent (ES-1)
Estb: & Admn: Deptt
Civil Secretariat. KP

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ATTESTED
EXAMINER
Peshawar High Court

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mentioned in the application are impleaded as respondents being necessary parties in the main writ petition; with direction to the office to make necessary entries in this regard in the heading of the main writ petition with red ink. The impleaded respondents would be at liberty to file written reply if so desired.

JUDGE

JUDGE

No. 9328
 Date of Presentation of Application 06/10/21
 No of Pages 7
 Copying Fee 1
 Total 20
 Date of Preparation of 06/10/21
 Date of Delivery of Copy 06/10/21
 Received By Zafar Ullah

[Signature]
 RECEIVED
 06 OCT 2021

"A. Qayyum PS" (DD) *[Signature]* Hon'ble Mr. Justice S M Attique Shih & Hon'ble Mr. Justice Syed Arshad Ali.
[Signature]
ZAFAR ULLAH
 Superintendent (BS-17)
 Estb. & Admn: Deptt:
 Civil Secretariat, KP



113 7
②

GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

Dated Peshawar the 24th August, 2021

NOTIFICATION

No. SO(E)/IRRI/23-5/73/Vol-VI: In pursuance of the provisions contained in sub-rule (2) of rule-3, of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department, in consultation with the Establishment Department and Finance Department, hereby direct that in this Department's Notification No. SO(E)IRRI/23-5/73 dated 17.02.2011, the following further amendments shall be made namely:-

AMENDMENTS

In the APPENDIX,-

- (a) under the heading "PART-I ENGINEERING STAFF", against Serial No. 3, in Column No. 5, for the existing entries, the following shall be substituted, namely:-

5	
(a)	Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such and have passed the Professional or Revenue Examination under the prescribed rules;
(b)	twelve percent (12%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B. Tech (Hons) from a recognized University with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules; and
(c)	eight percent (08%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Diploma of Associate Engineering in (Civil, Mechanical, Auto and Electrical) Technology from a recognized Board of Technical Education with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules.
Note:	A separate seniority list of all the three categories of the Assistant Engineers, Sub Divisional Officers and Assistant Directors shall be maintained for the purpose of promotion"; and

Attested
SAFAR ULLAH
Superintendent (BS-17)
Estb: & Admn: Deptt
Civil Secretariat, KP

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-2-

(b) under the heading "PART-V DRAWING ESTABLISHMENT", against Serial No. 26, in Column No. 5, for the existing entries, the following shall be substituted, namely:


5	
(a)	Seventy percent (70%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Tracer who have qualified the prescribed Examination of Draftsman with three years service as such; and
(b)	thirty percent (30%) by initial recruitment".

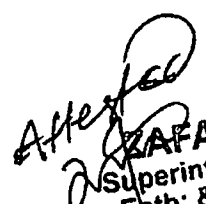
Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst: No and date even

Copy of the above is forwarded:-

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Additional Accountant General (PR, Sub Office), Peshawar.
6. All the Commissioners in Khyber Pakhtunkhwa.
7. The Chief Engineers (North)/South & Merged Areas) Irrigation Department, Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Irrigation Department, Peshawar.
15. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
He is requested to supply 200 copies of the printed gazette, for further distribution.
16. PA to Additional Secretary, Irrigation Department, Peshawar
17. PA to Deputy Secretary (Admn) Irrigation Department.


(ABDUL RAUF)
Section Officer (Estt)


RAFAR ULLAH
Superintendent (BS-17)
Estb. & Admn: Deptt:
Civil Secretariat. KP

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AUTHORITY LETTER

I, Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department do hereby authorize Mr. Zafar Ullah, Superintendent (BS-17) Litigation Section, Irrigation Department to file comments and make statement before the Peshawar High Court, Peshawar in connection with Writ Petition No.3943-P/2021 filed by Aman Ullah, SDO Vs Government of Khyber Pakhtunkhwa through Chief Secretary & others.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department
Secretary to
Govt of Khyber Pakhtunkhwa
Irrigation Department

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATIONS WORKS DEPARTMENT

O/o Spl. Secretary (Regulation)
Establishment Department
D.No. 19/116
Date 04/12/20

No. SOE/C&WD/12/2020
Dated Peshawar, the Dec 28, 2020

PS: Secy E&AD KF

1 The Secretary to
Govt of Khyber Pakhtunkhwa
Law Department, Peshawar

2 The Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department, Peshawar

AMENDMENTS IN THE APPOINTMENT AND RECRUITMENT RULES, 2010 OF THE
COMMUNICATIONS WORKS DEPARTMENT

Sir,
I am directed to refer a joint application dated 22/09/2020 submitted by Mr. Sher Wali & others B-Tech (Hons) Assistant Engineers, C&W Department for amendments in the existing service rules of C&W Department for the post of Research Officer (RR&MT Lab and Technical officers (BS-18) (Copy enclosed). In the application, it has mentioned that they were initially inducted/appointed as Sub Engineers in 1981 on the basis of Diploma of Associate Engineering (Civil) and after serving of decades were promoted as AE in 2016. In light of reserved quota for B-Tech (Hons) Sub Engineer, it has further mentioned that there is no further opportunity for promotion of B-Tech Holder Assistant Engineers, irrespective of the facts that they are otherwise eligible for promotion to BS-18 having Bachelor Degree in B-Tech Engineering.

In this connection, an application dated 19/11/2020 has been received from Khyber Pakhtunkhwa Association of Government Engineers (KPAGE) stating therein that B-Tech holders have submitted an application for promotion to the designated posts BS-18 of Engineers, which is against the Supreme Court of Pakistan judgment announced on 10/2018. It verdict may be perused as under (Copy enclosed).

The net result of above discussion is that this petition fails. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as registered engineer or professional engineer under the PEC Act.

In the application, it has further added that under Section 27 (1) & (2) of PEC Act, 1978 provides that the professional engineering works can only be executed by the "Professional Engineer" registered by the Council and Non-compliance to this section could attract penalties both, employer as well as for the legally ineligible and technically incompetent employee performing duties as pseudo Professional Engineer. In the last para, it has mentioned that decision of Apex Supreme Court of Pakistan and Pakistan Engineering Council Act, 1976 promoting B-Tech to BS-18 is clear violation and will aggrivate the aggrieved young engineers of C&W Department.

In light of aforesaid circumstance, the C&W Department is requested to tender suitable advice that as to whether the Department can make amendment in the existing service rules of C&W Department for promotion of B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the post of Research Officer (RR&MT Lab and Technical officers (BS-18) or otherwise please

Yours' faithfully

Zahoor Shah
28-12-2020
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

DR. K. S. I.

Copy sent to SOE with C&W Department Peshawar
is forwarded to PS to Secretary C&W Dept.

SECTION OFFICER (Estb)

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Section Officer (Opinion-II)

End of Section & File
Copy forwarded to the
I.P.S. to Secretary Law Department
2. P.A. to Law Officer Law Department

Section Officer (Opinion-II)

Yours Faithfully,

I am directed to refer to your Department's letter No.SOE(C&WD)/8-12/2020 dated 28.12.2020, on the subject noted above and to state that the Law Department has examined the case and is of the view that by virtue of Rule 3(2) of the Hyderabad Paktunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Administrative Department, in consultation with Establishment Department and Finance Department is empowered to lay down method of recruitment for the relevant posts in the department, to serve the purposes of the department, in public interest.

Dear Sir,

AMENDMENT IN THE APPOINTMENT AND RECRUITMENT RULE 2010 OF THE COMMUNICATION AND WORKS DEPARTMENT.

Subject:

Section Officer (Paid)

Attention:

The Secretary to Govt. of Hyderabad Paktunkhwa
Communication & Works Department

NO. SOE (C&WD) 8-12/2020-11
Dated: Hyderabad, the 3 February, 2021
1/186-22

GOVERNMENT OF HYDERABAD PAKTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT



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SECTION OFFICER (REG-V)

[Handwritten signature]

PS to Secretary, Establishment Department
PA to Deputy Secretary (R-III) Establishment Department

Forwarded to:

Sl. No. & Date

SECTION OFFICER (REG-V)
(Sultan Wazir Khan)

Yours faithfully,

I am directed to refer to your letter No. SOE/C&WD/8-12/2020 dated 2020 on the subject noted above and to state that as per rule-3 of the Civil Service (Appointment, Promotion & Transfer) Rules, 1989, the subject case may be referred to the Standing Service Rules Committee (SSRC).

AMENDMENT IN THE APPOINTMENT AND RECRUITMENT RULES, 2010 OF COMMUNICATION AND WORKS DEPARTMENT

The Secretary to Govt. of Khyber Pakhtunkhwa, Communication & Works Department

No. SOR-V(E&AD)/I-1/C&W/2019/404
Dated 28th January, 2021

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

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Say No to Corruption



No. OP-5 (105)/2019/219
GOVERNMENT OF SINDH
LAW, PARLIAMENTARY AFFAIRS
& CRIMINAL PROSECUTION
DEPARTMENT

Karachi, dated 18th June, 2019

To,

1. The Secretary Works & Services Department, Govt. of Sindh.
2. The Secretary, Local Government Department, Govt. of Sindh.
3. The Secretary, School Education & Literacy Dept., Govt. of Sindh.
4. The Secretary, Agriculture Department, Government of Sindh.
5. The Secretary, Industries Department, Government of Sindh.
6. The Secretary, Public Health Engineering Dept., Govt. of Sindh.
7. The Secretary, Irrigation Department, Government of Sindh.

SUBJECT: CMA NO. 10514, 10517, 10520, 10524, 10688, 10984 OF 2018 AND CRP NO. 824/2018 & COP NO. 11/2019 (FOR REVIEW OF JUDGMENT DATED 07.10.2018 PASSED BY SUPREME COURT OF PAKISTAN IN CP NO. 78-K/2015)

I am directed to refer to the above subject and to enclose herewith a copy of the advice bearing No. AG-3312 of 2019, dated 18th June, 2019, tendered by Advocate General Sindh, for acting upon the subject orders. By this advice, the learned Advocate General has provided elaboration to his earlier advice dated 16.01.2019. The present advice has addressed many points about admissibility of posting B. Tech (Hons.) degree holders as Engineers in the field and considering them for their subsequent promotions.

The opinion tendered by this Department and its legal team is the interpretation of laws, rules as per best of knowledge and skills.

19/6/2019

(ABDUL QAYYUM)
SECTION OFFICER (OPINIONS)
FOR SECRETARY TO GOVERNMENT OF SINDH

Encl. as above.

C.C to PS to Secretary, Law and Parliamentary Affairs Department, Govt. of Sindh.



HIGHER EDUCATION COMMISSION

Coordination Division

H-9, Islamabad, Pakistan

Telephone (051) 90401604 Fax (051) 90401602

URL: www.hec.gov.pk Email: sabbasi@hec.gov.pk

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No.15-54/Coord/HEC/(SAD)/2019/1069


December 8, 2021

NOTIFICATION

In pursuance of the 10th Accreditation and Equivalence Committee meeting held on November 17, 2021, HEC is pleased to modify the decision made in 8th Accreditation and Equivalence Committee Meeting regarding equivalence of B.Tech (Hons) with B.Sc (Engg)/Bachelor of Engineering, i.e. *'both degrees of B.Sc (Engg)/B.E Engineering and B.Tech (Hons.) are not equivalent but could be considered at par for employment, grade, promotion, etc in their respective cadre/streams.'* as under:

"Bachelor's degree in Engineering (minimum 16 years education) and bachelor's degree in equivalent technology (minimum 16 years education) are at par for recruitment, pay scales and grades".

02. This is issued with the approval of Competent Authority, HEC.


(Shanzaib Abbasi)
Director (Coordination)

NOTE FOR CHIEF SECRETARY

Subject: DEPARTMENTAL REPRESENTATION OF B.E./B.Sc GRADUATE ENGINEERS OF IRRIGATION DEPARTMENT REGARDING RESERVATION OF QUOTA FOR B. TECH (HONS) AND DIPLOMA HOLDER ASSISTANT ENGINEERS FROM BS-17 TO BS-18 IN LIGHT OF THE SUPREME JUDGMENT DATED 03.10.2018 IN C.P. NO. 78-K CASE TITLED "MAULA BUX VERSUS GOVT. OF SINDH

The B.E./B.Sc. Graduate Engineers of Irrigation Department submitted a departmental representation to the worthy Chief Secretary, Khyber Pakhtunkhwa against reservation of promotion quota for B. Tech (Hons) and Diploma Holder Assistant Engineers from BS-17 to BS-18 in light of the Supreme Court judgment dated 03.10.2018 in C.P. No. 78-K case titled "Maula Bux versus Govt. of Sindh". The Chief Secretary recorded the remarks on the representation that "Secretary Irrigation, Secretary C&W can you please look into it and discuss" (Flag-A).

2. In this connection it is submitted that earlier B. Tech (Hons) Degree Holder Assistant Engineers (BS-17) submitted a joint application to the Secretary Irrigation & Chief Secretary, Khyber Pakhtunkhwa for reservation of 20% quota for promotion to the post of Executive Engineer (BS-18), in light of the various judgments of the courts including the judgment referred in the subject cited above (Flag-B).

3. Furthermore, Establishment Department forwarded the joint application of B. Tech (Hons) Degree Holder Assistant Engineers/Sub Divisional Officer (BS-17) and recommended its placement before the Standing Service Rules Committee vide its letter No. SORR-V(E&AD)/7-1/General-Irr/2021 dated 21st April, 2021 (Flag-C).

4. Accordingly, the matter was placed before the Standing Service Rules Committee (SSRC) in its meeting held on 29th April, 2021. The forum, after discussing various dimensions of career progression as well as abiding by the principle of equity recommended as below for promotion to the next higher grade/post (Flag-F) on the analogy of Sindh Provinces and other Ministries/Departments of the Federal Government:

- i. 12% quota for Bachelor Tech (Hons) Degree Holders SDOs/Assistant Engineers; and
- ii. 8% quota for Diploma of Associate Engineers (DAE) Assistant Engineers/Sub Divisional Officers (BS-17).

5. Before issuance of the minutes of the meeting the B.E./B.Sc engineers protested against the decision of the SSRC and tried to influence the decisions of the forum including submitting a formal representation to the Chief Secretary.

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17-06-2021

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

6. Since the matter is disputed between two professional service groups of Irrigation Department; which also exists in various other Works Departments of the Provincial Government, and the matter entails legal interpretations, therefore, it is imperative to address the issue holistically/province-wise by constituting a committee under the chairmanship of Secretary Establishment comprising of the following:

1. Advocate General
2. Representative of Finance Department
3. Representative of Pakistan Engineering Council
4. Representative of National Technology Council
5. Secretaries to Govt. of Khyber Pakhtunkhwa Irrigation, C&W, PHE and LG&RDD
6. Special Secretary Regulations, Establishment Department would act as Secretary to the Committee

Terms of Reference of the Committee would be:

- i. Review decision of SSRC meeting of Irrigation Department held on 29th April, 2021;
- ii. Review various courts decisions and precedents for reservation of quota in other provincial or federal entities; and
- iii. Propose recommendations for reserving quota for the deprived cadre of B. Tech and DAE working in various works departments of the province.

Para 6/N is submitted for perusal and approval please.

PS/Secy ERAD KP
Diary No. 1526
FTS No. 12/06/21
Date 12/06/21

(Muhammad Tahir Orakzai)
Secretary Irrigation

Chief Secretary, Government of Khyber Pakhtunkhwa

Secretary Eptab:

1525
17-6-21

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Approved 01/1

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MINUTES OF THE STANDING SERVICE RULES COMMITTEE (SSRC) MEETING REGARDING AMENDMENTS IN THE EXISTING SERVICE RULES OF IRRIGATION DEPARTMENT HELD ON 29th APRIL, 2021 UNDER THE CHAIRMANSHIP OF SECRETARY IRRIGATION

A meeting of the Standing Service Rules Committee (SSRC) was held on 29th April, 2021 at 11:30 A.M under the chairmanship of Secretary Irrigation Department. The following attended the meeting:-

- | | |
|--|------------------|
| 1. Secretary Irrigation | Chairman |
| 2. Engr. Sahibzada Muhammad Shabir, C.E (South) | Member |
| 3. Muhammad Yousaf Khan, DS (R-III) Esst. Deptt. | Member |
| 4. Mr. Wasil Khan, Additional Secretary, Irrigation Deptt. | Secretary/Member |
| 5. Mr. Niamal Khan, SO (SR-II), Finance Department | Member |

2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The following agenda items were placed before the committee for consideration:-

Agenda Item No. 01

AMENDMENTS IN THE SERVICE RULES OF DRAWING ESTABLISHMENT (DRAFTSMAN BS-11) IN IRRIGATION DEPARTMENT

Agenda Item No. 02

AMENDMENTS IN THE SERVICE RULES FOR PROMOTION OF FIELD CHOWKIDAR TO THE POST OF GAUGE READER

Agenda Item No. 03

AMENDMENTS IN THE SERVICE RULES FOR RECRUITMENT OF SECURITY OFFICER

Agenda Item No. 04

AMENDMENTS IN THE SERVICE RULES OF IRRIGATION DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BS-18)

Agenda Item No. 1

The Chief Engineer (South) Irrigation Department presented the agenda item and submitted that the present service rules notified in 2011 for promotion of Draftsman at Sr. No:26 (part-V) of appendix is as under:-

- a. 50% by initial recruitment.
- b. 25% by promotion on the basis of seniority-cum-fitness, from amongst the Tracers having certificate of Civil draftsman course of two years duration from a recognized Board of Technical Education with three years service as such and
- c. 25% by promotion on the basis of seniority-cum-fitness, from amongst the Tracer who have qualified the prescribed Departmental Examination of Draftsman and having three years service as such.

Note:- If no suitable candidates available for promotion against the quota at (b) then the vacancy shall be filled in by the way as prescribed at (c) and Vice Versa.

MINUTES OF THE STANDING SERVICE RULES COMMITTEE (SSRC) MEETING REGARDING AMENDMENTS IN THE EXISTING SERVICE RULES OF IRRIGATION DEPARTMENT HELD ON 29TH APRIL, 2021 UNDER THE CHAIRMANSHIP OF SECRETARY IRRIGATION

A meeting of the standing Service Rules Committee (SSRC) was held on 29th April 2021 at 11:00 A.M under the chairmanship of Secretary Irrigation Department. The following attended the meeting:-

- | | |
|---|------------------|
| 1. Secretary irrigation | Chairman |
| 2. Engr. Sahibzada Muhammad Shabir, C.E (South) | Member |
| 3. Muhammad Yousaf Khan, DS (R-III) Estt: Deptt. | Member |
| 4. Mr. Wasil Khan, Additional Secretary Irrigation Deptt. | Secretary/Member |
| 5. Mr. Niamat Khan, SO(SR-III), Finance Department | Member |

2 The Meeting started with recitation from the Holy Quran. The chair welcomed the precipitants. The following agenda items were placed before the committee for consideration:-

Agendas Item No.01

AMENDMENTS IN THE SERVICE RULES OF DRAWING ESTABLISHMENT (DRAFTSMAN BS-11) IN IRRIGATION DEPARTMENT

Agendas Item No.02

AMENDMENTS IN THE SERVICE RULES FOR PROMOTION OF FIELD CHOWKIDAR TO THE POST OF GAUGE READER

Agendas Item No.03

AMENDMENTS IN THE SERVICE RULES FOR RECRUITMENT OF SECURITY OFFICER

Agendas Item No.04

AMENDMENTS IN THE SERVICE RULES OF IRRIGATION DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BS-18)

Agenda Item No.1

The Chief Engineer (South) Irrigation Department presented the agenda item and submitted that the present service rules notified in 2011 for promotion of Draftsman at Sr. No.26 (part-V) of appendix in as under:-

- 50% by initial recruitment
- 25% by promoting on the basis of seniority cum fitness, from amongst the Tracers having certificate of Civil Draftsman course of two years duration from a recognized Board of Technical Education with three years' service as such and
- 125% by promotion on the basis of seniority-cum-fitness, from amongst the tracer who have qualified the prescribed Departmental Examination of Draftsman and having three years Service as such.

Note if no suitable candidate is available for promoting against the quota at (b) then the vacancy shall be filled in by the way as prescribed at (c) and Vice Versa.

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He clarified that the fresh recruits, though having Civil Draftsman Course are not so capable to handle the related issues rather than the Tracers having practical experience in the department. After detailed discussion by the committee the following decision was taken:-

- a. 30% by Initial recruitment.
- b. 70% by promotion on the basis of seniority-cum-fitness, from amongst the tracer who have qualified the prescribed Examination of Draftsman and having three years service as such.

Agenda Item No. 02

AMENDMENTS IN THE SERVICE RULES FOR PROMOTION OF FIELD CHOWKIDAR TO THE POST OF GAUGE READER

The Chief Engineer (South) Irrigation presented the Agenda Item No. 2 that Under Sr. No. 60 of Appendix to the notification No. SO(E)IRR/23-5/73, dated 20.12.2006 the recruitment criteria for Gauge Reader BS-7 in Irrigation Department is as under:-

1. Minimum Qualification: SSC or equivalent qualification from recognized Institute or Board.
2. Age Limit: 18-30 year
3. Method of recruitment:
 - i). 50% by initial recruitment.
 - ii). 50% by promotion on the basis of seniority-cum-fitness from amongst the male, Regulation Beldar and Beldars having SSC qualification and ten years service in the Circle.

He clarified that Beldars, Chowkidars having SSC or higher qualification are also performing duties at various Gauge Station looking after the Gauges and assisting the Gauge Readers at sites and familiar with job but due to non existing of field Chowkidars promotion in the present Service Rules and requested the SSC that the field Chowkidar may be included in the Service Rules for promotion of Gauge Reader. The committee unanimously recommended the proposed amendment.

Agenda Item No. 03

AMENDMENTS IN THE SERVICE RULES FOR RECRUITMENT OF SECURITY OFFICER

The Chief Engineer (South) Irrigation has submitted that under Sr. No. 39 of Appendix to the notification No. SO(E)IRR/23-5/73, dated 20.12.2006 the appointment criteria for appointment of Security Officer is as under:

Security Officer	Retired Armed/Civil Armed Forces at least in the rank of Subedar with SSC qualification.	18-30 years	By Initial recruitment
------------------	--	-------------	------------------------

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He clarified that the fresh recruitees, though having Civil Draftsman course are not so capable to handle the related issues rather than the Tracers having practical experience in the department. After detailed discussion by the committee the following decision was taken:-

- a. 30% by initial recruitment.
- b. 70% by promotion on the basis of Seniority-cum-fitness, from amongst the tracer who have qualified the prescribed Examination of Draftsman and having three years service as such.

Agenda item No.02.

AMENDMENTS IN THE SERVICE RULES FOR PROMOTION OF FIELD CHOWKIDAR TO THE POST OF GAUGE READER

The Chief Engineer (South) Irrigation Department presented the Agenda item No.2 that under Sr. No.60 of Appendix to the notification No.SO(E)IRR:/23-5/73, dated 20.12.2006 the recruitment criteria for Gauge Reader BS-7 in Irrigation Department is as under:-

1. Minimum Qualification SSC or equivalent equalization from recognized institute or Board
2. Age limit 18-30 Year
3. Method of recruitment
 - i) 50% by initial recruitment
 - ii) 50% by promotion on the basis of seniority cum fitness from amongst the mate, Regulation Beldar and Beldars having SSC qualification and ten years service in the circle

He clarified that Beldars, Chowkidar, Chowkidars having SSC or higher qualification are also performing duties at various Gauge Station looking after the Gauges and assisting the Gauge Readers at sites and familiar with job but due to non-existing of field Chowkidar promoting in the present Service Rules and requested the SSRC that the field Chowkidar may be included in the Service Rules for promotion of Gauge Reader. The committee unanimously recommended the proposed amendment.

Agendas Item No.03

AMENDMENTS IN THE SERVICE RULES FOR RECRUITMENT OF SECURITY OFFICER

The Chief Engineer (South) Irrigation has submitted that under Sr. No.39 of Appendix to the notification No.SO(E)IRR/23-5/73 dated 20.12.2006 the Appointment criteria for appointment of Security Officer is as under:

Security Officer	Retired Armed/Civil Armed Forces at least in The Rank of Subedar with SSC qualification	18-30 Years	by initial recruitment
------------------	---	-------------	------------------------

He requested the recruitment of Security Officer from Armed/Civil Armed Forces and requested the SSRC to enhance the age for recruitment of Security Officer from 18-30 years to 30-45. The committee unanimously agreed with the proposal with the addition that the word subedar may be replaced with Junior Commission Officer (JCO).

Agenda Item No. 04

AMENDMENTS IN THE SERVICE RULES OF IRRIGATION DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BS-18)

The Section Officer (Estt) Irrigation Department has submitted that following criteria is adopted for promotion of Assistant Engineers/Sub Divisional Officer/Assistant Directors (BS-17) to the post of Executive Engineer/Deputy Directors/Technical Officer (BS-18).

Executive Engineer/Deputy Director/Technical Officer (BS-18)	By promotion on the basis of seniority-cum-fitness from amongst the Sub Divisional Officer, Assistant Engineers and Assistant Directors possessing Degree in B.E/BSc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules.
--	---

The B. Tech (Hons) Degree Holder Sub Divisional Officers (BS-17) have submitted a joint application for reservation of 20% quota for promotion to the post of BS-18, as the present service rules do not allow them to be promoted to the post of Executive Engineer (BS-18).

He further informed the forum that the B. Tech (Hons) degree holders have also submitted a joint application to the Chief Secretary, Khyber Pakhtunkhwa Establishment Department has examined their joint application and vide letter dated 21st April, 2021 advised the Irrigation Department to place the matter before the Standing Service Rules Committee (SSRC).

Therefore, the matter is placed before the SSRC to consider their request. The committee, after detailed discussion recommended the following amendments in the existing Service Rules:-

- i. 80% By promotion on the basis of seniority-cum-fitness from amongst the Sub Divisional Officer, Assistant Engineers and Assistant Directors possessing Degree in B.E/BSc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules.
- ii. 12% By promotion on the basis of seniority-cum-fitness from amongst the Sub Divisional Officer, Assistant Engineers and Assistant Directors possessing Degree in B. Tech (Hons) from a recognized University with at least five years service as such, and have passed the professional and Revenue Examination under the prescribed rules.

from Armed / Civil Armed force and requested the SSRC to enhance the age for recruitment of Security Officer from 18-30 years to 30-45. The committee unanimously agreed with the proposal with the addition that the word subedar may be replaced with Junior Commissioner Officer (JCO).

Agendas Item No.04

AMENDMENTS IN THE SERVICE RULES OF IRRIGATION DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BS-18)

The Section Officer (Estt) Irrigation Department has submitted that the following criteria is adopted for promotion of Assistant Engineer/sub Divisional Officer/ Assistant Director (BS-17) to the post of Executive Engineer/Deputy Directors/Technical Officer (BS-18).

Executive Engineer/Deputy Director/Technical Officer (BS-18)	By promotion on the basis of seniority-cum-fitness from amongst the sub Divisional officer, Assistant Engineers and Assistant Directors possessing Degree in B.E/BSc Engineering (Civil or Mechanical) from a recognized University, with at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules.
--	--

The B. Tech (Hon) Degree Holder Sub Divisional Officer (BS-17) have submitted a joint application for reservation of 20% quota for promotion to the post of BS-18, as the present service rules do not allow them to be promoted to the post of Executive Engineer (BS-18).

He further informed the forum that the B. Tech (Hons) degree holders have also submitted a joint application to the Chief Secretary, Khyber Pakhtunkhwa, Establishment Department has examined their joint application and vide letter dated 21st April, 2021 advised the Irrigation Department, to place the matter before the Standing Service Rules Committee (SSRC).

Therefore, the matter is placed before the SSRC to consider their request. The committee, after detailed discussion recommended the following amendments in the existing Service Rules:-

- i. 80% by promotion, on the basis of seniority-cum-fitness from amongst the Sub Divisional Officer, Assistant Engineers and Assistant Directors possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized university, with at least five years-service as such and have passed the professional or Revenue Examination under the prescribed rules.
- ii. 12% by promotion on the basis of seniority cum fitness from amongst the Sub Divisional Officer, Assistant Engineers and Assistant Directors possessing Degree in B. Tech (Hons) form a recognized University, with at least five Years Service as such and have passed the professional and Revenue Examination under the prescribed rules.


Divisional Officer, Assistant Engineers and Assistant Director possessing Diploma of Associate Engineering from a recognized Board, with at least five years' service as such and have passed the professional and Revenue Examination under the prescribed rules.


Note: Separate seniority lists of all the three categories of the Sub Divisional Officer/Assistant Engineers and Assistant Directors shall be maintained.

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


Muhammad Tahir Orakzal
Secretary Irrigation Department
(Chairman)


Engr. Sanibzade Muhammad Shabir
Chief Engineer, (South) Irrigation
(Member)


Mr. M. Younis Khan
Deputy Secretary (R-II) Estt Deptt
(Member)


Mr. Niamet Khan
Section Officer (SR-III), Finance Department
(Member)

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Divisional Officer, Assistant Engineers and Assistant Director Possessing Diploma of Associate Engineering from a recognized Board, with at least five years service as such, and have passed the professional and Revenue Examination under the prescribed rules.

Note Separate seniority lists of all the three categories of the Sub Divisional Officer/Assistant Engineers and Assistant Directors shall be maintained.

The meeting ended with a vote of thank from and to the chair

Sd/-
Muhammad Tahir Orakzai
Secretary Irrigation Department
(Chairman)

Sd/
Engr. Sahibzada Muhammad Shabir
Chief Engineer (South) Irrigation
(Member)

Sd/
Mr. M. Yousaf Khan
Deputy Secretary (R-III) Estt. Deptt
(Member)

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8. Note for Chief Secretary regarding reservation of quota for B.Tech (Hons) and Diploma Holder, Assistant Engineers from (BS-17) to (BS-18) in Irrigation Department has been examined.

9. In pursuance of (F/A), Irrigation Department placed the case before Standing Service Rules Committee (SSRC) for reservation of quota to B.Tech (Hons) Degree Holder, Assistant Engineers (BS-17) for promotion to the post of Executive Engineer (BS-18) in light of various judgments of the Courts (F/B). Standing Service Rules Committee in its meeting held on 29.4.2021 on the analogy of Sindh province and other Ministries / Departments of the Federal Government recommended 12% quota for B.Tech (Hons) and 8% for Diploma holder for promotion to the next higher grade/post (F/D). the Administrative Department is of the view that due to the protest of B.E/B.Sc Engineers, the recommendation of the Standing Service Rules Committee could not be finalized and proposed to constitute another committee to address the issue as per Para 6 ante.

10. in this connection it is pointed out that rule-3(2) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stipulates that "the method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department".

11. In light of the rule ibid, it is the mandate of the Administrative Department to frame rules to streamline and strengthen service requirements of the departments and employees. Moreover, government business should not be used for the personal favour / agendas of an individual or service group and should be disposed of in the light of existing Laws and Rules etc. If the department intends to hold meeting of Standing Service Rules Committee, Establishment Department will assist and add the Administrative Department within the legal frame work. Therefore, Establishment Department does not support the proposal of the Administrative Department contained at Para-6 of the Note.

12. However, the Administrative Department needs to dispose of the matter in the light of existing Service Rules.

(Mufahar Zeb)
Secretary Establishment
16 July 2021

19/7/21
26/7/21
PS/Secy E&AD KP
Copy No. 1526

FIS No. 11/7/21

Date: 16/7/21

2/7/21

O/o Spl. Secretary (Regulation)
Establishment Department

D.No. 2678

Date 12-08-2021

Handwritten signature

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

IRR-107-80-00097

Adit. Secretary (Regulation-III)
Establishment Department

to: *SSC*
Director, Irrigation

NOTE FOR SECRETARY ESTBALISHMENT, GOVERNMENT OF KHYBER
PAKHTUNKHWA

Subject: AMENDMENTS IN THE EXISTING SERVICE RULES OF THE
IRRIGATION DEPARTMENT NOTIFIED ON 20.12.2006 & 17.02.2011

In order to amend the existing Service Rules of Irrigation Department notified on 20.12.2006 & 17.02.2011 (Annex-I & II), Standing Service Rules Committee (SSRC) in its meeting held on 29.04.2021, under the chairmanship of Secretary Irrigation, recommended certain amendments in the existing Service Rules of Irrigation Department, minutes of SSRC meeting are at Annex-III.

In the light of recommendations of SSRC, a draft notification was prepared and forwarded to the Law Department for vetting. In response, Law Department has forwarded vetted copy of the notifications (Annex-IV & V).

Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department, being Competent Authority (Annex-VI), is requested to approve the amendments in the said Service Rules as recommended by the Standing Service Rules Committee and vetted by the Law Department, please.

RECEIVED
Diary No. 1908
FTS No. 12-08-21
Date:

1974
17-08-2021

Signature
(Muhammad Tahir Orakzai) 11/08/21
Secretary Irrigation

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA,
ESTABLISHMENT DEPARTMENT.

P.T.O

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4. In light of Instructions (Annex-VI), the amendments in the Service Rules of Irrigation Department duly recommended by SSRC and vetted by Law Department placed at (Annex-IV & V) are hereby approved.

sdg

Secretary Establishment
16th August, 2021

Secretary Irrigation Department

5.

*To further up a
as per standard
procedures.*

AS

[Signature]
17/8/21

PS/Secy Establishment
Diary No. 1903
FTS No. 16-8-21
Date



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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

Dated Peshawar the 24th August, 2021

NOTIFICATION

No. SO(E)/IRRI/23-5/73/Vol-VI: In pursuance of the provisions contained in sub-rule (2) of rule-3, of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department, in consultation with the Establishment Department and Finance Department, hereby direct that in this Department's Notification No. SO(E)IRR/23-5/73 dated 17.02.2011, the following further amendments shall be made namely:-

AMENDMENTS

In the APPENDIX,-

- (a) under the heading "PART-I ENGINEERING STAFF", against Serial No. 3, in Column No. 5, for the existing entries, the following shall be substituted, namely:-

5	
"(a)	Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such and have passed the Professional or Revenue Examination under the prescribed rules;
(b)	twelve percent (12%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B. Tech (Hons) from a recognized University with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules; and
(c)	eight percent (08%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Diploma of Associate Engineering in (Civil, Mechanical, Auto and Electrical) Technology from a recognized Board of Technical Education with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules.
Note:	A separate seniority list of all the three categories of the Assistant Engineers, Sub Divisional Officers and Assistant Directors shall be maintained for the purpose of promotion"; and

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13/1

(b)

under the heading "PART-V DRAWING ESTABLISHMENT", against Serial No. 26, in Column No. 5, for the existing entries, the following shall be substituted, namely:

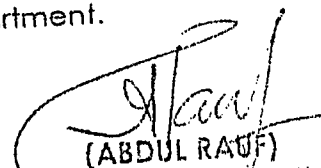
5	
(a)	Seventy percent (70%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Tracer who have qualified the prescribed Examination of Draftsman with three years service as such; and
(b)	thirty percent (30%) by initial recruitment".

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst: No and date even

Copy of the above is forwarded:-

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
 2. The Secretary to Governor, Khyber Pakhtunkhwa.
 3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
 4. The Accountant General, Khyber Pakhtunkhwa.
 5. The Additional Accountant General (PR, Sub Office), Peshawar.
 6. All the Commissioners in Khyber Pakhtunkhwa.
 7. The Chief Engineers (North)/South & Merged Areas) Irrigation Department, Khyber Pakhtunkhwa.
 8. All Deputy Commissioners in Khyber Pakhtunkhwa.
 9. The Registrar, Peshawar High Court, Peshawar.
 10. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
 11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
 12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
 13. PS to Chief Secretary, Khyber Pakhtunkhwa.
 14. PS to Secretary Irrigation Department, Peshawar.
 15. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
- He is requested to supply 200 copies of the printed gazette, for further distribution.
16. PA to Additional Secretary, Irrigation Department, Peshawar
 17. PA to Deputy Secretary (Admn) Irrigation Department.


(ABDUL RAUF)
Section Officer (Estt)
24/8/21



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

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Dated Peshawar the 24th August, 2021

NOTIFICATION

No. SO(E)/IRRI/23-5/73/Vol-VI: In pursuance of the provisions contained in sub-rule (2) of rule-3, of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department, in consultation with the Establishment Department and Finance Department, hereby direct that in this Department's Notification No. SO(E)IRR/23-5/73 dated 20.12.2006, the following further amendments shall be made namely:-

AMENDMENTS

In the PROFORMA:-

- (a) against Serial No. 39:-
(i) In Column No. 3, for the work "Subdedar", the words "Junior Commission Officer" shall be substituted; and
(ii) In Column No. 4, for the existing entry, the following shall be substituted, namely:

"30-45 years", and

- (b) Against Serial No. 60, in Column No. 5, for the existing entries, the following shall be substituted, namely:

5	
"(a)	Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Mate, Regulation Eeldar, Beldar and Field Chowkidar having Secondary School Certificate or its equivalent qualification from a recognized Board with ten years service in the Circle; and
(b)	Fifty percent (50%) by initial recruitment".

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst: No and date even

Copy of the above is forwarded:-

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Additional Accountant General (PR, Sub Office), Peshawar.
6. All the Commissioners in Khyber Pakhtunkhwa.
7. The Chief Engineers (North)/South & Merged Areas) Irrigation Department, Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Irrigation Department, Peshawar.
15. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
He is requested to supply 200 copies of the printed gazette, for further distribution.
16. PA to Additional Secretary, Irrigation Department, Peshawar
17. PA to Deputy Secretary (Admn) Irrigation Department.


(ABDUL RAUF)
Section Officer (Estt)



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

Dated Peshawar, the 07th September, 2021

NOTIFICATION

No.SOR-V(E&AD)7-1/2021: In order to address the issues of B.Sc/B.Tech Engineers, the competent authority is pleased to constitute a Committee comprising of the following:-

- | | |
|--|----------|
| i. Additional Chief Secretary P&D Department | Chairman |
| ii. Principal Secretary to Chief Minister Khyber Pakhtunkhwa | Member |
| iii. Secretary, Establishment Department | Member |
| iv. Secretary, Law Department | Member |
| v. Co-opted Member as deemed by the Committee | Member |

TORs of the Committee

- To consider various aspects of the issue in the prevailing circumstances of B.Sc/B.Tech Engineers.
- To look into the various Courts judgments passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- To consider the issue in the light of available Service Rules.
- To consider any other issue pertaining to the subject matter.
- The committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days.

Chief Secretary
Khyber Pakhtunkhwa

Endst: No. & Date even.

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department
4. Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
5. PS to Chief Secretary Khyber Pakhtunkhwa.
6. PS to Secretary, C&W Department.
7. PS to Secretary, Irrigation Department.
8. PS to Secretary, PHE Department.


DEPUTY SECRETARY (REG-III)

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10. Note for Chief Secretary moved by Irrigation Department has been examined.


11. As per discussion and to address the issue a committee comprising of the following is constituted: -

- | | | |
|------|--|----------|
| i. | Additional Chief Secretary, P&D Department | Chairman |
| ii. | Principal Secretary to Chief Minister, Khyber Pakhtunkhwa | Member |
| iii. | Secretary, Establishment Department,
Government of Khyber Pakhtunkhwa | Member |
| iv. | Secretary, Law Department | Member |
| v. | Co-opted Member as deemed by the committee | Member |

ToRs of the Committee

- To consider various aspects of the issue in the prevailing circumstances of B.Sc/B.Tech Engineers.
- To look into the various Courts Judgments passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- To consider the issue in the light of available Service Rules.
- To consider any other issue pertaining to the subject matter.
- The committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days.

Chief Secretary/Khyber Pakhtunkhwa


(Zakir Hussain Afridi)
Secretary Establishment
7, September, 2021

Approved. pl notify

