

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 412/2019

Date of Institution ... 01.04.2019

Date of Decision ... 31.01.2022

Syed Jamal Shah, Librarian Government College of Technology, Tangi, District Charsadda. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Industry Commerce and Technical Education Department, Peshawar & Others. ... (Respondents)

Mr. Zartaj Anwar,
Advocate

... For Appellant

Mr. Muhammad Adeel Butt,
Additional Advocate General

... For respondents No. 1 to 3.

Mr. Ali Gohar Durrani,
Legal Advisor,

... For respondent No. 4.

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall

dispose of instant service appeal as well as the following connected service appeals, as common questions of law and facts are involved therein:-

1. Service Appeal No. 410/2019 titled Javed Iqbal,
2. Service Appeal No. 411/2019 titled Alamgir Shah,
3. Service Appeal No. 424/2019 titled Sultan Muhammad
4. Service Appeal No. 425/2019 titled Muhammad Akram
5. Service Appeal No. 426/2019 titled Abdul Aziz
6. Service Appeal No. 427/2019 titled Khalid Saleem

02. The appellants in the instant service appeal and the connected service appeals are Librarians-BPS-17 and Director Physical Education (DPE) BPS-17. Both are employees of respondent No. 1 and both the cadres are sailing in the same boat with respect to the issue in hand. Briefly stated facts of the case are that the appellants were initially appointed as Librarian/DPEs BPS-16 on regular basis. The posts in respect of both the cadres were up-graded to BPS-17 vide order dated 15-08-2008 only for those holding the requisite qualification, but later on such posts were up-graded on regular basis to BPS-17 vide notification dated 23.02.2011 but with immediate effect, which however was required to be affected from the date of acquiring the prescribed degree. Feeling aggrieved, the appellants filed departmental appeals followed by Service Appeal No. 1342/2011 by Librarians and Writ Petition No. 4137-P/2016 by DPEs. The Service Tribunal as well as the High Court accepted their appeals vide judgment dated 08-06-2015 by the service tribunal and vide judgment dated 05-09-2017 by the High Court. The respondents challenged the judgment of Service Tribunal before the august Supreme court in Civil Petition Nos. 415 to 424, 426 to 438, 511 to 514-P of 2015, which were dismissed vide judgment dated 06.05.2016, hence the respondents did not prefer to contest the judgment of High, hence the respondents allowed up-gradation from the date of acquiring the requisite qualification vide order dated 28.09.2016. The episode went well to the extent of up-gradation from the date of acquiring the prescribed qualification, but on the other hand, the Government Of Khyber Pakhtunkhwa vide notification dated 27.02.2006 had approved placement of 25 % of the sanctioned posts of Librarians/DPEs BPS-16 in BPS 17 and 25% from BPS-17 to Senior Scale BPS 18. Other colleagues of the appellants were allowed senior scale BPS-18 and the appellants on the same analogy, submitted appeals before the respondents, which was worked out by the respondent department and out of sanctioned posts, five posts falling to the share of BPS-18 @ of 25% of sanctioned posts, but as a result of afterthought, the same was refused to the appellants. Feeling

aggrieved, the appellants filed departmental appeal dated 05.12.2018, which was not responded within statutory period, hence the present appeals with prayers to allow the appellants seniority/promotion to BPS-18 from the date of entitlement alongwith all consequential benefits on the basis of 25% promotion quota of sanctioned posts from BPS-17 to 18 on the strength of notification dated 27-02-2006 as similar relief has already been granted to the colleagues of the appellants.

03. Learned counsel for the appellants has contended that the respondent department extended the benefit of BPS-18 on regular basis against the existing vacancies to other Librarians namely Sarwar Ullah and Ali Akbar while the appellants has been discriminated; that the appellants were holding the requisite qualification, hence after serving for more than five years as such, they were entitled to Senior Scale BPS-18 as per notification dated 27-02-2006; that even in a judgment reported as PLD 2013(SC)-195 the august Supreme Court has held that the statutory provisions, rules regulation which govern the matter of appointment of Civil Servants must be followed honestly and scrupulously; that respondent have discriminated the appellants by allowing promotion to their other colleagues and refusing the same to the appellants.

04. Learned Additional Advocate General appearing on behalf of the respondents has contended that previously the posts of Librarians/DPEs were in BPS-16. There was no further structure available for their promotion and keeping in view this hardship, the Government of Khyber Pakhtunkhwa Industries, Commerce & Technical Education Department vide its notification dated 27.02.2006 devised a structure for them whereby 25% of the total sanctioned posts of Librarians/DPEs BPS-16 were placed in BPS-17 while 25% of BPS-17 of the same cadres were placed in BPS-18. However, later on, all the posts of Librarians/DPEs BPS-16 were upgraded to BPS-17 vide Notification dated 15.08.2008 and 23-02-2011 and now none of these posts exists in BPS-16. Now

due to changed positions of the posts, a question arises that in the absence of BPS-16, how 25% of the posts in BPS-17 is to be allocated for further 25% allocation in BPS-18; that in pursuance of the judgment of this Tribunal the appellants were allowed BPS-17 from the date of appointment with all benefits for having acquired Master Degree in Library Science; that so far as promotion to the post of Senior Scale BPS-18 is concerned, the department has no justification for creation of posts in BPS-18; that the appeal being devoid of merit may be dismissed. Learned counsel for respondent No.4 relied upon the arguments of learned Additional Advocate General.

05. We have heard learned counsel for the parties and have perused the record.


06. Crux of the issue is that the appellants being Librarians/DPEs in BPS 17 against regular sanctioned posts, has invoked jurisdiction of notification dated 27.02.2006, which allows placement of 25% of the sanctioned posts of Librarians/DPEs BPS-16 in BPS-17 and 25% of BPS-17 posts of the same cadres in BPS-18. The respondents had already exercised the formula by granting promotions against posts falling in the share of 25% and vide notification dated 28-04-2014 had promoted other colleagues of the appellants. Record would suggest that the respondents had also processed case of promotion of appellants at some length, which would show that 5 posts are falling to the share of the appellants and the appellants are otherwise fit for promotion in respect of seniority and qualification, but the respondents at a belated stage realized that since the notification dated 27-02-2006 was a hardship incentive at the time, when the post of librarian was in BPS-16 and now the post is upgraded to BPS-17, in a situation, the incentive falling in the share @ 25% of BPS-16 vanished away, but the respondents deliberately avoiding the share @ 25% of BPS-17 to BPS-18, which is still intact, as the said notification is neither rescind nor superseded and is still in field and it would be interesting to note that

respondents had already made promotions in pursuance of the notification dated 27-02-2006, even after up-gradation of post to BPS-17, hence contention of the respondents does not hold ground. In a situation, denial of right of promotion would be discriminatory to the effect, that similar relief had already been granted to similarly placed employees against their existing vacancies, which does not require creation of posts, hence concern of the respondents regarding creation of posts is not tenable. Equity and fair play demands that the appellants also deserve the same treatment being the senior most and otherwise eligible.

07. In view of the above, instant appeal as well connected appeals are accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

ORDER
31.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, learned Additional Advocate General for official respondents No. 1 to 3 present. Mr. Ali Gohar Durrani, legal Advisor for respondent No. 4 present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant service appeal as well connected service appeals are accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

To,

The Secretary of Govt of Khyber Pakhtunkhwa Industries Commerce
& Technical Education Department

THROUGH PROPER CHANNEL

Subject: **APPEAL FOR GRANTING OF PROMOTION TO B.P.S-18 FROM
THE DATE OF ENTITLEMENT**

With due reverence it is stated that vide judgment of honorable supreme court through CP No.513-P/2015 and judgment of service tribunal Khyber Pakhtunkhwa through appeal No 1351/2011 has granted B.P.S-17 regular with all back benefits to petitioner (judgment of the courts attached as annex A and B).

The industries department implemented such judgment in favor of petitioner vide Notification No. SOIII (IND) 1-6/2014 dated 28th september 2016. (Notification attached as annexure "C")

While promotion from 15th August 2008 because from such date all the sanction post of librarians have upgraded to BPS-17 regular (Notification attached Annex "D") or date of entitlement, however whichever is earlier/entitle with all entitled back benefits in B.P.S-18 as a placement at the ratio of 25% on the nineteen sanctioned posts are as per available record detail accordingly to the notification No.III(IND)TE/4-13/2006 Dated: 27th Feb 2006 is still awaited (Notification entitle is annex "E"). In spite of it that similar relief has already granted to the colleagues of the petitioner on regular charge basis against the existing vacancy in same as well as in the other departments by the increase ratio from 25% to 33%. So according to the rules the petitioner is also entitled for the same relief as granted to the colleagues of the petitioner. (Documents attached of Annex "F" & "G")

But it is worth to say that repeatedly reluctant to stop the petitioner from the promotion in B.P.S-18 from the date of entitlement with all entitled back benefit in BPS-18, like such as minutes issued by the finance department vide letter No.SO/FB/FD/7-1/2017/6271 dated 22/11/2018 to secretary industries regarding creation of posts for librarian in BPS-18 Presently and not from the date of entitlement which is against the constitution of the republic of Pakistan 1973.

Therefore it is requested in your honor that promotion in B.P.S18 to petitioner from the date of entitlement with all back benefits according to the honorable court judgments may please to be granted and also redress the seniority of the petitioner from the date of granted BPS-17 for such promotion. I shall be very thankful to you for this very act of consideration.

Your's Sincerely



Syed Jamal Shah
Librarian

Government College of Technology
Tangi

18.01.2022

Mr. Zartaj Anwar Advocate for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for official respondents No. 1 to 3 present. Mr. Ali Gohar Durrani, Legal Advisor for respondent No. 4 present.

Arguments heard. To come up for order before the D.B 28.01.2022.

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


Chairman

28.01.2022

Mr. Zartaj Anwar Advocate for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for official respondents No. 1 to 3 present. Mr. Ali Gohar Durrani, Legal Advisor for respondents No. 4 present.

Order could not be announced, due to paucity of time. To come up for order before the D.B on 31.01.2022.

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


Chairman

02.06.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt learned Additional Advocate General for respondents No. 1 to 3 present. Junior to counsel for respondent No.4 present.

Senior counsel for appellant was stated to be busy in Peshawar High Court Peshawar. Junior to counsel for respondent No.4 also made a request for adjournment as senior counsel is busy before Peshawar High Court Abbottabad Bench; granted. To come up for reply/arguments on 16.09.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

16.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional A.G for respondents present. Babar Khan Durrani Advocate junior to counsel for respondent No.4 present.

File to come up alongwith connected Service Appeal No.410/2018 titled Javid Iqbal Vs. Government of Khyber Pakhtunkhwa, on 18.01.2022 before D.B.



(Rozina Rehman)
Member (J)

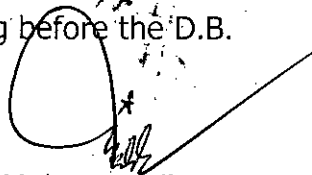


Chairman

01.10.2020

Junior to counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present.

Request for adjournment is made due to engagement of learned senior counsel before the Hon'ble High Court in many cases today. The matter is adjourned to 22.12.2020 for hearing before the D.B.


(Mian Muhammad)
Member (Executive)


Chairman

21.12.2020

Junior to counsel for the appellant present. Addl: AG for respondents present.

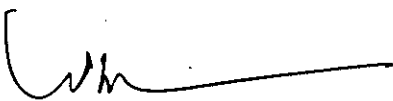
Due to pandemic of Covid-19, the case is adjourned to 22.03.2021 for the same.


Reader

22.03.2021

Counsel for the appellant and Asif Masood, DDA for respondents No. 1 to 3 and Junior to counsel for respondent No. 4 present.

It is stated that learned counsel for respondent No. 4 is busy before the Honourable High Court in various cases today. A request for adjournment is accordingly made. Adjourned to 02.06.2021 for hearing before the D.B.


(Atiq-ur-Rehman)
Member(E)


Chairman

28.02.2020

Junior to counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not available today. Adjourn. To come up for arguments on 14.04.2020 before D.B.



Member



Member

14.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 03.07.2020 before D.B.



Reader

03.07.2020

Due to COVID19, the case is adjourned to 01.10.2020 for the same as before.



Reader

15.11.2019

Junior to counsel for the appellant and Addl. AG alongwith Sajid Superintendent and Shahab Khattak, Legal Advisor for the respondents present.

The Worthy Chairman is on leave, therefore, the matter is adjourned to 17.12.2019 for the same.


Reader

17.12.2019

Junior to counsel for the appellant and Mr. Shahab Khattak, Legal Advisor for the respondents present.

Learned Legal Advisor requests for further time to furnish the reply/comments. Last opportunity is granted. To come up for written reply/comments on 29.01.2020 before S.B.


Chairman

29.01.2020

Appellant in person present. Written reply not submitted. Shahab Khattak Legal Advisor representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 05.03.2020 before S.B.

Member



Member

26.07.2019

Counsel for the appellant, Mr. Usman Ghani, District Attorney alongwith Sajid, Supdt. for respondents No. 1 to 3 and counsel for respondent No. 4 present.

Learned counsel for respondent No. 4 requests for further time to submit the requisite reply/comments. A similar request is made by learned District Attorney on behalf of respondents No. 1 to 3.

Adjourned to 13.09.2019 before S.B.


Chairman

13.09.2019

Junior to counsel for the appellant and Addl. AG alongwith Shahab Khattak, Legal Advisor and Sajid Superintendent for the respondents present.

Representatives of the respondents seek further time to submit reply of the respondents. Adjourned to 11.10.2019 on which date the requisite reply/comments shall positively be submitted.

Chairman 

11.10.2019

Counsel for the appellant and Addl. AG for the respondents.

Learned AAG requests for further time for submission of reply/comments. Adjourned to 15.11.2019 on which date requisite reply/comments shall positively be submitted.

Chairman 

12.06.2019

Counsel for the appellant present.

Contends that the appellant was allowed BPS-17 from the date of his appointment as Librarian through order dated 28.09.2016. The Government of Khyber Pakhtunkhwa issued notification on 27.02.2006, whereby, approval was granted to the placement of 25% of sanctioned posts of Librarians BPS-16 in BPS-17 and 25% of the BPS-17 post in BPS-18. On 24.01.2018, the Director Admin/HR Technical Education and Vocational Training Authority Peshawar, confirmed that there were total 19 sanctioned posts of Librarians BPS-17 out of which five (05) posts fell to the share of Senior Scale Librarians BPS-18. The appellant submitted departmental representation for grant of promotion to BPS-18 from the date of entitlement but to no avail. Further contends that the appellant is otherwise eligible for promotion to BPS-18.

Instant appeal is admitted for regular hearing in view of the arguments of learned counsel. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 26.07.2019 before S.B.

Appellant Deposited
Security & Process Fee




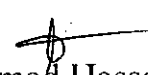
20/6/19

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 412/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/04/2019	<p>The appeal of Syed Jamal Shah presented today by Mr. Zartaj Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 01/04/2019</p>
2-	01/04/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22/04/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	22.04.2019	<p>Counsel for the petitioner and Addl: AG for respondents present. Learned counsel for the petitioner seeks adjournment. Adjourned. Case to come up for further proceedings on 23.04.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>
	23.04.2019	<p>Appellant in person present and submitted copy of seniority list which is placed on file. Case to come up for preliminary hearing on 12.06.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 412/2019

Syed Jamal Shah Librarian Govt College of Technology, Tangi,
District Charsadda.

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Industry Commerce
and Technical Education Department Peshawar and others.

(Respondents)

INDEX

S.No	Description of Documents	Annexure	Page No.
1	Memo of Appeal		1-6
2	Affidavit		7
3	Copy of the notification dated 23.02.2011	A	8-9
4	Copy of the order dated 08.06.2015	B	10-14
5	Copy of the Judgment / order dated 06.05.2016	C	15-16
6	Copy of notification dated 28.09.2016	D	17
7	Copy of the notification dated 27.02.2006	E	18
8	Copy of Notification date 15.08.2008	F	19
	Copy of the summery dated 14.03.2014	G	20-25
	Copy of the latter dated 21.12.2017 and 24.01.2018	H,I	26-27
	Copy of the Departmental Appeal	J	28
	Other Documents		29-31
9	Vakalatnama		32



Appellant

Through



ZARTAJANWAR
Advocate Peshawar

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 412/2019

Diary No. 498

Dated 01/4/2019

Syed Jamal Shah Librarian Govt College of Technology,
Tangi, District Charsadda.

(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary Industry Commerce and Technical Education Department Peshawar.
2. Govt of Khyber Pakhtunkhwa through Secretary Finance Khyber Pakhtunkhwa, Peshawar
3. Govt of Khyber Pakhtunkhwa through Secretary Establishment Department Peshawar.
4. Managing Director Khyber Pakhtunkhwa TEVETA Head quarters Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for allowing / antedating Seniority / Promotion to BPS-18, against which his Departmental Appeal dated 05.12.2018 was not responded despite the lapse of 90 days.

Filed to-day

Registrar

01/4/2019

Prayed in Appeal:

On acceptance of this Appeal the respondents may kindly be directed to allow the appellant seniority / promotion to BPS-18 on the basis of 25 % promotion Quota of sanctioned posts from BPS 17 to BPS 18 in the light of Notification date 27.02.2006 as similar relief has been granted to the colleagues of the appellant with all arrears and benefits.

RESPECTFULLY SUBMITTED:

1. That initially the Public Service Commission advertised different posts of librarian BPS-16 on regular basis with the prescribed qualification of Bachelor in library Sciences, the appellant applied for the post with the qualification of M.L.I.Sc, the appellant remained successful in the selection process and was recommended to the Govt for appointment on 20.11.1993 against the post of Librarian BPS-16.
2. That in different Departments of Provincial and Federal Govt, the Librarians having the qualification of Master in Library Sciences were allowed upgradation to BPS-17, however no universal application to this upgradation was carried out to the similarly placed employees, the appellant also agitated for treating him alike with his counterparts working / performing identical duties however no action was taken there on.
3. That the competent authority on the recommendation of Departmental Promotion Committee, the post of Librarian and DPEs were upgraded from BPS 16 to BPS 17 vide notification dated 23.02.2011, on regular basis with immediate effect. (Copy of the notification dated 23.02.2011 is attached as annexure A)
4. That the appellant being aggrieved from the orders of the department approached to the Provincial Service Tribunal in Appeal no 1342/2011 by challenging the upgradation as being allowed to the appellant from BPS 16 to BPS 17 with immediate effect rather from the date acquiring M.L.Sc Degree or from date of appointment whichever is later along with back benefits, whereas this Hon;able Tribunal accepting the appeal of appellant made reliance on Service appeal no 1342/2011 decided on 08.06.2015 is an identical case allowing the same benefits as upgradation to BPS 17 from the date of M.L.Sc Degree or from the date of appointment. (Copy of the order dated 08.06.2015 is attached as annexure B)
5. That the respondent department being aggrieved from the order of the Hon;able Tribunal along with connected appeals / identical appeal challenged the same before the August Supreme Court in Civil Petition no 415 to 424, 426 to 438, 511 to 514 -p of 2015 and the same was dismissed vide judgment /

order dated 06.05.2016.(copy of the Judgment / order dated 06.05.2016 are attached as annexure C)

6. That in the light of judgment of the Service Tribunal the respondents allow the upgradation of the appellant to BPS 17 vide notification dated 28.09.2016. (Copy of notification dated 28.09.2016 are attached as annexure D)
7. That the Govt of Khyber Pakhtunkhwa vide notification dated 27.02.2006 approve the placement of 25 % of the sanctioned posts of Librarians BPS 16 in BPS 17 and 25% of the BPS 17 post to BPS 18.(Copy of the notification dated 27.02.2006 is attached as annexure E)
8. The Govt of Khyber Pakhtunkhwa vide notification dated 15.08.2008 upgraded the post of Librarian and Directors Physical Education (DPEs) from BPS 16 to 17 on regularly basis who hold the master Degree in relevant subject and in future Librarians and DPEs will initially be recruited on the basis of Master Degree in the relevant subject in BPS 17 regular. (Copy of Notification date 15.08.2008 is attached as annexure F)
9. That the respondents while implementing the orders of the Hon;able Tribunal and Supreme Court Of Pakistan only upgraded the post of appellant form the date of occurring Master degree or date of appointment but did not reckoned the proper seniority / given effect to the seniority from the date according to the implementation notification dated 28.09.2016, and did not implement the order and judgment of August Supreme Court and Hon;able Service Tribunal in letter and spirit.
10. That the colleagues of the appellant submit a joint representation for granting promotion in BPS 18 in the light of the notification of 2006 upon which the respondent department move summary to the Chief Minister Khyber Pakhtunkhwa, whereas the Hon;able Chief Minister approve the proposal / recommendation of the board and extended the benefit of promotion of Librarian BPS 17 to the post of Senior Librarian BPS 18. (Copy of the summery dated 14.03.2014 is attached as annexure G)

11. That on the previous analogy / promotion orders of the Librarians to BPS 18, appellant along with his colleagues submitted a joint representation for promotion to BPS 18 as Senior Scale Librarian which was worked out by the respondent department, whereas out of sanctioned posts of Librarians BPS 17, 05 posts fall to the share of (Senior Scale Librarian BPS 18) @ of 25% of sanctioned posts. (Copy of the latter dated 21.12.2017 and 24.01.2018 are attached as annexure H,I)
12. That the appellant being aggrieved from the said act filed Departmental appeal to the respondents dated 05.12.2018 which was not responded within 90 days of statutory period. (Copy of the Departmental Appeal is attached as annexure J)
13. That the appellant throughout agitated the matter of his promotion / seniority with retrospective effect in line with other similarly placed Librarian; however no action was taken thereon.
14. That the order / inaction of the respondents is illegal, unlawful, and discriminatory, in violation of rules inter alia on the following grounds.

GROUND OF APPEAL:

- A. That the Appellant has not been treated in accordance with law, and his right secured and guaranteed under the Law and Constitution has been violated.
- B. That the respondent department extended the benefit of the notification of 2006 and were please to promote one **Mr. Sarwar ullah jan** librarian BPS 17 to the post of senior scale librarian BPS 18 on regular basis and also another colleague of the appellant namely **Mr. Ali Akbar** librarian from BPS 17 to BPS 18 on regular basis against the existent vacancies. (Copies of the promotion order dated 28.04.2014 and 06.08.2013 are attached as annexure K)
- C. That the appellant was holding the qualification of M. L. I. Sc pre requisite for the grant of BPS-17 at the time of appointment, hence he deserve similar treatment and entitled to BPS-18 According to the notification 2006.


- D. That since the Superior Courts have in identical cases allowed the upgradation in line with the upgradation allowed to similarly placed employees hence the same needs to be implemented in favour of the appellant as well.
- E. That similarly placed employees have been allowed the benefit of upgradation with effect from the date of acquiring M L. I. Sc Degree and then promoted to the BPS 18, hence the appellant being similarly placed deserved to be allowed Same benefit, and the refusal to grant this benefit is highly discriminatory and in violation of article 25 of the Constitution of the Islamic Republic of Pakistan, 1973.
- F. That the Superior Courts have repeatedly held that where a point of law is decided by the Superior Courts that cover the cases of all those civil servants who have not litigated than the good governance require that the benefit of such judgment should also be given to those who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum. Reference can be made to case reported as SCMR 1996 Page 1185, 2009 SCMR Page 1, 2018 SCMR 380, the Appellant being similarly placed are also entitled to similar treatment meted out to their counter parts.
- G. That the state is bound to ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principles. It is also the duties of the state to remove disparity in the income and earning of individuals under Article 37 & 38 of the Constitution.
- H. That the august Supreme Court of Pakistan in case reported as 2013 §CMR 1752 (g) has held that the term "life" also includes reputation, status and all other ancillary privileges conferred on a citizen by law. Thus the decision of not promoting the petitioner without any just and fair reasons is violative to the Article 9 of the Constitution of Pakistan because the same affected the status and reputation of petitioner amongst the batch mates and other service fellows.

- I. That even in latest judgment of the Hon' able Supreme Court reported as PLD 2013 (SC)-195. (Case of Anita Turab), it is held that the statutory provisions, rules, regulations which govern the matter of appointment of Civil Servants must be followed honestly and scrupulously. Whereas the respondents have violated the Rules of 1997 which governs the petitioner's rights and as such, the notification dated. 09.05.2018 whereby juniors have been promoted.
- J. That the conduct and attitude of the respondents as well as not promoting the petitioner despite of availability of post and senior most with good record is against the spirit of Article 2-A, 4, 9 and 25 of the Constitution.
- K. That the appellant seeks the permission of this Honourable Tribunal to rely on additional grounds at the hearing of this appeal.

It is, therefore, prayed that On acceptance of this Appeal the respondents may kindly be directed to allow the appellant seniority / promotion to BPS-18 on the basis of 25 % promotion Quota of sanctioned posts from BPS 17 to BPS 18 in the light of Notification date 27.02.2006 as similar relief has been granted to the colleagues of the appellant with all arrears and benefits.


Appellant

Through


ZARTAJANWAR
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2019

Syed Jamal Shah Librarian Govt College of
Technology, Tangi, District Charsadda.

(Appellant)

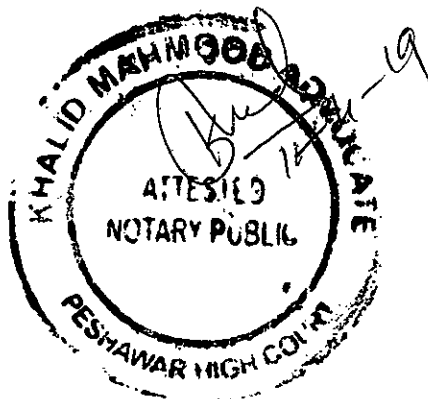
VERSUS

Govt of Khyber Pakhtunkhwa through Secretary
Industry Commerce and Technical Education
Department Peshawar and others.

(Respondents)

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath on at Peshawar that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.





Deponent

1702-9810485-5



8 ANNEX "A"

GOVT. OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE & TECH: EDUCATION
DEPARTMENT.

NOTIFICATION

No. SOIII(IND)TE/I-17/2010. On the recommendations of the Departmental Promotion Committee, the competent authority has been pleased to promote the following Librarians (BPS-16) and Directors, Physical Education (BPS-16) against the upgraded posts of Librarians (BPS-17) and Directors Physical Education (BPS-17) respectively on regular basis with immediate effect:-

LIBRARIANS:

S.No	Name of Incumbent	Promoted against the post of
1	Mr. Muhammad Salim, Librarian (BPS-16)	Librarian (BPS-17) ✓
2	Mr. Mir Dad Khan, Librarian (BPS-16)	Librarian (BPS-17) ✓
3	Mr. Inam-ul-Haq, Librarian (BPS-16)	Librarian (BPS-17)
4	Mrs. Aqila Naz, Librarian (BPS-16)	Librarian (BPS-17)
5	Mr. Alamgir Shah, Librarian (BPS-16)	Librarian (BPS-17)
6	S. Jamal Shah, Librarian (BPS-16)	Librarian (BPS-17)
7	Mr. Manzoor Ahmad, Librarian (BPS-16)	Librarian (BPS-17)
8	Mr. Javed Iqbal, Librarian (BPS-16)	Librarian (BPS-17)
9	Mr. Muhammad Akbar, Librarian (BPS-16)	Librarian (BPS-17)
10	Mr. Nazir Khan, Librarian (BPS-16)	Librarian (BPS-17)
11	Mr. Umar Khatab, Librarian (BPS-16)	Librarian (BPS-17)
12	Mr. Imran Ali Khan, Librarian (BPS-16)	Librarian (BPS-17) ✓
13	Mr. Zia-ul-Islam, Librarian (BPS-16)	Librarian (BPS-17) ✓
14	Mr. Khan Gul, Librarian (BPS-16)	Librarian (BPS-17) ✓
15	Mr. Muhammad Ilyas, Librarian (BPS-16)	Librarian (BPS-17) ✓
16	Mr. Saif-ur-Rehman, Librarian (BPS-16)	Librarian (BPS-17) ✓
17	Mr. Sajeed Gul, Librarian (BPS-16)	Librarian (BPS-17)
18	Mr. Ayaz Khan, Librarian (BPS-16)	Librarian (BPS-17)
19	Mr. Alla-ud-Din, Librarian (BPS-16)	Librarian (BPS-17)
20	Mr. Sadd Hussain, Librarian (BPS-16)	Librarian (BPS-17) ✓
21	Mr. Maqsood-ur-Rehman, Librarian (BPS-16)	Librarian (BPS-17) ✓
22	Mr. Muhammad Imroz Khan, Librarian (BPS-16)	Librarian (BPS-17) ✓
23	Mr. Irfan Ullah, Librarian (BPS-16)	Librarian (BPS-17) ✓

DIRECTOR PHYSICAL EDUCATION:

S.No	Name of Incumbent	Promoted against the post of
1	Mr. Laiq Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
2	Mr. Muhammad Azam, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
3	Mr. Muhammad Ayub, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
4	Mr. Gul Nawaz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
5	Mr. Badar Zaman, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)

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6	Mr. Amir Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
7	Mr. Khadim Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
8	Mr. Khalid Pervez, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
9	Mr. Dost Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
10	Mr. Riazat Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
11	Mr. Abid Ullah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
12	Mr. Ihsan Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
13	Mr. Ilyas-ud-Din, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
14	Mr. Aman Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
15	S. Qasim Hussain, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
16	Mr. Khalid Saleem, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
17	Mr. Muhammad Ikram, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
18	Mr. Aman Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
19	Mr. Ijaz Ali Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
20	Mr. Sultan Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
21	Mr. Shams-ud-Din, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
22	Mr. Abdul Aziz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
23	Mr. Javed Iqbal, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
24	Mr. Awan Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
25	Mr. Moinir Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
26	Mr. Said Ali Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
27	Mr. Habib-ur-Rehman, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
28	Mr. Hasan Ali, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
29	Mr. Asmat Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
30	Mr. Adeel Ali, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)

2 The officers will remain on probation for a period of one year in terms of Section-6(2) of NWFP, Civil Servants Act, 1973 read with rule-15(1) of NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3 The officers shall remain posted at their present stations.

Secretary to Govt. of Khyber Pakhtunkhwa
Industries, Commerce, & Technical
Education Department.

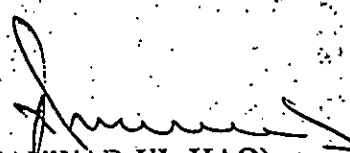
Endst.No.SOIII(IND)TF/1-17/2010

Dated Pesh: the 23rd February, 2011.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Technical Education and Manpower Training, Khyber Pakhtunkhwa, Peshawar along-with all documents of the officer for record.
3. The concerned District Accounts Officer.
4. The Principals concerned.
5. The Manager, Govt. Printing Press, Peshawar.
- ✓ 6. The Officer concerned.
7. O/O file.

ATTESTED


(ANWAR-UL-HAQ)
SECTION OFFICER-III

RECEIVED

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar

W. P. No. 1295
Dated 26-10-2015

Execution Petition No 126 /2015
In
Service Appeal No 1351/2011



Syed Jamal Shah,
Librarian, Govt College of Technology, Tangi

.....Applicant

Versus

1. Secretary to Govt of Khyber Pakhtunkhwa Industries, Commerce and Technical Education Department, Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa Education Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Peshawar
- ✓ 4. Director General Technical Education and Manpower Training, Khyber Pakhtunkhwa, Peshawar

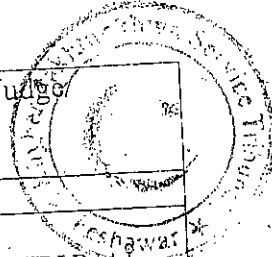
.....Respondents

10.06.2016

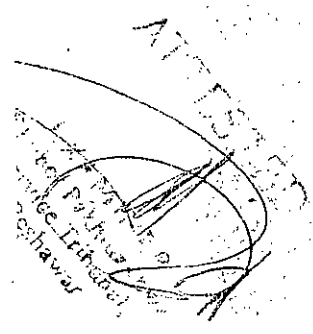
Counsel for the petitioner and Mr. Irfan, AD alongwith Addl: AG for respondents present. Representative of respondent-department admitted that CPLA pending before the august Supreme Court of Pakistan has since been decided and dismissed. The respondents are directed to implement the judgment of this Tribunal and come up with compliance on the next date. In case the judgment is not implemented further coercive measure in the shape of stoppage of salary and civil imprisonment will be taken into account. To come up for implementation report on 05.08.2016 before S.B.

Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
ATTESTED

Member



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	08.06.2015.	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Appeal No. 1339/2011</p> <p>Javed Iqbal Versus Secretary to Government of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education Department, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Counsel for</p> <p>the appellant (Mr. Muhammad Ayub Khan Shinwari, Advocate) and Government Pleader (Mr. Ziaullah) for the respondents present.</p> <p>2. This appeal has been filed by Mr. Javed Iqbal Librarian under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the notification dated 23.2.2011 whereby the appellant had been promoted from the post of Librarian BPS-16 to the upgraded post of Librarian BPS-17 with immediate effect rather than from the date of acquiring M.L.Sc. Degree. The appellant prayed that respondents may be directed to grant BPS-17 to the appellant from the date of acquiring M.L.Sc. Degree or from the date of appointment whichever is later alongwith all back benefits.</p> <p>3. Facts of the case as averred from the memo: of appeal are that appellant was appointed as Librarian BPS-16 on the recommendations of the Khyber Pakhtunkhwa</p>



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Public Service Commission on 11.08.1997. That at the time of appointment he had already qualified M.L.Sc. Degree from University of Peshawar in Session, 1996. That colleagues of the appellant working in different colleges were awarded BPS-17 personal by the order of Government of Khyber Pakhtunkhwa. Similar relief was granted to DPE's in colleges while Librarians and DPEs serving in Higher Secondary Schools were ignored. The latter were allowed similar upgradation in BPS-17 on the interference of the Service Tribunal and judgments of the Service Tribunal challenged in august Supreme Court of Pakistan were upheld by the Superior Court. The appellant filed departmental appeal for award of B-17 from the date of acquiring of M.L.Sc. Degree before respondent No. 4 which has not been decided till date, hence on expiry of statutory period of ninety days, the instant appeal has been filed.

4. The learned counsel for the appellant argued that the appellant had not been treated justly, fairly, equitably and in accordance with the law, rules and verdicts of the Superior Court. He submitted that in spite of the clear verdicts of the Service Tribunal and the Supreme Court of Pakistan in identical cases, the respondents refused to grant relief to the appellant on the ground that he did not get any verdict in his favour from the Service Tribunal or Supreme Court of Pakistan. That the appellant has been discriminated against which is

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against the fundamental rights enshrined in and protected by the Constitution of Islamic Republic of Pakistan, 1973. He further argued that the question involved in the instant appeal has been decided by the Service Tribunal and Supreme Court of Pakistan, therefore, the respondents are legally bound to follow them and allow BPS-17 to the appellant from the date of appointment. He produced recent judgment of this Tribunal dated 13.04.2015 in Service Appel No. 1687/2011 and prayed that the appeal may be accepted in terms of the above judgment.

5. The learned Government Pleader resisted the appeal and stated that case of the appellant was not identical to those decided by the Service Tribunal and Supreme Court of Pakistan. He further argued that the appellant failed to agitate the issue in time and any relief at this juncture was likely to affect other officers working in Technical Education Department. He prayed that the appeal may be dismissed.

6. Arguments of the learned counsel for the parties heard and record perused with their assistance.

7. From perusal of record it transpired that this Tribunal granted relief in a number of cases and latest case decided on 13.04.2015 in Service Appeal No. 1687/2011 is an identical case. The instant appeal is therefore, accepted in terms of the above judgment. Parties are left to

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bear their own costs. File be consigned to the record room.

8. This order will also dispose of identical Service Appeal No. 1340/2011, Inam-ul-Haq, No. 1341/2011 Manzoor Ahmad, No. 1342/2011 Umer Khitab, No. 1343/2011 Aqila Naz, No. 1351/2011 Syed Jamal Shah and No. 1352/2011 Alamgir Shah, in the same manner.

ANNOUNCED
08.6.2015

Sd/- Abdul Latif,
Member
Sd/- Dr. Bahkhat Shah,
Member

EXAMINED
Khaiber Pakhtunkhwa
Service Tribunal
Peshawar

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17-6-2015
17-6-2015

9

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
Mr. Justice Ejaz Afzal
Mr. Justice Sardar Tariq

**CIVIL PETITIONS NO. 415-P TO 424-P, 436-P
TO 438-P, 511-P TO 514-P OF 2015**
(On appeal against the judgment dated 13.04.2015 passed by Khyber
Pakhtunkhwa Service Tribunal, Peshawar in S.A. No. 1687 of 2011)

Govt. of KPK through Secretary Higher Education,
Sport, Archives & Libraries & others (C.Ps. No. 415-P to 420-P, 423-P, 436-P to
438-P, 511-P to 514-P of 2015;
The Chief Secretary, Govt. of KPK Peshawar
& another (C.Ps. No. 421-P, 422-P & 424-P of 2015)
Petitioners

VERSUS

Mrs. Raheela Hafiz (In C.P. No. 415-P of 2015)
Shehla Tahir (In C.P. No. 416-P of 2015)
Muhammad Nadeem Iqbal (In C.P. No. 417-P of 2015)
Muhammad Ishfaq Ahmad (In C.P. No. 418-P of 2015)
Mrs. Shah Nawaz (In C.P. No. 419-P of 2015)
Muhammad Rafi (In C.P. No. 420-P of 2015)
Muhammad Irfan (In C.P. No. 421-P of 2015)
Zia Muhammad Irfan (In C.P. No. 422-P of 2015)
Anwar Jalal (In C.P. No. 423-P of 2015)
Asghar Khan (In C.P. No. 424-P of 2015)
Inam ul-Haq (In C.P. No. 436-P of 2015)
Manzoor Ahmad (In C.P. No. 437-P of 2015)
Aqila Naz (In C.P. No. 438-P of 2015)
Javed Iqbal and another (In C.P. No. 511-P of 2015)
Umar Khitab & another (In C.P. No. 512-P of 2015)
Syed Jamal Shah and another (In C.P. No. 513-P of 2015)
Mamgir Shah & another (In C.P. No. 514-P of 2015)
Respondents

For the petitioners: Mian Arshad Jan, Addl. A.G. KPK
a/w. Arshad Khan Afridi, Dy. Secy. (Finance)

Respondents: Not represented

Date of hearing: 06.05.2016

ORDER

EJAZ AFZAL KHAN, J. These petitions have arisen out of the judgment dated 13.04.2016 of the Federal Service Tribunal whereby it allowed the appeal filed by the respondents in the terms as under:-

"From perusal of the record, the Tribunal is of the considered view that appellants before the Tribunal in the instant appeal have brought a similar case to those given relief by the august Supreme Court of Pakistan in Appeals No. 1114 - 1116 of 2006 and appeal No. 43/2011 titled "Muhammad Ali Versus Government of Khyber Pakhtunkhwa Finance Department, Peshawar etc." decided by the Service Tribunal. Hence the Tribunal is inclined to accept the appeal of the appellant. Parties are left to bear their own costs. File be consigned to the record room."

Handwritten notes: 31/5/16, SO (Ejaz Afzal)

Signature of Ejaz Afzal Khan, J.

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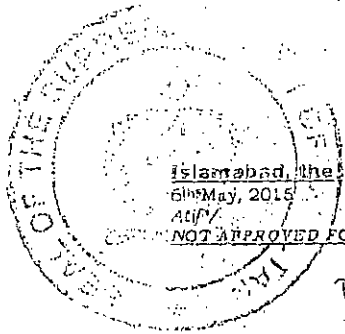
2. The learned Additional Advocate General appearing on behalf of the petitioner contended that each case being captive of its own history and background has to be treated accordingly and that principle laid down in one case cannot be applied to other cases without considering their history and background. He by referring to the case of Bibi Musarrat, Librarian and others Vs. Province of NWFP through Secretary Education, Peshawar and two others (Civil Appeals No. 1114 to 1116 of 2006) decided on 22.02.2010 contended that the considerations which weighed with this Court while granting higher scale to the Librarians from the date of acquiring master's degree in Library Science were different altogether therefore it could not be applied to these cases.

3. We have gone through the record carefully and considered the ~~submissions made by learned Additional Advocate General.~~

4. The record reveals that appellants in the case of Bibi Musarrat, Librarian and others Vs. Province of NWFP through Secretary Education, Peshawar and two others (supra) were given higher scales on acquiring master's degree in Library Science while the respondents acquiring master's degree in Library Science were refused the same. Classification with difference has been pleaded by the learned Additional Advocate General. Classification, no doubt, is permissible under Article 25 of the Constitution of Islamic Republic of Pakistan provided it is based on intelligible differentia and has nexus with the purpose sought to be achieved. We tried our utmost to discover the grain of intelligible differentia from the bushel of the chaff but could not discover any, as could justify grant of higher scale to one set of Librarians acquiring higher qualification and refusal to another similarly placed. In this state of things, we would not like to interfere with the impugned judgment endorsing the mandate of Article 25 of the Constitution.

5. For the reasons discussed above, these petitions stand dismissed and leave to appeal is declined.

Sd/- Ejaz Afzal Khan, J
Sd/- Sardar Tariq Masood, J



Certified to be true copy
Court Associate
Supreme Court of Pakistan
Islamabad.

[Handwritten signature]



17
ANNEX: "D"

**Government of Khyber Pakhtunkhwa
Industries, Commerce & Technical Education
Department**

NOTIFICATION

No.SOIII(IND)1-6/2014 In pursuance of the judgement of the Service Tribunal Khyber Pakhtunkhwa dated 10.06.2016, in service appeals No.1339/2011, 1342/2011, 1351/2011 and 1352/2011, the competent authority is pleased to allow BPS-17 in respect to petitioners of the Khyber Pakhtunkhwa Technical Education & Vocational Training Authority (KP-TEVTA) with effect from the date of their appointment as given below;

S.No	Name, designation and center	Date of appointment
1.	Mr.Javed Iqbal, Librarian (BS-17) Govt; College of Techology, Swat	11 th August, 1997
2.	Umar Khitab, Librarian (BS-17) Govt; Polytechnic Institute, D.I.Khan	24 th November, 2004
3.	Syed Jamal Shah, Librarian (BS-17) Govt; College of Technology, Tangi	20 th November, 1993
4.	Alamgir Shah, Librarian (BS-17) Govt; Polytechnic Institute, Takht Bhai Mardan	20 th November, 1993

Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department.

Endst:No.SOIII(IND)1-6/2014

Dated Pesh, the 28th September, 2016

Copy forwarded to:-

1. The Managing Director KP-TEVTA, University Town, Peshawar.
2. The Section Officer (Lit) IC&TE Department Peshawar.
3. The Manager Printing & Stationery Department, Peshawar.
4. The District Accounts Officer, Swat.
5. The District Accounts Officer, D.I.Khan.
6. The District Accounts Officer, Charsadda
7. The District Accounts Officer, Mardan.
- ✓ 8. The officer concerned.
9. PS to Secretary IC&TE
10. File/office copy.

ATTESTED

(ZAHIR SHAH)
SECTION OFFICER-III

ANNEXURE

Government of N.W.F. Province
Industries, Commerce, Min. Dev.
Labour & Tech. Edu. Department

Dated Pesh. the 27th February 2006

NOTIFICATION

No. SO11(IND)TE/4-13/2006 The Government of NWFP is pleased to accord approval to the placement of 25% of the sanctioned posts of Librarians BPS-16 in BPS-17 and 25% of the BPS-17 posts in BPS-18.

The personal scale BPS-17 availed by the Librarians shall be preserved.

Share of Male and Female Librarians will be worked out on the basis of their sanctioned strength.

Sd/-

Secretary to Govt of NWFP
Industries, Commerce, Min. Dev.
Labour & Tech. Edu. Department

Endst. No. SO11(IND)TE/4-13/2006, Dated Pesh. the 27th February 2006

Copy is forwarded for information and necessary action to the Accountant General, N.W.F. Province, Peshawar.

(NAYYAR LAIQ AHMAD)
Section Officer (SR II)
Government of NWFP
Finance Department

Endst. No. SO11(IND)TE/4-13/2006, Dated Pesh. the 27th February 2006

Copy is forwarded to:-

- 1) Secretary to Govt of NWFP, Establishment Department.
- 2) Secretary to Govt of NWFP, Finance Department.
- 3) Secretary to Chief Minister, NWFP, Peshawar.
- 4) Director, Technical Edu. & Manpower Training, NWFP with the request to submit Service Rules for Librarians in accordance with the approved Service Structure for approval of the S.S.R.C.

SECTION OFFICER (SR II)
FINANCE DEPARTMENT

ATTACHED

19
ANNEX-1 F
Government of N.W.F. Province,
Industries, Commerce, Min: Dev.
Labour & Tech: Edu: Department.

NOTIFICATION

No. SOIII(IND)TE/4-13/08/Librarians. The Competent Authority has been pleased to accord sanction to the up gradation of the posts of Librarians and Directors Physical Education (DPEs) from BPS-16 to BPS-17 (Regular) for the existing incumbents who hold Master Degree in the relevant subject in the Industries, Commerce, Mineral Development and Technical Education Department NWFP with immediate effect as per following details:-


1. Promotion against the upgraded posts (from BPS-16 to BPS-17) shall be made in the prescribed manner, and in accordance with the service rules to be framed as per relevant provisions of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the NWFP, Civil Servants Act, 1973.
2. The Librarians and Directors Physical Education (DPEs) who hold diploma in the relevant subject will stay in BPS-16 til such time, they acquire Master Degree in the respective subject. On acquiring Master Degree in the relevant subject, their posts will be upgraded from case to case basis from BPS-16 to BPS-17 (Regular) and promotion (from BPS-16 to BPS-17) would be given as per laid down procedure and in accordance with the service rules to be framed. However, their existing seniority will remain intact.
3. All the vacant posts of Librarians and DPEs in Industries, Commerce, Mineral Development and Technical Education Department NWFP are hereby upgraded to BPS-17, appointments against which would be made from amongst the persons who hold Master Degree in the relevant subject, in the prescribed manner.
4. In future, Librarians and DPEs will initially be recruited on the basis of Master Degree in the relevant subject in BPS-17 (Regular).
5. Henceforth, no appointment of Librarians and DPEs, shall be made on the basis of diploma, being declared as "Dying Cadre".

1826
4/10/08
Secretary to Govt of NWFP,
Industries, Commerce, Min: Dev.
Labour & Tech: Edu: Department.

Endst. No. FD(SOSR.II)10-7/03/VOL-III, Dated Pesh: the August 15, 2008.

Copy is forwarded to:-

- 1) The Accountant General, NWFP, Peshawar.
- 2) All the Distt: Accounts Officers in NWFP.
- 3) All the Agency Accounts Officers.

FOR n/a
Admin 4/9

(MUNAWAR KHAN)
SECTION OFFICER (SR-II)
FINANCE DEPARTMENT,
GOVT. OF NWFP.



Government of Khyber Pakhtunkhwa
Industries, Commerce & Technical Education
Department

Summary for Chief Minister, Khyber Pakhtunkhwa

ANNEX:- "G"

Subject: PROMOTION OF LIBRARIAN BS-17 TO THE POST OF SENIOR LIBRARIAN BS-18

The Provincial Selection Board met on 07.01.2014 to consider promotion of suitable Librarian BS-17 of the Directorate General of Technical Education & Manpower Training, Khyber Pakhtunkhwa Peshawar against the vacant positions of Senior Scale Librarian BS-18.

The Board has accordingly recommended the following officers for promotion to fill the vacancies (Annex-D):-

S.No	Name of the Officer.	Designation/Station
1.	Mr. Fazli Dayan	Librarian BS-17, Govt; College of Commerce No.2 Nowshera
2. ✓	Mr. Hidayat Ullah,	Librarian BS-17, Govt; College of Management Sciences, Chitral
3. ✓	Mr. Fazli Sattar,	Librarian BS-17, Govt; College of Management Sciences, Thana
4.	Mr. Khan Zada,	Librarian BS-17, Govt; College of Technology, Mingora (Swat)
5. ✓	Mr. Niaz Muhammad,	Librarian BS-17, Govt; College of Management Sciences, Lakki
6.	Mr. Sarwar Ullah Jan.	Librarian, Govt; College of Management Sciences, Peshawar

Upon promotion, the officers will be posted as follow:-

S.No	Name, Designation & Present posting of the Officer.	Promoted and Posted.
1. ✓	Mr. Fazli Dayan, Librarian BS-17, Govt; College of Commerce, No.2 Nowshera	Senior Scale Librarian BS-18 at Govt; College of Commerce No.2 Nowshera on notional basis.
2.	Mr. Hidayat Ullah, Librarian BS-17, Govt; College of Management Sciences, Chitral	Senior Scale Librarian BS-18 at Govt; College of Management Sciences, Chitral
	Mr. Fazli Sattar, Librarian BS-17, Govt; College of Management Sciences, Thana	Senior Scale Librarian BS-18 at Govt; College of Management Sciences, Thana
	Mr. Khan Zada, Librarian BS-17, Govt; College of Technology, Mingora (Swat) Retired from Govt; Service on 06.11.2013	Senior Scale Librarian BS-18 at Govt; College of Technology, Mingora (Swat) on notional basis.
	Mr. Niaz Muhammad, Librarian BS-17, Govt; College of Management Sciences, Lakki	Senior Scale Librarian BS-18 at Govt; College of Management Sciences, Lakki
	Mr. Sarwarullah Jan, Librarian BS-17, Govt; College of Management Sciences, Peshawar Retired from Govt; Service on 01.02.2014	Govt; College of Management Sciences, Peshawar on notional basis.

Continue at Page (2)

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4. Approval of the Chief Minister is solicited with regard to proposal contained in Para 2&3 of the Summary, please.

(MUHAMMAD ALI SHAHZADA)
SECRETARY IC&TE

March 5 / 2014

Special Assistant to Chief Minister
For Technical Education (Position Vacant)

Chief Secretary
Khyber Pakhtunkhwa

5.

A. examine

M. Akbar
5/3

Chief Secretary
Govt. of Khyber Pakhtunkhwa

Secy Etob-

ATTACHED



6. Summary submitted by the Industries, Commerce and Technical Education Department has been examined and observed that the Board recommended promotion of Mr. Fazli Dayan at s.no.1, Mr. Khan Zada at s.no.4 and Mr. Sarwarullah Jan at s.no.6 to the post of Senior Scale Librarian BS-18 on Notional basis. Their promotion shall take effect from the date of recommendation of Provincial Selection Board. However being hardship case the Department may obtain approval of Governor Khyber Pakhtunkhwa in term of Section-23 of Civil Servant Act, 1973 through a separate summary.

7. Chief Minister Khyber Pakhtunkhwa may approve the recommendations of the board to the extent of Mr. Hidayatullah at s.no.2, Fazli Sattar at s.no.3 and Mr. Niaz Muhammad at s.no.5 for promotion of Librarian BS-17 to the post of Senior Librarian BS-18.

(Signature)
 (Sikander Qayyum)
 Secretary Establishment
 March 14, 2014

Chief Secretary, Khyber Pakhtunkhwa.

Chief Minister

(Signature)
 15/3.
 Chief Secretary
 Govt. of Khyber Pakhtunkhwa

3. The HCA has been pleased to direct to obtain legal opinion of Law Department in view of the future implication of the case

Chief Secretary

on file
 17.03.2014
 Provincial Secretary
 to Chief Minister
 Khyber Pakhtunkhwa

Secy Law
 KPP

(Signature)
 Chief Secretary
 Govt. of Khyber Pakhtunkhwa
 25/3.

(Signature)



6. Summary submitted by the Industries, Commerce and Technical Education Department has been examined and observed that the Board recommended promotion of Mr. Fazli Dayan at s.no.1, Mr. Khan Zada at s.no.4 and Mr. Sarwarullah Jan at s.no.6 to the post of Senior Scale Librarian BS-18 on National basis. Their promotion shall take effect from the date of recommendation of Provincial Selection Board. However being hardship case the Department may obtain approval of Governor Khyber Pakhtunkhwa in term of Section-23 of Civil Servant Act, 1973 through a separate summary.

7. Chief Minister Khyber Pakhtunkhwa may approve the recommendations of the board to the extent of Mr. Hidayatullah at s.no.2, Fazli Sattar at s.no.3 and Mr. Niaz Muhammad at s.no.5 for promotion of Librarian BS-17 to the post of Senior Librarian BS-18.

(Signature)

(Sikander Qayyum)
Secretary Establishment
March 14, 2014

Chief Secretary, Khyber Pakhtunkhwa.

Chief Minister

(Signature)
15/3

Chief Secretary
Govt. of Khyber Pakhtunkhwa

3. The HEM has been pleased to direct to obtain legal opinion of Law Department in view of the future complication of the case

Chief Secretary

17.03.2014

Secy Law KPP

(Signature)
Chief Secretary
Govt. of Khyber Pakhtunkhwa
23/3

L

24



		<p>12.04.2008. No enquiry is pending against him. His service record up to 2012 is generally good.</p> <p>The Board recommended the officer for promotion to the post of Senior Librarian BS-18 on regular basis. He will be on probation for a period of one year.</p>
4.	Mr. Khan Zada	<p>His date of birth is 07.11.1953. He joined government service on 25.11.1984. He was promoted to BS-17 on 12.04.2008. No enquiry is pending against him. His service record up to 2012 is generally good. He retired from service on 06.11.2013 on attaining the age of superannuation.</p> <p>The Board recommended the officer for promotion to the post of Senior Librarian BS-18 on notional basis from the date of his retirement.</p>
5.	Mr. Niaz Muhammad	<p>His date of birth is 02.01.1960. He joined government service on 16.10.1985. He was promoted to BS-17 on 12.04.2008. No enquiry is pending against him. His service record up to 2012 is generally good.</p> <p>The Board recommended the officer for promotion to the post of Senior Librarian BS-18 on regular basis. He will be on probation for a period of one year.</p>
6.	Mr. Sarwar Ullah Jan	<p>His date of birth is 02.02.1954. He joined government service on 20.03.1983. He was promoted to BS-17 on 12.04.2008. No enquiry is pending against him. His service record up to 2012 is generally good.</p> <p>The Board recommended the officer for promotion to the post of Senior Librarian BS-18 on regular basis. He will be on probation till retirement.</p>

CONFIDENTIAL

ATTESTED

ITEM NO (17)

INDUSTRIES, COMMERCE AND TECHNICAL EDUCATION DEPARTMENT

(Meeting of PSB held on 07.01.2014)

SUBJECT: - PROMOTION OF LIBRARIAN BS-17 TO THE POST OF LIBERIAN (SENIOR SCALE) BS-18.

Secretary Industries apprised the Board that nine (09) posts of Librarian BS-17 at the ratio of 25% of the total posts as per notification of Industries department dated 27.02.2006 have been placed in Librarian (Senior Scale) BS-18 which are lying vacant. However there are only six (06) officers who are eligible for promotion.

2. According to service rules the posts are required to be filled as under:-

By promotion on the basis of seniority cum fitness form amongst the librarian BS-17 with at least five years service as such

Note: - The dead/retired officers at S. No 1 and 4 of the panel were recommended for promotion on notional basis on the grounds that the vacant posts were available on the date of their death/retirement.

3. The service record of the officers included in the panel was discussed as follows:-

S. NO	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1	Mr. Fazli dayan	His date of birth is 15.07.1956. He joined government service on 01.10.1981. He was promoted to BS-17 on 12.04.2008. No enquiry is pending against him. His service record up to 2012 is generally good. The Secretary has informed the Board that he died on 29.05.2013. The Board recommended the officer for promotion to the post of Senior Librarian BS-18 on notional basis.
2	Mr. Hidayat Ullah	His date of birth is 05.06.1957. He joined government service on 09.10.1982. He was promoted to BS-17 on 12.04.2008. No enquiry is pending against him. His service record up to 2012 is generally good. The Board recommended the officer for promotion to the post of Senior Librarian BS-18 on regular basis. He will be on probation for a period of one year.
3	Mr. Fazli Sattar	His date of birth is 28.01.1958. He joined government service on 09.08.1982. He was promoted to BS-17 on

Copy forwarded to PSB to C.S.

ATTEST

25
Minutes of meeting
of PSB held on 07-01-2014

26

ANNEX: "H"



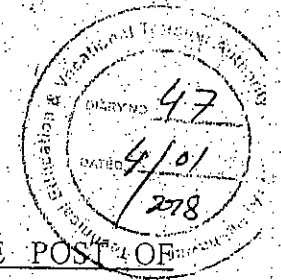
GOVERNMENT OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE AND TECHNICAL
EDUCATION DEPARTMENT

No. SPM(IND)1-6/2017

Dated Peshawar, the 21st December, 2017

To

The Managing Director,
KP-TEVTA, 3-A Chinnar Road,
University Town, Peshawar.



Subject: -

PROMOTION OF LIBRARIANS BS-17 TO THE POST OF SENIOR LIBRARIANS BS-18.

Please refer letter No.KP-TEVTA/HR-I/Librarians-18/5131 dated 11.12.2017 on the subject noted above and to state that KP-TEVTA does not mentioned in the letter/working papers that how many Librarians BS-17 shall be promoted to the post of Librarians (Senior Scale) BS-18.

(HAMEED UR REHMAN)
SECTION OFFICER-III 21/12/2017

Dir (HR/A)

for n/a

2/11/18

21/12/17

Pl. put up w/ case. Mr. Farid used

11/11/18

ATTESTED

ANNEX I



GOVERNMENT OF KHYBER PAKHTUNKHWA,
TECHNICAL EDUCATION & VOCATIONAL TRAINING AUTHORITY
3-A CHINAR ROAD UNIVERSITY TOWN, PESHAWAR.



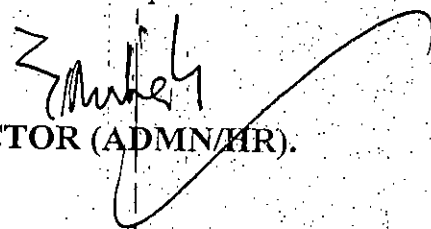
NO. KP-TEVTA/HR-I/Librarian-18/ 398
To.

Dated 24/01/2018.

The Section officer -III,
Government of Khyber Pakhtunkhwa
Industries, Commerce & Technical Education Department
Peshawar.

Subject:- **PROMOTION OF LIBRARIANS BPS-17 TO THE POST
OF SENIOR LIBRARIAN BPS-18.**

I am directed to refer to your letter NO.SOIII (IND)1-6/2017/12826 dated 21-12-2017 on the subject noted above. It is to inform that there are 19 sanctioned posts of librarians (BPS-17) working in different Colleges/ Institutions. Out of these sanctioned posts of librarians BPS-17, 05 posts fall to the share of (Senior Scale) Librarian (BPS-18) @ 25% of the sanctioned posts.


DIRECTOR (ADMN/HR).

28

To,

The Secretary of Govt of Khyber Pakhtunkhwa Industries Commerce
& Technical Education Department

THROUGH PROPER CHANNEL

Subject; **APPEAL FOR GRANTING OF PROMOTION TO B.P.S-18 FROM
THE DATE OF ENTITLEMENT**

With due reverence it is stated that vide judgment of honorable supreme court through CP No.513-P/2015 and judgment of service tribunal Khyber Pakhtunkhwa through appeal No 1351/2011 has granted B.P.S-17 regular with all back benefits to petitioner (judgment of the courts attached as annex A and B).

The industries department implemented such judgment in favor of petitioner vide Notification No. SOIII (IND) 1-6/2014 dated 28th September 2016 (Notification attached as annexure "C")

While promotion from 15th August 2008 because from such date all the sanctioned post of librarians have upgraded to BPS-17 regular (Notification attached Annex "D") or date of entitlement, however whichever is earlier/entitled with all entitled back benefits in B.P.S-18 as a placement at the ratio of 25% on the nineteen sanctioned posts are as per available record detail accordingly to the notification No.III(IND)TE/4-13/2006 Dated: 27th Feb 2006 is still awaited (Notification entitled is annex "E"). In spite of it that similar relief has already granted to the colleagues of the petitioner on regular charge basis against the existing vacancy in same as well as in the other departments by the increase ratio from 25% to 33%. So according to the rules the petitioner is also entitled for the same relief as granted to the colleagues of the petitioner (Documents attached of Annex "F" & "G")

But it is worth to say that repeatedly reluctant to stop the petitioner from the promotion in B.P.S-18 from the date of entitlement with all entitled back benefit in BPS-18, like such as minutes issued by the finance department vide letter No.SO/FB/FD/7-1/2017/6271 dated 22/11/2018 to secretary industries regarding creation of posts for librarian in BPS-18 Presently and not from the date of entitlement which is against the constitution of the republic of Pakistan 1973.

Therefore it is requested in your honor that promotion in B.P.S18 to petitioner from the date of entitlement with all back benefits according to the honorable court judgments may please to be granted and also redress the seniority of the petitioner from the date of granted BPS-17 for such promotion. I shall be very thankful to you for this very act of consideration.

Your's Sincerely



Syed Jamal Shah

Librarian

Government College of Technology

Tangi

Diary No 8087K-PJevata
dated 05-12-2018
REQUESTED



2. Although the subject upgradation was for time being on hardship basis while the department framed service rules of the cadre accordingly. Moreover, the department did not take up the case with Finance Department for creation of the posts in BPS-18 and directly put up the case for PSB for promotion, while neither the posts in BPS-16 were created for the cadre nor reflected in the budget book by the Finance Department.

In view of the above, after threadbare discussion, the chair while concluding the meeting decided with the consensus of all the stakeholders that the administrative department may take up the case with Finance Department for creation of posts in BPS-18, with solid justification, in light of the service rules of the cadre and after approval of the competent authority for creation of the said posts the concerned Budget Section would be able to reflect the same in the Budget Book and then the administrative department may proceed accordingly.

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

ATTESTED

REGULATION WING

- 1. The Secretary to Govt. of Khyber Pakhtunkhwa
Education Department
- 2. The Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department
- 3. The Secretary to Govt. of Khyber Pakhtunkhwa
Higher Education Department

**Subject: PLACEMENT OF 25% OF THE SANCTIONED POSTS OF LIBRARIAN (BPS-17) IN (BPS-16)
PLACEMENT OF 25% OF THE SANCTIONED POSTS OF DIRECTOR PHYSICAL EDUCATION (BPS-17) IN (BPS-18)**

Dear Sir,
I am directed to refer to the subject noted above and to enclose herewith minutes of the subject meeting held on 04-11-2018 at 02:00 PM under the Chairmanship of Additional Secretary (Reg), Finance Department in his office for information and further necessary action please.

Yours faithfully,

Section Officer (FR)

Encl. of Form No. 6 Only
Copy alongwith copy of minutes is forwarded for information to:-

- 1) The Section Officer (FR-I), Establishment Department.
- 2) The Section Officer (FR-II), Finance Department.
- 3) The Budget Officer-X, Finance Department.
- 4) The Budget Officer-VIII, Finance Department.
- 5) PA to Additional Secretary (Reg), Finance Department.
- 6) PA to Deputy Secretary (R-I), Finance Department.


Section Officer (FR)

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
No. SOH(IND)-6/PSD/2014

On the recommendation of the Provincial Selection Board, the Competent Authority is pleased to intimate the following Librarian (BS-17) to the post of Senior Scale Librarian (BS-18) to the Directorate General of Technical Education & Manpower Training, Khyber Pakhtunkhwa on regular basis with immediate effect:

S.No	Names
1.	Mr. Hidayat Ullah
2.	Mr. Fazli Sattar
3.	Mr. Niaz Muhammad

2. The officers will remain on probation for a period of one year extendible for further period of one year in terms of Section-6 (2) of Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Rule-15 (1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. Consequent upon their promotion, the following transfers/postings of officers are hereby ordered:

S.No	Name of officers	Posted As
1.	Mr. Hidayat Ullah, Librarian, Govt. College of Management Sciences, Chitral	Senior Scale Librarian BS-18 at Govt. College of Management Sciences, Chitral against the vacant post
2.	Mr. Fazli Sattar, Librarian, Govt. College of Management Sciences, Thana	Senior Scale Librarian BS-18 at Govt. College of Management Sciences, Thana
3.	Mr. Niaz Muhammad, Librarian Govt. College of Management Sciences, Larki Marwat	Senior Scale Librarian BS-18 at Govt. College of Management Sciences, Larki Marwat.

Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department.

Encl: No. SOH(IND)-6/PSD/2014

Dated Pesh, the 28th April, 2014

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, TE&MT, Khyber Pakhtunkhwa, Peshawar.
3. The District Accounts Officers, Chitral, Mafkharul and Larki Marwat.
4. The Principals, GCMS, Chitral, Thana and Larki Marwat
5. Mr. Hidayat Ullah, Senior Scale Librarian GCMS, Chitral.
6. Mr. Fazli Sattar, Senior Scale Librarian GCMS, Thana.
7. Mr. Niaz Muhammad, Senior Scale Librarian GCMS, Larki Marwat.
8. Office/file copy.

DIARY
ms 6693
Date 27-05-2014
OC US THAW

(TARIQ M. KHAN)
SECTION OFFICER-III

BETTER COPY

NOTIFICATION

No.SOIII(IND)1-6/PSB/2014 on the recommendation of the provincial selection Board, the competent authority is pleased to nominate the following librarians (BS-17) to the post senior scale librarians (BS-18) in the directorate general of Technical education & main power training Khyber Pakhtunkhwa on regular basis with immediate effect.

S.No	Names
1	Mr.Hidayat Ullah
2	Mr.Fazli Sattar
3	Mr.Niaz Muhammad

2. The officers will remain on probation for a period one year extensible for further period of one year in terms of section -6 (2) of Khyber Pakhtunkhwa, civil servant Act, 1973 read with rule 15(1) of Khyber Pakhtunkhwa, civil servants (Appointment, Promotion and transfer) Rules 1989.

3. Consequent upon their promotion, the following transfer/postings of Officer are hereby ordered:-

S.No	Name of Officer	Posted As
1	Mr.Hidayat Ullah, Librarian, Govt: College of Management Sciences, Chitral	Senior Scale Librarian BS-18 at Govt: College of Management Science Chitral against the vacant post.
2	Mr.Fazli Sattar, Librarian, Govt: College of Management Sciences Thana	Senior Scale Librarian BS-18 at Govt: College of Management Science Thana against the vacant post.
3	Mr.Niaz Muhammad, Librarian, Govt: College of Management Sciences Lakki Marwat.	Senior Scale Librarian BS-18 at Govt: College of Management Science Lakki Marwat against the vacant post.

Secretary in Govt, of Khyber Pukhtunkhwa, Industries,
Commerce & Technical Education
Department.

Endst No.SOIII(IND) -6/PSB/2014

Dated pesh, the 28th April, 2014

Copy id forwarded to:-

1. The Accountant General, Khyber Pukhtunkhwa Peshawar.
2. The Director General, TE&MT Khyber Pukhtunkhwa Peshawar.
3. The District Account Officers, Chitral, Malakand and Lakki Marwat.
4. The Principal GCMS, Chitral, Malakand and Lakki Marwat.
5. Mr.Hidayat Ullah, Senior Scale Librarian GCMS Chitral.
6. Mr.Fazli Sattar, Senior Scale Librarian Thana.
7. Mr.Niaz Muhammad, Senior Scale Librarian GCMS Lakki Marwat.
8. Office File copy.

(TARIQ ALI KHAN)

SECTION OFFICER-III

ATTESTED

POWER OF ATTORNEY

In the Court of ICPK Sessuine Tribunal Peshawar

Gyed Jamal Shah } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of ICPC and others } Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

ZARTAJ ANWAR ADVOCATE, my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromise or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____


Zartaj Anwar

Advocate High Courts

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT

FR-3- 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt

Ph.091-5272154 Mobile-0331-9399185

BC-10-9851

CNIC:17301-1610454-5

GOVERNMENT OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE AND TECHNICAL
EDUCATION DEPARTMENT

No.SOIII(IND)4-7/2018

11th June, 2018

Dated Peshawar, the _____




To

The Managing Director,
KP-TEVTA House No.5-771, Old Bara Road,
University Town, Peshawar.

Subject: FINAL SENIORITY LISTS LIBRARIAN/D.P.E BPS-17 KHYBER
PAKHTUNKHWA TEVTA AS STOOD ON 31.12.2017

I am directed to refer letter No.KP-TEVTA/HR-I/S.L.BPS-17/2098
dated 24.04.2018 on the subject noted above and to forward herewith final Seniority
List of Librarian BPS-17 of GCTs, GPIs & GTIs of KP-TEVTA as stood on
31.12.2017 duly approved by the competent authority for further necessary action
as desired, please.

(Encl: as above)


(HAMEED UR REHMAN)
SECTION OFFICER-III 11/6/2018

o/c

Recd
Dated 11/6/2018

GOVERNMENT OF KHYBER PAKHTUNKHWA INDUSTRIES, COMMERCE AND TECHNICAL EDUCATION DEPARTMENT
DATED PESHAWAR, THE

NOTIFICATION

NO. SO-III (IND)4-7/15/L.B/ In pursuance of section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rule 17 of Khyber Pakhtunkhwa Civil Servants (appointment, Promotion and Transfer) Rules, 1989, the competent authority has been pleased to order issuance of final seniority list of the Librarian (BPS-17), Khyber Pakhtunkhwa Technical Education and Vocational Training Authority (who had not opted to become TEVTA employees on creation of TEVTA) is hereby notified /circulated for general information.


FINAL SENIORITY LIST OF LIBRARIAN (BPS-17) KHYBER PAKHTUNKHWA TECHNICAL EDUCATION AND VOCATIONAL TRAINING AUTHORITY, AS STOOD ON 31-12-2017.

Sr. No.	Name of officer with qualification	Date of birth /Domicile	Date of 1 st entry into Govt: Service	Date of Regular appointment as Librarian	Regular appointment/promotion to present posts			Present posting	Remarks
					Date	BPS	Method of recruitment		
1.	Muhammad Saleem B.A/M.L.Sc	20-10-1960 Charsadda	19-05-1987	23-01-1988	23-02-2011	17	initial	GCT Nowshera	
2.	Mr. Mirdad Khan B.A/M.L.I.Sc	07-08-1959 Karak	01-11-1976	10-02-1992	23-02-2011	17	initial	GPI Karak	
3.	Mr. Alamgir Shah B.sc/M.L.I.Sc	03-04-1969 Mardan	16-09-1992	20-11-1993	20-11-1993	17	initial	GPI Takht Bhai	BPS-17 has been granted from previous date as per judgment of the Service Tribunal
4.	S. Jamal Shah. B.A/M.L.I.Sc	03-04-1966 Mohmand Agency	29-05-1986	20-11-1993	20-11-1993	17	initial	GCT Tangi	BPS-17 has been granted from previous date as per judgment of the Service Tribunal
5.	Mr. Javed Iqbal B.A/M.L. I.Sc	26-02-1973 Swat	11-08-1997	11-08-1997	11-08-1997	17	initial	GCT Swat	BPS-17 has been granted from previous date as per judgment of the Service Tribunal
6.	Mr. Muhammad Akbar B.A/M.L.I.Sc	05-01-1971 Mohmand Agency	27-08-1997	27-08-1997	23-02-2011	17	initial	GCT Abbottabad	
7.	Mr. Umar Khitab B.A/M.L. I.Sc	23-07-1966 Dir.	01-10-1987	24-11-2004	24-11-2004	17	initial	GCT Timergara	BPS-17 has been granted from previous date as per judgment of the Service Tribunal
8.	Zia ul Islam B.A/M.L.I.Sc.	17-05-1979 Chitral	05-04-2006	05-04-2006	23-02-2011	17	initial	GTVC Khalabat	

9.	Mr. Muhammad Ilyas B.Sc/M.L.I.Sc.	09-10-1983 Khyber Agency	19-12-2006	19-12-2006	23-02-2011	17	initial	GCT Peshawar
10.	Mr. Saif Ur Rehman B.A/M.L.I.Sc	16-11-1977 Lakki	30-12-2006	30-12-2006	23-02-2011	17	Initial	GPI Lakki
11.	Mr. Saad Hassan B.A/M.L.I.Sc	07-09-1983 Abbottabad	09-08-2009	09-08-2009	23-02-2011	17	Initial	GPI Mansehra
12.	Mr. Masqood UR Rehman B.A/M.L.I.Sc/ B. Ed.	17-12-1974 Haripur	09-08-2009	09-08-2009	23-02-2011	17	initial	GPI Haripur
13.	Mr. Inam Khan M.L.I. Sc	06-03-1981 Mohmand Agency	01-01-2013	-	01-01-2013	17	Initial	GCT Swabi
14.	Mr. Afsar Shah M.L.I.Sc	05-07-1987 Swat	17-01-2013	-	17-01-2013	17	Initial	GPI Buner
15.	Mr. Sajid ullah M.L.I.Sc.	08-08-1984 Bajaur Agency	04-03-2013	-	04-03-2013	17	Initial	GPI Wari

Certified that the seniority list is final/un-disputed and not subjudice.


MANAGING DIRECTOR
KP-TEVTA

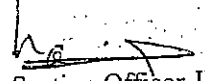

DIRECTOR(ADMN/HR)

NO. SO-III (IND)4-7/15/L.B./

Dated 11-06-2018.

Copy is forwarded to; -

1. The Managing Director KP-TEVTA.
2. The Principal GCT's/GPI's.


Section Officer-III,
Industries, Commerce & Technical Education
Department Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.412/2019

**Syed Jamal Shah, Librarian,
Govt. College of Technology, Tangi, (Charsadda).....APPELLANT.**

VERSUS

**Government of Khyber Pakhtunkhwa through Secretary Industries,
Civil Secretariat, Peshawar, and others.....RESPONDENTS**

I N D E X

S. No	Description	Annexure	Page No
1.	Reply		1-3
2.	Affidavit		4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.412/2019

**Syed Jamal Shah, Librarian,
Govt. College of Technology, Tangi, (Charsadda).....APPELLANT.**

VERSUS

**Government of Khyber Pakhtunkhwa through Secretary Industries,
Civil Secretariat, Peshawar, and others.....RESPONDENTS**

Respectfully Sheweth

PRELIMINARY OBJECTIONS:

- A- That the Service Appeal is badly time barred.
- B- That the appellant has got no locus standi.
- C- That the appeal is incompetent in its present form for non joinder of the necessary parties.
- D- That the appellant has not come to this honorable tribunal with clean hands.
- E- That the appellant has been estopped by his own conduct to file the present appeal.

FACTS:

- 1. Pertains to appellant official record.
- 2. Pertains to appellant official record.
- 3. Pertains to appellant official record.
- 4. Pertains to appellant official record.
- 5. Pertains to record.
- 6. Pertains to record.

7 & 8. Para No.7 & 8 of the appeal pertains to record. However it is stated that previously the posts of Librarians were used to be in BPS-16. There was no further structure available for their promotion. Keeping in view this hardship of the cadre, the Government of NWFP, Industries, Commerce, & Technical Education Department vide its notification dated 27.2.2006 devised a structure for them whereby 25 % of the total sanctioned posts of Librarians BPS-16 were placed in BPS-17 and further 25 % of BPS-17 posts were placed in BPS-18 for the promotion of Librarians. However later on, all the posts of Librarians BPS-16 were up-graded to BPS-17 vide Notification dated 15.8.2008. Hence, at present none of these posts exists in BPS-16. Now due to developed and changed positions of the posts, a question arises that in the absence of BPS-16, how 25% of the posts in BPS-17 is to be allocated for further 25% allocation in BPS-18 accordingly. As per Rules and established principle of law the implementation of a formula / Rule is always taken in toto and not partially.

Ali

The respondents department is of the view that since three tier structure of the said cadre as provided in the said notification of 2006 has been reduced to the two tiers due to up-gradation of the posts in question, hence the notified formula of allocation is not applicable in the available circumstances. Hence, the respondent department has no solid justification for creation of posts in BPS-18 without having the base line in BPS 16 as provided in the notification dated 27-02-2006.

9. para-9 of the appeal is absolutely incorrect and misleading. In pursuance of the Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa, the appellant was allowed BPS-17 from the date of appointment with all back benefits for having acquired MLIS Degree.

10 & 11. Pertain to record. Fact of the matter is that Industries Department while realized lacking career progression for the DPEs & Librarians in the Service Rules moved the summary for re-structuring of the cadre which was routed through Finance Department. Since the up-gradation policy of the Provincial Government was not framed at that time, Finance Department proposed placing 25% of sanction posts of DPEs & Librarian BPS-16 in BPS-17 and 25% of BPS-17 posts in BPS-18 on hardship basis as stated in the preceding paras. The Competent Authority approved the proposal of Finance Department and was notified on 27.2.2006 accordingly.

12. No comments.

13. No comments.

14. It is incorrect. Act of the respondents is legal, lawful and without any discrimination.

GROUND'S

a) It is incorrect. No right of the appellant has been violated.

b) Both the promoted librarians are from other department. No post of senior scale librarian of BPS-18 exists in the respondents department.

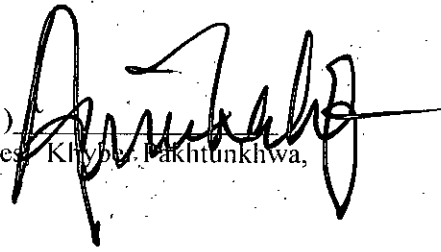
c) On the basis of higher qualification i.e. MLSc: the appellant has already been allowed personal up-gradation to BPS-17 with effect from 20.11.1993.

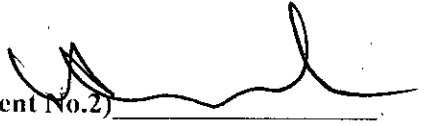
d) No comments.

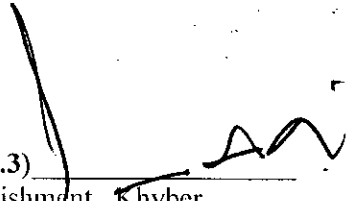
M.A.
e) The appellant has also availed the benefits of up-gradation with effect from the date of acquiring of MLISc Degree. As far as the promotion to BPS-18 is concerned the respondent department has no justification to accordingly proceed for the creation of posts in BPS-18 for the librarians.

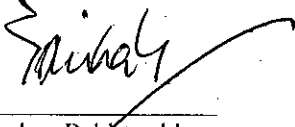
- f) No comments.
- g) It is incorrect. The appellant has never been discriminated.
- h) No comments.
- i) Being legal no comments.
- j) Explained in preceding paras.
- K) The respondents seek permission to raise additional ground at the time of arguments.

In view of the above, it is therefore, requested that the instant service appeal for having no force of law and facts may please be dismissed.

Respondent No.1) 
Secretary Industries, Khyber Pakhtunkhwa,
Peshawar.

Respondent No.2) 
Secretary Finance, Khyber Pakhtunkhwa,
Peshawar.

Respondent No.3) 
Secretary Establishment, Khyber
Pakhtunkhwa, Peshawar.

Respondent No.4) 
Managing Director, Khyber Pakhtunkhwa
Technical Education & Voc: Trg: Authority.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.412/2019

Syed Jamal Shah, Librarian,
Govt. College of Technology, Tangi, (Charsadda).....APPELLANT.

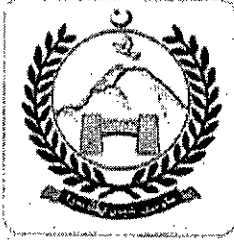
VERSUS

Government of Khyber Pakhtunkhwa through Secretary Industries,
Civil Secretariat, Peshawar, and others.....RESPONDENTS

AFFIDAVIT

I Shahab-ud-Din Khattak, Legal Coordinator of Technical &
Vocational Training Authority Khyber Pakhtunkhwa Peshawar do hereby
solemnly affirm and declare that contents of the accompanying reply are
true to the best of my knowledge and belief.

DEPONENT



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 641 /ST

Dated: 7-3-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The Secretary Industries Commerce & Technical Education
Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 412/2019 SYED JAMAL SHAH & OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 31.01.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR