

Service Appeal No. 214/2015

1. Ms. Roeeeda Khan, Advocate for appellant and Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 05 pages, in connected Service Appeal No. 216/2015, titled "Akbar Ali Versus Government of Khyber Pakhtunkhwa through Secretary Social Welfare, Zakat, Usher & Women Empowerment Department, Peshawar and others", the appeal in hand has no merit and, hence, dismissed. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 13th day of October, 2022.*



(KALIM ARSHAD KHAN)
Chairman

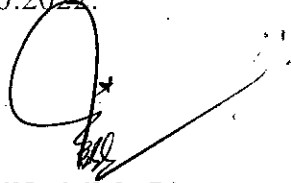


(FAREEHA PAUL)
Member (E)

05.07.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for official respondents No. 1 to 3 present. Mr. Zartaj Anwar Advocate for private respondent No. 4 to 10 present.

File to come up alongwith connected service appeal No. 216/2015 titled Akbar Ali versus Secretary Social Welfare, Zakat, Usher & Women Empowerment Department and others, before the D.B on 13.10.2022.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)




(SALAH-UD-DIN)
MEMBER (JUDICIAL)

04.01.2022

Counsel for the appellant, Mr. Asif Masood Ali Shah, DDA alongwith Nabi Gul Superintendent for official respondents and junior to counsel for private respondents present.

The latter seeks adjournment due to non-availability of learned senior counsel for private respondents. Request is accorded but as last chance. To come up for arguments on 11.01.2022 before the D.B.


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


Chairman

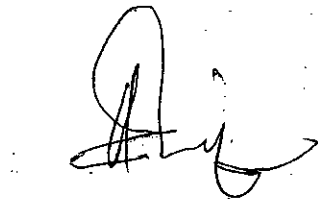
11.01.2022

Due to non-availability of D.B, case is adjourned to 28.03.2022 for the same as before.


Reader

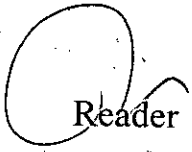
28-3-2022

Proper DB not available
the case is adjourned to come
up for the same as before
on 5-7-2022


Reader

20.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.


Reader

11.08.2021

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant's counsel be put on notice for 31.08.2021 for arguments before D.B.

(Rozina Rehman)
Member (J)


Chairman

31.08.2021

Due to summer vacations, the case is adjourned to 04.01.2022 for the same as before.


READER

27.08.2020

Due to summer vacation, the case is adjourned to 03.11.2020 for the same as before.


Reader

03.11.2020

Junior to counsel for the appellant and Addl. AG alongwith Sardar Ali, Asstt. for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 13.01.2021 for hearing before the D.B.

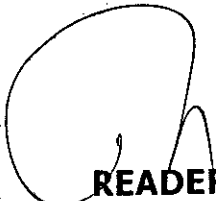

(Mian Muhammad)
Member


Chairman

13.01.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Due to COVID-19, the case is adjourned for the same on 20.04.2021 before D.B.



READER

27.01.2020

Junior to counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Due to general strike on the call of K.P Bar Council, instant appeal is adjourned to 06.03.2020 for arguments before the D.B.


Member


Member

06.03.2020


Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 15.06.2020 before D.B.



Reader

15.06.2020

No one present on behalf of appellant and private respondents. Mr. Kabir Ullah Khattak learned Additional Advocate General for official respondents present. Notice be issued to the appellant and private respondents as well as their counsels. Official respondents are also directed to direct the representative to attend the court. Adjourned. To come up for attendance of the parties as well as arguments on 27.08.2020 before D.B.


(Rozina Rehman)
Member


(M.Amin Khan Kundi)
Member


15/7/20

06.08.2019

Appellant in person, Mr. Muhammad Jan, DDA alongwith Mr. Nabi Gul, Supdt for official respondents and private respondent No. 5 in person present.

The private respondent requests for adjournment due to non-availability of his counsel due to his domestic engagements.

Adjourned to 27.09.2019 before D.B.


Member


Chairman

27.09.2019

Appellant in person present. Learned Asst: AG for official respondents and private respondents no. 4 in person present. Appellant seeks adjournment as his counsel is not available today. Being an old case of 2015 adjourned on payment of cost of Rs. 3000/- which to be paid by the appellant to the respondents. Last opportunity granted for arguments. To come up for arguments on 25.11.2019 before D.B.


Member


Member

25.11.2019

Due to general strike of the bar, the case is adjourned. To come up on 27.01.2020 before D.B.


Member


Member

20.05.2019 Learned counsel for the appellant, Mr. Kabirullah Khattak learned Addl: AG for the official respondents and private respondent No.5 in person present.

Learned counsel for the private respondents is reported to be indisposed, therefore, a request for adjournment is made.

Adjourned to 24.06.2019 for argument before D.B.


Member


Chairman

24.06.2019 Appellant absent. Learned counsel for the appellant absent. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Nabi Gul Superintendent for official respondents present. Private respondents No.4 & 10 in person present. Clerk to counsel for private respondents present. Clerk to counsel for private respondents seeks adjournment as learned counsel for private respondents is not in attendance. Adjourn. To come up for arguments on 06.08.2019 before D.B


Member


Member

31.01.2019

Roida Khan Advocate appeared and submitted wakalat name in favor of the appellant. Mr. Usman Ghani learned District Attorney alongwith Nabi Gul Superintendent for the respondents present. Learned counsel for the appellant submitted rejoinder and being freshly engaged, seeks adjournment. Adjourn. To come up for arguments on 07.03.2019 before D.B.


Member


Member

07.03.2019

Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Nabi Gul Superintendent for official respondents present. Clerk to Zartaj Anwar Advocate present and submitted wakalat nama in favor of private respondents No.4 to 7, 9 and 10. Adjournment requested. Adjourn. To come up for arguments on 26.04.2019 before D.B.

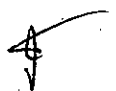

Member



Member

26.04.2019

Clerk to counsel for the appellant and Adll: AG for the respondents present.

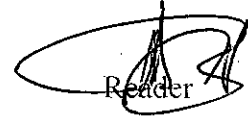
Due to general strike on the call of Bar Association instant matter is adjourned to 20.05.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

03.05.2018


Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 17.07.2018 before D.B


Reader

17.07.2018


Clerk to counsel for the appellant and Mr. Zia Ullah, Learned Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 05.09.2018 before D.B



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

05.09.2018

Appellant absent. Learned counsel for the appellant is also absent. Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 in person present. Adjourned. To come up for arguments on 24.09.2018 before D.B.


(M. Amin Khan Kundi)
Member


(M. Hamid Mughal)
Member

24-9-2018

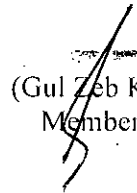
Due to retirement of
Honble Chairman the Tribunal
is defunct Therefore case is
adjourned to 27-12-2018
Reader


27-12-18

The Bench is incomplete
Therefore case is adjourned
to 31-1-2019
Reader

02.06.2017

Clerk of the Counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG and private respondent also present. Clerk of the Counsel for appellant requested for adjournment due to non-availability of his senior counsel. Adjourned. To come up for arguments on 25.09.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

25.09.2017

Counsel for the appellant and Adll: AG for respondents present. Since learned Member (Mr. Ahmad Hassan) is on leave, therefore, arguments could not be heard. To come up for arguments on 29.12.2017 before D.B.


Chairman


29.12.2017


Clerk to counsel for the appellant and Usman Ghani, District Attorney alongwith Mr. Nabi Gul, Supdt for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 28.02.2018 before D.B.


Member

28.02.2018

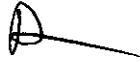
Appellant in person and Mr. Muhammad Jan, DDA alongwith Nabi Gul, Supdt. for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 3.5.2018 before the D.B.


Member(Executive)


Member (Judicial)

20.10.2016

Counsel for the appellant, Nabi Gul, Supdt alongwith Addl:AG for official respondents and counsel for private respondents present. Counsel for private respondents submitted that learned senior counsel for private respondents is busy in the Peshawar High Court, Peshawar and may not available today to argue the case. He requested for adjournment. To come up for arguments on 12.01.2017.



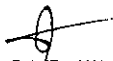
(ABDUL LATIF)
MEMBER



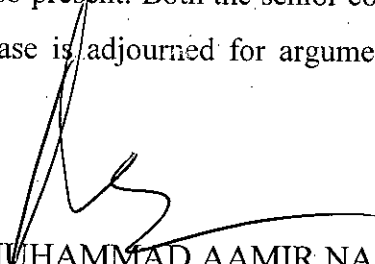
(PIR BAKHSH SHAH)
MEMBER.

12.01.2017

Clerk to counsel for the appellant, Mr. Nabi Gul, Supdt. alongwith Mr. Muhammad Jan, GP for official respondents and counsel for private respondents also present. Both the senior counsels are not available therefore, the case is adjourned for arguments on 02.06.2017.



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

26.1.2016

Appellant in person and Mr. Rahim Shah, Assistant alongwith Addl: A.G for official respondents No. 1 to 3 and counsel for private respondent No. 4 to 10 present. Para-wise comments on behalf of official respondents No. 1 to 3 submitted. Written reply by private respondent No. 4 to 10 not submitted. Requested for further adjournment. Last opportunity granted subject to payment of cost of Rs. 500/- which shall be borne by private respondent No. 4 to 10 from ^{their} ~~his~~ own pockets. To come up for written reply/comments on behalf of private respondent No. 4 to 10 and cost on 31.3.2016 before S.B.


Chairman

31.03.2016

Appellant in person, Mr. Aziz Shah Reader alongwith Addl. AG for official respondents No. 1 to 3 and Agent to counsel for private respondents No. 4 to 10 present. Written statement by private respondent No. 4 to 10 submitted. Cost of Rs. 500/- paid and receipt thereof obtained. Official respondents No. 1 to 3 have already submitted written statement. The appeal is assigned to D.B for rejoinder and final hearing for 20.7.2016.


Chairman

20.07.2016

Counsel for the appellant, Additional AG for the official respondents No. 1 to 3 and private respondents No. 4 to 10 in person present. Learned counsel for the appellant submitted that he does not want to file rejoinder and case may be fixed for arguments. To come up for arguments on 20-10-16 before D.B.


MEMBER


MEMBER

01.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that in the aftermath of devolution policy in 2007, the post held by the appellant was declared as District Cadre Post and vide impugned order dated 26.4.2011 officials junior to appellant serving in the Directorate were promoted and appointed as immediate officers of the appellant. That the appellant preferred the departmental appeal which was rejected on 23.1.2015 and conveyed to the appellant on 4.2.2015 and hence the instant service appeal on 2.3.2015.

That the private respondents cannot be given preference in promotion vis-a-vis the promotion of the appellant being junior to him.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 30.6.2015 before S.B.

Appellant Deposited
Security & Process Fee

I

11-11-11

11-11-11

Chairman

30.06.2015

Appellant absent. Notices to the respondents could not be issued due to late deposit of security. The same be issued for submission of written reply/comments for 12.10.2015 before S.B.

Chairman

12.10.2015

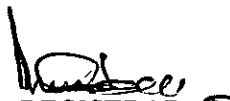


Appellant in person and Mr. Haleem Shah, Assistant alongwith Addl. A.G for official respondents No. 1 to 3 present. Mr. Sajid Amin, Advocate on behalf of private respondents No. 4 to 10 present and submitted Wakalat Nama. Requested for adjournment. To come up for written reply/comments on 26.01.2016 before S.B.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 214/2015

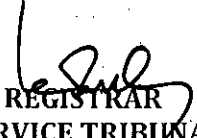
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12.03.2015	<p>The appeal of Mr. Abdul Rasheed resubmitted today by Mr. Muhammad Isa Khan Khalil Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>27-4-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Abdul Rasheed son of Pazeer Gul Junior Clerk Distt. Officer Social Welfare Department Charsadda received to-day i.e. on 02.03.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Page Nos.6, 9, 14, 15, 16, 17 and 22 of the appeal are illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be attested.
- 3- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 266/S.T.

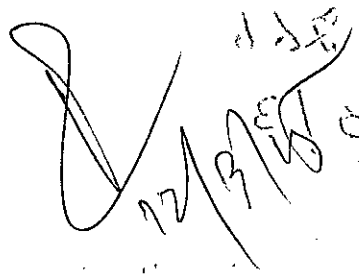
Dt. 3/3/2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammd Isa Khan Adv. Pesh.

PTO

Dr. Ronald W. Baker, Chairman


12/19/88

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S. Appeal No. 214 /2015

Abdul Rasheed..... Appellant

Versus


Govt. of KPK through Secretary Social Welfare, Zakat, Usher &
Women Empowerment Department, KPK & others..... Respondents

INDEX

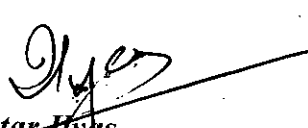
Sr No.	Documents & description	Annexure	Page
1.	Appeal		1-5
2.	Copy of final seniority list.	A	6
3.	Copy of notification dt.31.08.21007	B	7
4.	Copy of notification dt.16.08.2007	C	8
5.	Copy of order dt.25.03.2007	D	9
6.	Copy of order dated 18.06.2011	E	10
7.	Copy of order dated 12.12.2011	F	11
8.	Copy of departmental appeals.	G/1-G/2	12-13
9.	Copy of letter dt.26.02.2011	H	14-16
10.	Copy of order dated 17.02.2011	I	17
11.	Copy of order in W.P.No.2718/2011 dated 17.04.2014	J	18-21
12.	Copy of notification dt.30.04.2014	K	22-23
13.	Copy of W.P.No.1684/2014	L	24-34
14.	Copy of impugned order dt.23.01.2015	M	35-37


Appellant

Through


Muhammad Ishtiaq Khan Khalil
Advocate Supreme Court

&


Akhtar Hyas
Advocate High Court,
Peshawar.

Off: 6-B, Haroon Mansion
Khyber Bazar,
Peshawar
Cell: 0300-5949173

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 214 / 2015

K.P. Province
Service Tribunal
Diary No. 174
Dated 22-03-2015

Abdul Rasheed son of Pazeer Gul
Junior Clerk, District Office,
Social Welfare, District Charsadda..... Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa through Secretary Social Welfare, Zakat, Usher & Women Empowerment Department, KPK, Benevolent Fund Building, Peshawar Cantt.
2. Director Social Welfare, Special Education and Women Empowerment, KPK, Peshawar, near Islamia College, Jamrud Road, Peshawar.
3. Assistant Director Admin: Social Welfare, Special Education and Women Empowerment, KPK, Peshawar, near Islamia College, Jamrud Road, Peshawar.
4. Maseeh Ullah, Assistant, Directorate of Social Welfare, KPK, Peshawar.
5. Khan Saib, Senior Clerk, Directorate of Social Welfare, KPK, Peshawar.
6. Fazli Rabi, Senior Clerk, Directorate of Social Welfare, KPK, Peshawar.
7. Telawat Shah, Senior Clerk, Govt. Institute for Blind (GIB), Mardan.
8. Sahar Khan, Senior Clerk, Directorate of Social Welfare, KPK, Peshawar.
9. Tahir Shamas, Senior Clerk, Directorate of Social Welfare, KPK, Peshawar.
10. Lal Hussain, Senior Clerk, Artificial Limbs Workshop, Khyber Teaching Hospital, Peshawar.

Filed to-day
[Signature]
Registrar

2/3/15

re-submitted to-day
and filed.

[Signature]
Registrar 12/3/15

APPEAL U/S 4 OF THE KPK SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
ORDER/ LETTER OF RESPONDENT NO.1
DATED 23.01.2015 RECEIVED ON
04.02.2015 WHEREBY APPEAL OF THE
APPELLANT HAS BEEN REGRETTEED.

Sheweth;

- 1) That the appellant was appointed as Junior Clerk on 03.10.1988, who stood at S.No. ~~12~~ of the Seniority List issued on 01.03.2007. (Annex: "A").
- 2) That in the year 2007, some of the departments were devolved which included the respondent department as well. In this respect a notification dated 31.08.2007 (Annex: "B") was issued whereby Provincial cadre post in BPS-1 to BPS-15 belonging to Social Welfare and Women Development Department were declared as District Cadre Post.
- 3) That pursuant to the above stated notification the appellant was considered to have been developed to the District Cadre. It merits mention that vide a notification dated 16.08.2007 (Annex: "C") the terms and conditions for the incumbents of the Provincial Cadre posts in BPS-1 to BPS-15 belonging to the respondent-department were notified.
- 4) That at the back of the appellant promotion orders were made on 25.03.2007 (Annex: "D"), 18.06.2011 (Annex: "E") and 12.12.2011 (Annex: "F") whereby the private respondents were promoted as senior clerk BPS-9.

- 5) That departmental appeals were preferred (Annex: "G/1 and G/2") on which correspondence took place between the Directorate of Social Welfare Peshawar and the Secretary of Social Welfare Department. The letter of the Directorate dated 26.02.2011 (Annex: "H") suggested a meeting to discuss as to how the Seniority of the officials shall be maintained.
- 6) That the matter was taken up at the level of respondent No.1 who was pleased to make the following order on February, 17 2011 (Annex: "I") while deciding appeal of the appellant:

"It is obvious that there is no seniority list of district employees and they have been deprived from their right of promotion"

I am further directed to request you to please restore the combined seniority list of junior clerks/ senior clerks issued upto March, 2007 (Copy enclosed) and the junior most employees who were wrongly promoted (copy enclosed) may be reverted"

- 7) That the respondent department was not in a mood to implement the stated decision of the respondent No.1 and it lead the appellant to file writ petition No.2718/2011 which was disposed off on 17.04.2014 by the August High Court whereby respondent No.1 was directed to decide the appeal at he earliest. (Annex: "J").
- 8) That on approaching the worthy Secretary on the date and time appointed by the High Court, committee was constituted for disposal of the grievances of the affectees, including the appellant vide notification dated 30.04.2014. (Annex: "K").
- 9) That the appellant filed another writ petition No.1684/2014 dated 26.05.2014 (Annex: "L") for seeking earlier disposal of the

appeal, during the pendency whereby the impugned order dated 23.01.2015 was made whereby the appeal was rejected. (Annex: "M").

- 10) That feeling aggrieved the appellant files the instant service appeal, inter alia, on the following:

GROUNDS

- A. That the appellant has not been dealt with in accordance with law.
- B. That the notification of the devolution of the department provides for obtaining option of the incumbents but no such opportunity was provided to the appellant.
- C. That no seniority list was prepared at the district level.
- D. That juniors of the appellant at the Directorate level were promoted and they were posted at the senior posts at District level. Hence the juniors were made bosses of the seniors.
- E. That as per Local Govt. Ordinance, 2001 the groups of offices were provided in Part-C thereof and the respondent-department was to fall in S.No.III but no such group was ever made.
- F. That practically neither any group of offices has formed nor was any seniority list at District level made nor the option of the appellant was obtained for District Cadre.
- G. That the appellant was qualified for promotion on all scores but was left out for the wrong committed by the official respondent by considering him to have been posted on district cadre post though nothing of the sort was practically prevailing at that time.
- H. That the appellant seeks leave of the Tribunal to urge additional grounds after the stance of the respondents becomes known to him.


PRAYER:

In view of the above, it is, therefore, prayed that the appellant kindly be considered for promotion to the post of senior clerk BPS-9 and fixation of his seniority as senior clerk as he maintained in the lower post.


Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for, may kindly, also be granted.


Appellant

Through



Muhammad Asif Khan Khalil
Advocate Supreme Court

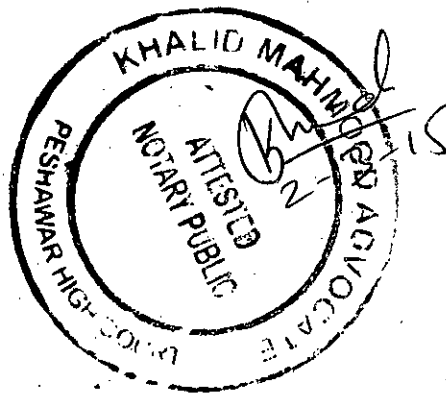
&


Akhtar Ilyas
Advocate High Court,
Peshawar.

AFFIDAVIT

I Abdul Rasheed son of Pazeer Gul Junior Clerk, District Office, Social Welfare, District Charsadda do hereby affirm and declare on oath that the contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent



GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE AND
WOMEN DEV: JAMRUD ROAD PESHAWAR.

6

Dated Peshawar the ____/____/2007.

NOTIFICATION.

In pursuance of provision contained in Section-8 of the NWFP
Servant Act: 1973, the final seniority list of Junior Clerks (BPS-5) of Social
Welfare Department NWFP up to 31.12.2006 is hereby notified for general
information of all concerned.

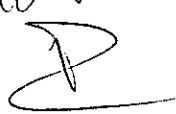

DIRECTOR
Social Welfare & WDD

Endst: No. E-17/17/DSW/ 18/6 , Dated Pesh the 1/3/2007.

Copy forwarded to:

- 1- All the District Officers, Social Welfare Department in NWFP.
- 2- The officials concerned.

DIRECTOR
Social Welfare & WDD

Attended


(6A) (6A)

30	Ghani.Rahman	F.A	Dir	02.04.1971	01.04.1992	01.04.1992
31	Aslam Khan	M.A	Peshawar	01.06.1969	16.06.1992	16.06.1992
32	Sahar Khan	Matric	Peshawar	15.10.1962	17.06.1978 (As Chowkidar)	30.05.1996 (As J/Clerk)
33	Tilawat Shah	Matric	Charsadda	06.08.1970	19.12.1991 (As Salesman)	30.05.1996 (As J/Clerk)
34	Akbar Khan	F.A	Swat	15.04.1972	04.07.1993 (As Dispenser)	30.05.1996 (As J/Clerk)
35	Babar Sadiq	Matric	Mansehra	16.03.1965	31.08.1986	13.11.2001 (Adjusted from Surplus Pool)
36	Muhammad Arif	F.A	Abbottabad	15.03.1968	01.06.1989 (As N/Qasid)	24.02.2002 (As J/Clerk)
37	Jehanzeb Khan	Matric	Dir	02.04.1966	04.06.1988 (As N/Qasid)	01.03.2002 (As J/Clerk)
38	Amir Muhammad	Matric	Kohat	22.12.1971	23.12.1991	01.06.2002 (Adjusted from Surplus Pool)
39	Abdul Ghaffar	M.Com 4 th Year	D.I.Khan	02.04.1977	28.04.2004	28.04.2004
40	Fazal Rabbi	Matric	Peshawar	03.02.1970	20.10.1991 (As Mali)	01.01.2005 (As J/Clerk)
41	Tahir Shams	B.A	Mansehra	24.4.1976	22.02.2001 (On contract basis)	01.12.2005 (Revenue Side)
42	Zia-ur-Rahman	B.A	Bannu	24.03.1979	19.08.1996	03.05.2006 (From Surplus Pool)
43	Saifullah Khan		Kohat		07.10.2002 (ADP Scheme)	01.07.2006 (Rev: Side)
44	Aamir Mahmood	Matric	Swat	06.04.1982	21.09.2002 (ADP Scheme)	01.07.2006 (Rev: Side)
45	Said Kamal Khan	D.Com	D.I.Khan	15.04.1977	29.11.2002 (Fixed pay)	01.07.2006 (Rev: Side)

Accepted
[Signature]

[Signature]
DIRECTOR
Social Welfare NWFP.

FINAL SENIORITY LIST OF JUNIOR CLERKS BPS-5 OF SOCIAL WELFARE AND WOMEN DEV. DEPTT. AS STOOD ON 31.12.2006

6-4

S.No	Name	Qualification	Domicile	Date of birth	Date of 1 st entry into Govt. Service	Present appointment with date	Remarks
1	Abdul Wali	BA	Chitral	20.04.1955	20.04.1977	20.04.1977	
2	Muhammad Younis	BA	D.I.Khan	02.08.1956	29.05.1979	29.05.1979	
3	Mushtaq Ahmed	Matric	Bannu	12.09.1960	28.05.1979	28.5.1979	
4	Fazal Dayan	Matric	Buner	03.03.1959	01.01.1981	01.01.1981	
5	Salim Shah	Matric	Mansehra	15.04.1961	18.02.1984	18.02.1984	
6	Masood-ur-Rahman	F.A	Karak	09.03.1954	01.12.1977 (As Chowkidar)	20.02.1984 as J/Clerk	
7	Muhammad Tariq	D.Com	D.I.Khan	10.03.1958	20.02.1984	20.02.1984	
8	Abdul Ghaffar	Matric	D.I.Khan	02.02.1961	21.02.1984	21.02.1984	
9	Raz Muhammad	Matric	Peshawar	06.02.1964	01.02.1987	01.02.1987	
10	Fazal Wahid	Matric	Bannu	15.12.1956	01.03.1987	01.03.1987	
11	Mumtaz Khan	Matric	Peshawar	01.04.1963	01.10.1988	01.10.1988	
11	Saeed Muhammad	Matric	Charsadda	16.12.1968	03.10.1988	03.10.1988	
12	Abdur Rashid	F.A	Charsadda	13.05.1969	03.10.1988	03.10.1988	
13	Sardar Bahadar	F.A	Haripur	03.03.1965	09.10.1988	09.10.1988	
14	Salim shah	Matric	Peshawar	28.04.1969	20.07.1990	20.07.1990	
15	Akhtar Hussain	F.A	Peshawar	10.05.1972	04.08.1990	04.08.1990	
16	Shaukat Ali	B.A	Swat	03.03.1962	14.05.1991	14.05.1991	
17	Akbar Ali	M.A	Mardan	01.05.1966	14.05.1991	14.05.1991	
18	Khan Sahib	Matric	Peshawar	12.01.1973	14.05.1991	14.05.1991	
19	Muhammad Ismail	Matric	Chitral	18.12.1962	18.05.1991	18.05.1991	
20	Taqweem-ul-Haq	F.A	Dir	15.04.1971	18.05.1991	18.05.1991	
21	Zahir Shah	Matric	Mardan	09.12.1970	22.05.1991	22.05.1991	
22	Muhammad Iltaf	F.A	Mansehra	09.08.1970	29.05.1991	29.05.1991	
23	Muhammad Usman	F.A	Dir	05.08.1969	11.06.1991	11.06.1991	
24	Qadeem Khan	Matric	Charsadda	17.04.1966	23.09.1991	23.09.1991	
25	Hamayun Khan	F.A BA	Peshawar	01.03.1966	01.10.1991	01.10.1991	
26	Masihullah	F.A	Charsadda	10.02.1970	13.10.1991	13.10.1991	
27	Sajid Rasheed	Matric	Kohat	03.10.1969	29.10.1987 (As Chowkidar)	03.02.1992 (As J/Clerk)	
28	Saeed Ijaz	Matric	Swabi	1962	08.01.1992	08.02.1992	
29	Nadeem Ashraf	Matric	Haripur	22.12.1968	23.02.1992	23.02.1992	

Most Immediate./Registered.

GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE
AND WOMEN DEV: JAMRD ROAD PESHAWAR.

No.E-17/71/KC-1/ 1565

Dated Peshawar the 27/8/2007.

To

- 1- All the District Officers, Social Welfare in NWFP. (Mardan)
- 2- The Manager, Artificial Limbs Workshop Peshawar.
- 3- All the Sections Incharge, Directorate of Social Welfare NWFP.

Subject: NOTIFICATION.

Kindly find enclosed a copy of Notification No. SOII(SWD) 144/2007/13419, dated 16.8.2007, issued by the Secretary to Government of NWFP, Social Welfare & Women Development Department vide which the provincial cadre posts in BPS-1 to BPS-15 belonging to Social Welfare & Women Development Department NWFP have been declared as District cadre posts with immediate effect per terms and conditions mentioned in the Notification.

In order to implement the policy, it is requested to furnish the requisite information on the over leaf format.

The requisite information in r/o all the concerned officials may be obtained and forwarded to this Directorate on most urgent basis please.

Encl. As above.


(Dr. Fakhir-ul-Islam)
Director
Social Welfare & WDD


Copy forwarded to:

- 1- PS to Secretary to Govt of NWFP, Social Welfare & Women Development Department Peshawar w/r to his the Notification referred above.

Director
Social Welfare & WDD

810
31/8/07

Scanned
M
31/8/07

Attended


GOVERNMENT OF NWFP
ZAKAT, USHR, SOCIAL WELFARE & WOMEN
DEV. DEPARTMENT
Dated Peshawar the 16th August 2007

8

NOTIFICATION:

NO.SOII(SWD)II-144/2007.

13419

N.R.

72

The competent authority is pleased to declare the provincial cadre posts in BPS-1 to BPS-15 belonging to Social Welfare and Women Development Wing of the Zakat, Ushr, Social Welfare and Women Development Department into District Cadre posts with immediate effect as per following terms and conditions:-

- i) Permanent transfer to the districts will be made on domicile and seniority basis.
- ii) In case the personnel of a particular district exceed the sanctioned strength, deployment will be made on the basis of seniority, and over-flow of junior most being posted temporarily to the adjacent districts till occurrence of vacancies in the districts of their domicile.
- iii) The domicile of female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a Government Employee and his transfer to another district, inter-district transfers of the female officials will be allowed subject to availability of vacancy in the desired district.
- iv) The Directorates and other Provincial level institutions will be allowed to opt once for retention of staff of their choice. It will be incumbent upon the institution concerned that return such employees to carryout all subsequent recruitment at the Provincial level in line with the zonal allocation policy of the Provincial Government.
- v) Subsequent to the permanent transfer of all BPS-15 and staff below to the districts, further inter-district transfers and service matters including appointments, within the districts, shall be made by the District Government in light of the District Government Rules of Business, 2001.
- vi) All cases of transfers from one district to another will be decided and ordered upon by the District concerned, albeit with prior consultation of the relevant Districts.
- vii) Seniority for the purpose of promotion to the posts of provincial cadre i.e. BPS-16 & BPS-17 will be maintained at Directorate/ Secretariat level.

It is further to mention here that the district Governments will deal with the cases of these employees as per clause 6 (B) of District Government Rules of Business. They (the District Govt) will also adopt such a mechanism that their inter-se-seniority is not affected.

7884
18-8-07
A.M.T

Pl. ex. discuss
16-8-07

Secretary to Govt: of NWFP
Zakat, Ushr, Social Welfare &
Women Dev: Department

Attested
P

(P.T.O.)

2
NO.SOII(SWD)II-144/2007

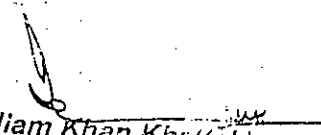
⁻²⁻
/13420-13523

Dated Peshawar the 16th August 2007

Copy forwarded to: -

1. All Administrative Secretaries to Government of NWFP.
2. Accountant General NWFP, Peshawar.
3. All District Coordination Officers, N.W.F.P.
4. ✓ Director Social Welfare NWFP, Peshawar.
5. All District Accounts Officers in NWFP
6. All District Officers Social Welfare in NWFP.
7. PS to Minister for Zakat, Ushr and Social Welfare NWFP
8. PS to Secretary Zakat, Ushr SW & WD Department.
9. Office order File




(Iqbal Khan Khattak)
Section Officer -II

199 (119)


GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE
AND WOMEN DEV: JAMRD ROAD PESHAWAR.

Dated Peshawar the 25/03/2007

NOTIFICATION.

No. B-17/16/DSW/1599-1600. Consequent upon recommendation of the Departmental Promotion Committee in its meeting held on 24.03.2008 in the Directorate of Social Welfare & Women Development NWFP Peshawar, the following officials are hereby promoted and posted with immediate effect to the vacant posts mentioned against their names:

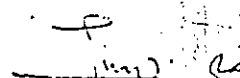
S.No	Name of official	Designation	Promoted as	Place of Posting
1	Mr. Noor Rahman	Senior Clerk (BPS-09)	Assistant (BPS-14)	Directorate of Social Welfare & Women Development NWFP Peshawar
2	Mr. Masihullah	Junior Clerk (BPS-07)	Senior Clerk (BPS-09)	Directorate of Social Welfare & Women Development NWFP Peshawar.


(Dr. Fakhr-ul-Islam)
Director

Social Welfare PWDD

Copy forwarded to:

- 1- The Accountant General, NWFP, Peshawar.
- 2- The Section Officer (General) Social Welfare Department Peshawar.
- 3- The Assistant Director (Budget & Accounts), Directorate of Social Welfare & Women Development NWFP Peshawar.
- 4- The officials concerned.


Director
Social Welfare PWDD

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE AND
WOMEN DEV: JAMRUD ROAD PESHAWAR.

ANNEX-E
10

Dated Peshawar the 18/6/2011

ORDER

No.E-17/16/DSW/104 (7-67) On recommendation of the Departmental Promotion Committee in its meeting held on 11.06.2011 and approved of the competent authority, the following Junior Clerks (BPS-07) are hereby promoted as Senior Clerk (BPS-09) with immediate effect.

1. Mr. Khan Sahib, Junior Clerk (BPS-07)
Directorate of Social Welfare & Women Development Department
Khyber Pakhtunkhwa, Peshawar.
2. Mr. Tilawat Shah, Junior Clerk, (BPS-07)
District Office, Social Welfare Department city District Govt: Nowshera.
3. Mr. Sahar Khan, Junior Clerk (BPS-07)
Government Institute for the Blind (G), Social Welfare Department City
District Govt: Peshawar.
4. Mr. Tahir Shamas, Junior Clerk (BPS-07)
Directorate of Social Welfare & Women Development Department
Khyber Pakhtunkhwa, Peshawar.
5. Mr. Fazal Rabi, Junior Clerk (BPS-07)
Center for Mentally Retarded and Physically Handicapped Children,
Social Welfare Department City District Govt: Peshawar.

The above officials concerned on promotion will remain on probation for a period of one year in terms of Section (2) of NWFP Civil Servant Act 1973 read with rules-15 (1) of NWFP civil servant (Appointment, Promotion and transfer) Rules 1989.

Consequent upon their promotion they are posted as Senior Clerk (BPS-09) in the Directorate of Social Welfare & Women Development Khyber Pakhtunkhwa, Peshawar:

Sd/-
Director
Social Welfare & Women Dev:

Endst: Even No. & Dated:-

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Section Officer-II, Social Welfare & Women Development
Khyber Pakhtunkhwa, Peshawar.
3. The District Account Officer, Peshawar.
4. The District Account Officer, Nowshera.
5. The Assistant Director (B&A), Directorate of Social Welfare &
Women Development Department Khyber Pakhtunkhwa;
Peshawar.
6. The District Officer, Social Welfare Department, City District
Government Peshawar.
7. The District Officer, Social Welfare Department, City District
Government Nowshera.
8. The Superintendent, Govt: Institute for the Blind (G), Peshawar.
9. The Manager, Centre for Mentally Retarded and physically
Handicapped Children Peshawar.
10. P.A to Director, Social Welfare & WD, Khyber Pakhtunkhwa.
11. The officials concerned.

Assistant Director (Admn)

ATF



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE,
SPECIAL EDUCATION AND WOMEN
EMPOWERMENT JAMRUD ROAD
PESHAWAR.

Annex F

11

Dated Peshawar the 12/12/2011

ORDER

No. E-17/16/DSW/1461(8-23). On recommendation of the Departmental Promotion Committee in its meeting held on 26.11.2011 and approval of the competent authority, Mr. Lal Hussain Junior Clerk (BPS-07) (presently working against the post of Senior Clerk in his own pay & scale in office of the Manager, Artificial Limbs Workshop, Khyber Teaching Hospital, Peshawar) is hereby promoted as Senior Clerk (BPS-09) and posted in office of the Manager, Artificial Limbs Workshop, Khyber Teaching Hospital, Peshawar with immediate effect.

The official concerned on promotion as Senior Clerk will remain on probation for a period of one year in terms of Section-6 (2) of NWFP Civil Servant Act 1973 read with rules-15 (1) of NWFP civil servant (Appointment, Promotion and transfer) Rules 1989.

Sd/-
Director
Social Welfare, Spl: Edu & WI
Khyber Pakhtunkhwa

Endst: Even No. & Dated:-

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Section Officer-II, Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Director (B&A), Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa, Peshawar.
4. The Manager, Artificial Limbs Workshop, K.T.H., Peshawar.
5. P.A to Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
6. The official concerned.

Assistant Director (Admin)
Social Welfare, Spl: Edu & WI
Khyber Pakhtunkhwa

12
12

Amir Ghani
12

عنوان گزینیت پر پورا پورے اصرار اور توجہ سے عمل کرنا

ذیل کی بات -
گزینیت کے بارے میں ادارہ صدر میں گزینیت کے بارے میں

تعمیراتی امور کے بارے میں گزینیت کے بارے میں

پہلے گزینیت کے بارے میں گزینیت کے بارے میں

گزینیت کے بارے میں گزینیت کے بارے میں

گزینیت کے بارے میں گزینیت کے بارے میں

گزینیت کے بارے میں گزینیت کے بارے میں

30/4/2011

30/4/2011

30/4/2011

دفتر گزینیت

Amir Ghani

پسندیدہ جواب ڈائریکٹر صاحب سروسز ویلڈنگ سوسائٹی کے لیے
سوال :- پیدل برائے پروموشن سیرنگٹن

جواب عالی :-

گزارش کیجائی ہے کہ بندہ $\frac{9}{28}$ $\frac{1988$

حیثیت جوئر فلکٹ بھری ہوا تھا۔ سائل نے جو 2 سال
جوئر فلکٹ مختلف اصلاح میں ڈیوٹی سر انجام دی ہے۔
سال 2007 کی سٹارٹ سٹریٹ لسٹ کی مطابق ٹاپ پر ہیں
جواب عالی :-

ابھی $\frac{18}{11}$ کو آپ صاحبان نے جن جوئر فلکٹ
پروموشن دی ہے۔ وہ ہم سے بہت جوئر ہے۔
کھڑا استدعا کی جاتی ہے۔ کہ سٹارٹ سٹریٹ
سٹریٹ لسٹ کے مطابق پروموشن کر کے برائی
ہوگی۔
رضوان
البارعہ

07
03/2011

Altaf

عبدالرشید جوئر فلکٹ ڈائریکٹر

ANNEX - 11
OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE AND
WOMEN DEV: PESHAWAR

No. E-17/16/DSW/Vol-8/ 7877
Dated Peshawar the 26/2/2011

To

The Section Officer-II,
Social Welfare Department.

Subject: APPEAL

I am directed to refer to your office letter No. SOII (SWD) II-201/954, dated 17.02.2011 on the subject cited above and to state that in terms of Rule 6(2), of the Khyber Pakhtunkhwa District Government Rules of Business 2001 "the District Coordination Officer shall have the powers of the appointing authority in respect of the officials in BPS-I to BPS-15". These rules come in to force w.e.f 14th August 2001. (Annex-A)

Furthermore, according to Section 8(1) of the Khyber Pakhtunkhwa Civil Servants Acts, 1973 "for proper administration of service cadre or (post), the appointing authority shall cause a seniority list of the members for the time being of such Service, Cadre or (post) to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or (post) as the case may be" (Annex-B).

In light of the above mentioned rules, the Administrative Department issued a notification bearing No. SOII-144/2007/13-19 dated 16th August 2007 (Annex-C) vide which posts in BPS-I to 15 were declared District Cadre posts while seniority for the purpose of promotion to the posts of Provincial Cadre i.e. BPS-16 & BPS-17 will be maintained at Directorate / Secretariat level. According to the said Notification the District Government will deal with the cases of these employees as per clause 6(B) of District Government Rules of Business and will adopt such a mechanism that their inter-se-seniority is not affected.

In compliance with above notification, the Directorate asked the District Officers Social Welfare Department in Khyber Pakhtunkhwa to submit options in respect of staff members serving under their respective control and to intimate their choice of posting either in the Directorate or in the District offices.

[Handwritten Signature]

In light of the above mentioned Rules and Regulations and the information received from the District offices, separate seniority lists of the officials in the Directorate were prepared. At that time one post of Senior Clerk and one post of Assistant were lying vacant in the Directorate of Social Welfare & Women Dev: Khyber Pakhtunkhwa. To fill these posts a meeting of the D.P.C was held on 24-03-2008 in which the following officials, who were working in the Directorate of Social Welfare and were senior most in their cadres, were promoted to the posts mentioned against their names.


1. Mr. Noor Rehman, Senior Clerk, promoted as Assistant.
2. Mr. Masihullah, Junior Clerk, promoted as Senior Clerk

It is worth mentioning here that on the basis of the seniority lists maintained at the District level, a number of promotion cases within BPS-1 to 15 have been decided by the District Selection / Promotion Board at Districts level which seems that the seniority in question is available. Promotion orders to various posts made by the District Government are attached for ready reference (Annexure-1).

As mentioned in the preceding paras, the appointing authority in respect of officials from BPS-1 to 15 in the District Government is District Coordination Officer and as per Section 8(1) of the Khyber Pakhtunkhwa Civil Servants Acts, 1973, the seniority of the officials from BPS-1 to 15 should be maintained by the District Coordination Officer concerned.

To avoid litigation, it is proposed that the matter may be re-considered in the light of prevailing rules. A meeting may be convened in the Department of Social Welfare to discuss the issue thoroughly and get the opposite points of view reconciled.

Encl: As above.


Assistant Director Admin
Social Welfare & WDD



GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE AND
WOMEN DEVELOPMENT DEPARTMENT

16

No.
Dated.

SO-II (SW) II-201/2009/ 2460
April 21, 2011

To

The Director,
Directorate of Social Welfare &
Women Development.

Subject: APPEAL.


Dear Sir,

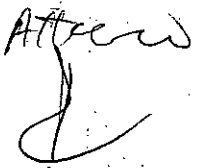
I am directed to refer to Directorate letter No. E-17/16/DSW/Vol-8/ 7877 dated 26-02-2011 on the subject noted above and to say that the case has been reconsidered and it has been observed that:-

- i. Instead of making any decision on the appeal, the matter was referred to the Administrative Department which was not a proper course. The Director should have come up with decision on the appeal in order to have enabled the appellants to approach the next higher or competent forum for redressal of their grievance.
- ii. The Directorate vide Paras 6 & 7 of its letter No. E-17/17/ DSW/Vol-IV/1551 dated 02-01-2009 has itself admitted that seniority both at the District and Directorate level had been affected due to Directorate's order No. E-17/36/DSW/294-304 dated 09-10-2008, which had also created administrative problems for the Directorate.
- iii. Vide letter No. E-17/16/DSW/Vol-8/ 7877 dated 26-02-2011, the Directorate on the one hand was treating the appellants as belonging to the District cadre, while on the other hand it had proposed a meeting to get the apposite points of view reconciled, which means that the Directorate is not clear about status of the appellants.

In view of the above observations and in order to redress and rectify any injustice done to the appellants, the Director Social Welfare is advised to consider the appeal, provide opportunity of hearing to the appellants, to consider whether due process had been adopted at the time of bifurcation of the staff at the Provincial and District levels and to see whether proper Seniority Lists exists or otherwise as during consideration of the appellant's case, it transpired that no proper seniority list exists at the district level.

Moreover, the appeal may be decided either way at the earliest as the appeal is pending decision since long.


(Muhammad Saeed)
Section Officer-II





GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE AND
WOMEN DEVELOPMENT DEPARTMENT

17/6
Annex-I

No. SO-II (SW) II-201 / 954
Dated. February 17, 2011

To

The Director,
Social Welfare & Women Dev:
Khyber Pakhtunkhwa, Peshawar.

Subject: APPEAL

Dear Sir,

I am directed to refer to your letter No. E-17/17/DSW/Vol-IV/1551 dated 02-01-2009 on the subject cited above and to state that the subject case was examined / considered and it was noticed that a combined Seniority List was issued by Directorate of Social Welfare & Women Development vide No. E-17/17/DSW/1816 dated 01-03-2007 by the competent authority was changed and prepared new seniority lists wherein the staff of Directorate was included and the staff of district offices was excluded from the list without obtaining consent of district level staff. Resultantly the senior most staff at Directorate level was promoted while the senior staff of the districts was avoided on the ground that they will be promoted to the vacant posts as and when available at district level only and not on Directorate level. It is obvious that there is no seniority list of district employees and they have been deprived from their right of promotion.

I am further directed to request you to please restore the combined seniority lists of Junior Clerks/Senior Clerks issued up to March, 2007 (copy enclosed) and the junior most employees who were wrongly promoted (copy enclosed) may be reverted.

2/

(Muhammad Saeed)
Section Officer-II

Attendant
D

Annex-D

18

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No 2718 /2011

- 1) Akbar Ali, Junior Clerk, Govt. Blind Institute, Mardan.
- 2) Abdur Rasheed, Junior Clerk, District Office, Charsadda.
- 3) Akhtar Hussain, Junior Clerk, District Office, Peshawar.
- 4) Humayun, Junior Clerk, Deaf School Gulbahar, Peshawar.
- 5) Mumtaz Khan, Junior Clerk D.O. Office, Nowshera.
- 6) Murtaza Khan, Senior Clerk *Social welfare* Workshop, Peshawar.
- 7) Sahib Gul, Senior Clerk, Govt. Blind Institute, Mardan.
- 8) Muhammad Azam, Senior Clerk, Welfare Home, Peshawar. *social*
- 9) Rukhsana Akmal, Senior Clerk GIB Girls, Peshawar. *center for mantali record Bafki road Peshawar*
- 10) Akbar Ali, Steno typist, GIB, Mardan.....Petitioners *G.I.T Nistar Abad road Chock Peshawar*

گورنمنٹ البٹھوڑا ماردان
VERSUS

- 1) Govt. of Khyber Pukhtunkhwa through Secretary Social Welfare
KPK, Peshawar *new Islamia college peshawar*
- 2) Director, Social Welfare, KPK, Peshawar. *near Islamia college peshawar*
- 3) Assistant Director Admin: Welfare KPK, Peshawar. *near Islamia college peshawar*
- 4) District Officer Social Welfare, Mardan.
- 5) District Officer Social Welfare, Charsadda.
- 6) District Officer Social Welfare, Nowshera.
- 7) District Officer Social Welfare, Peshawar.
- 8) Secretary Finance, KPK, Peshawar.
- 9) Masechullah, Assistant, Directorate of Social Welfare, KPK,
Peshawar. *near Islamiya college peshawar*
- 10) Abid, Assistant, Directorate of Social Welfare, KPK, Peshawar. *near Islamiya college peshawar*
- 11) Sardar Ali, Assistant, Directorate of Social Welfare, KPK, Peshawar. *near Islamiya college peshawar*
- 12) Saeed Muhammad, Assistant Directorate of Social Welfare, KPK, *near Islamiya college peshawar*

FILED TODAY

Deputy Registrar

23 AUG 2011

ATTESTED

EXAMINER
Peshawar High Court.

19 APR 2014

(12)

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



Writ Petition No.2718/2011.

JUDGMENT

Date of hearing.....17-4-2014.....

Petitioner(s). *(Akbar Ali.)* by *Mr. Amjad Ali, Advocate.*

Respondent(s). *Mr. G. J. Azhar, Advocate for the Respondt.*
Mr. Rab Nawaz Khan, B.A. for the official Respondents.

YAHYA AFRIDI, J.- Akbar Ali and nine others, petitioners, seek constitutional jurisdiction of this Court praying that:

"It is, therefore, humbly prayed that on acceptance of this writ petition, respondents be directed:

- (i) *To restore order dated 17th February, 2011 passed by respondent No.1 and be implemented in true letter and spirit by reverting private respondents and promoting petitioners with all back benefits, order dated April 21, 2011 may please be declared as coram non judice, without lawful authority and may please be set aside.*

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ATTESTED

EXAMINER
Peshawar High Court.

19 APR 2014

- (ii) *In alternative may please be declared as ultra vires.*
- (iii) *Petitioners be considered for promotion with all back benefits.*
- (iv) *Past and present posts be allocated at District level with complete service structure.*
- (v) *The Directorate be abolished after devolution.*

Any other relief which this Hon'ble Court deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted."

2. The matter was discussed at some length. It was noted that the appeal of the petitioners is pending adjudication. The matter has oscillated between the Secretary and the Director for the last three years without any conclusion. This is a sorrow state of affairs.

3. Mr. Rab Nawaz Khan, AAG present in Court, undertakes that the appeal of the petitioners shall be considered and decided at the earliest.

4. We would not leave the matter to the respondents. The petitioner is directed to appear before the Worth Secretary, Government

TESTED

EXAMINER
High Court,
APR 2014

21

of Khyber Pukhtunkhwa, Social Welfare KPK,
Peshawar, near Islamia College, Peshawar, on
24.4.2014 at 1.00 PM at his office, for redressal
of their grievance. Copy of the decision should
also be sent to the Additional Registrar
(Judicial) of this Court.

Accordingly, this petition is disposed
of.

Dt.17-4-2014.

sd/- Yahya Abzidi J

[Signature]
JUDGE

sd/- Qaiser Rashid Ullah J

[Signature]

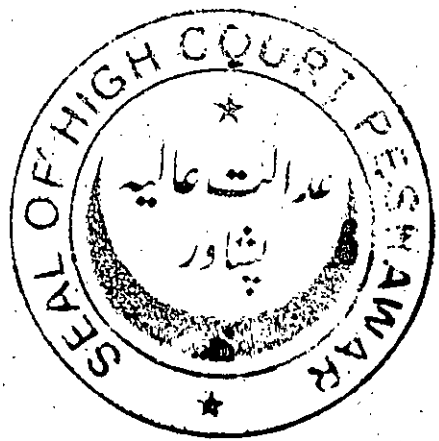
JUDGE

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

19 APR 2014

No. 17125 *M.Gul*
Date of Presentation of Application 19-4-14
No of Pages 4P
Copying fee 1
Urgent fee _____
Total 8.00
Date of Preparation of Copy 19-4-14
Date Given For Delivery 19-4-14
Date of Delivery of Copy 19-4-14
Received By Altab Ali



22

Government of Khyber Pakhtunkhwa
Zakatm Ushr, Social Welfare, Special Education &
Women Empowerment Department

No. SO-Lit (SWD) 1-13/2014

2512-16 Dated Peshawar the, 30/04/2014

NOTIFICATION:

No-SO(Lit)/SWD/1-13/2014 In compliance with the judgment dated 17/04/2014 of Peshawar High Court, Peshawar passed in Writ Petition No 27/08/2011, Akbar Ali & others v/s Govt: of Khyber Pakhtunkhwa, and in pursuance of the decision taken in meeting held on 28/04/2014, a committee consisting of the following is hereby constituted to discuss & dispose of grievances of the petitioners.

1. Mr. Farhad Khan Chairman
Deputy Secretary (SW)
Social Welfare, Special Education &
Woman Empowerment Department
2. Mr. Fahid Ullah Member
Section Officer-II
Social Welfare, Special Education &
Woman Empowerment Department
3. Mr. Kibaz Khan Member
Section Officer (Lit)
Social Welfare, Special Education &
Woman Empowerment Department
4. Mr. Bilal Khan Member
Assistant Director (Lit)
Directorate of Social Welfare, Special Education &
Woman Empowerment Khyber Pakhtunkhwa
5. Mr. Muhammad Rauf Khattak Member
Assistant Director (Estt)
Directorate of Social Welfare, Special Education &
Woman Empowerment, Khyber Pakhtunkhwa

2. The Terms of reference of the committee as under:-

- (i) The committee will discuss and dispose of the grievance of the petitioner in light of the relevant rules & regulation and in light of the judgment (dated 17/04/2014) of the Peshawar High Court, Peshawar, within the shortest possible time

The committee shall have the authority to call the petitioners as well as private respondents to listen to their view-point in detail.

23
24
23


- (iii) The committee shall consult the sister Departments who might have confronted such like situation.
- (iv) Establishment & Law Departments Khyber Pakhtunkhwa will also be consulted to ensure an amicable solution to the problem.
- (v) The committee shall meet at least twice a week till disposal/settlement of the issue.

SECRETARY,
Zakat, Ushr, Social Welfare Special Education
& Women Empowerment Department.

Encl. No and Date Even Above:

Copy forwarded to:-

1. Additional Registrar (Judicial) Peshawar High Court, Peshawar w/r to court judgment dated 17-04-2014 in writ petition No-2718/2011.
2. Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
3. All the members with the remarks that 1st meeting of the committee will be held on Monday the 5th May 2014 in the office of Deputy Secretary Social Welfare at 11: 00 A.M.
4. PS to Secretary to Government of Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.


(Mubaz Khan)
Section Officer (Lit)

ANNEX L

24

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. _____/2014

Akbar Ali & others..... Petitioners

Versus

Govt of KPK through

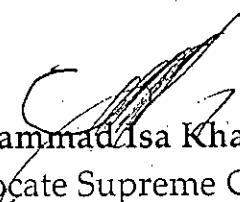
Secretary Social Welfare and others..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Writ Petition.		1-7
2.	Affidavit.		8
3.	Addresses of the parties.		9-10
4.	Judgment of 17.04.2014	A	11-14
5.	Copy of notification dated 30.04.2014	B	15-16
6.	Court Fee Rs.500/-		17-23
7.	Wakalatnamat		24

Petitioners

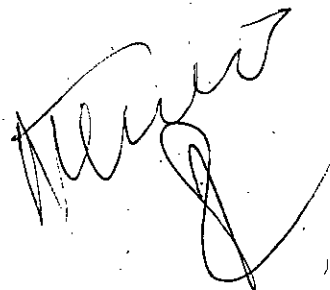
Through


Muhammad Isa Khan
Advocate Supreme Court

Off: 6-B, Haroon Manstion
Khyber Bazar Peshawar

Cell: 0342-9147612

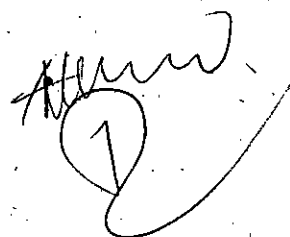
Dated: 26.5.2014



W.P.No. _____/2014

1. Akbar Ali, Junior Clerk, Govt; Blind Institute, Mardan.
2. Abdur Rasheed, Junior Clerk, District Office, Charsadda.
3. Akhtar Hussain, Junior Clerk, District Office, Peshawar.
4. Humayun, Junior Clerk, Deaf School Gulbahar, Peshawar.
5. Mumtaz Khan, Junior Clerk, D.O Office, Nowshera.
6. Murtaza Khan, Senior Clerk, Social Welfare Workshop, Peshawar Center for maintain record Bajagi Road, Peshawar.
7. Sahib Gul, Senior Clerk, Govt. Blind Institute, Mardan
8. Muhammad Azam, Senior Clerk, Social Welfare Home, Peshawar Madina Colony, Charsadda Road, Peshawar.
9. Rukhsana Akmal, Senior Clerk, GIB, Girls, Peshawar, G.I.T Nistar Abad, Road, Chowk Peshawar.
10. Akbar Ali, Steno Typist, Government Instituted of Blind, Mardan.

..... Petitioners



VERSUS

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1. Govt of Khyber Pakhtunkhwa, through Secretary,
Social Welfare, KPK, Peshawar, near Islamia College,
Peshawar.
2. Director, Social Welfare, KPK, Peshawar, Near
Islamia College, Peshawar.
3. Assistant Director Admin; Welfare KPK, Peshawar
Near Islamia College, Peshawar.
4. District Officer, Social Welfare, Mardan
5. District Officer, Social Welfare, Charsadda
6. District Officer, Social Welfare, Nowshera
7. District Officer, Social Welfare, Peshawar.
8. Secretary, Finance, KPK, Peshawar

.....Respondents

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

Respectfully submitted;

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- 1) That since long, the petitioners have been running from pillar to post but finding no way out, as a last resort, they agitated their grievances through a writ petition No.2718/2011, which was decided by this august Court vide judgment dated 17.04.2014.(Annexure "A")
- 2) That while disposing of the petition, this Hon'ble Court relied upon the undertaking of the learned AAG to the effect that he "undertakes that the appeal of the petitioners shall be considered and decided at the earliest", and directed the petitioners to appear before the worthy Secretary, Govt. of KPK, Social Welfare, KPK, Peshawar on 24.04.2014 at 1:00 PM at his office for the redressal of their grievances.
- 3) That in line with the directions of this Hon'ble Court, the petitioners attended the office of the worthy Secretary on the date and time appointed by this Hon'ble Court in the above stated order, and apprised him of the facts of their case with full particulars. The worthy Secretary did not render any decision on the appeal of the petitioners, but constituted a committee vide notification dated 30.04.2014. (Annexure "B") for disposal of the grievance of the petitioners.

- 4) That almost a period of one month has passed when the petitioners had appeared before the worthy Secretary, but the decision on their appeal is yet to be taken, notwithstanding the petitioners have been crying for their rights since 2008, and the constitution of the committee is nothing but a bureaucratic tactic employed for lingering on the matter for no valid reason.
- 5) That by the constitution of the committee, the petitioners have been hand-tied and they would not be able to raise their grievances in any other forum till the committee gives its finding and, in light thereof, the worthy Secretary takes a decision on the appeals of the petitioners, one way or the other.
- 6) That feeling aggrieved by the action taken and conduct demonstrated by the respondents, and having no other adequate and efficacious remedy, the petitioners do seek indulgence of this august Court for redress, inter alia, on the following:-

GROUND

- A. That the respondent No.1 cannot sit upon the appeal of the petitioners for indefinite period, so as to block their way to approach the appropriate forum for the redress of their grievances.

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(25)

B. That law on the subject enjoins upon the departmental authorities to dispose off the appeal within the stipulated period or to inform the appellant about the facts and reasons of withholding of his appeal, as enunciated by the proviso to section 6 of the KPK Civil Servants (Appeal) Rules, 1986, which read as under:-

"Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and reasons for it"

- C. That it is pertinent to mention, that the matter in hand pertains to seniority and promotion of the petitioners. In the recent past they have received the blow twice of having not been considered for promotion, firstly in 2008, and secondly in 2011, for the simple reason that their seniority position was disturbed to their detriment, in utter violation of the law and rules on the subject.
- D. That, admittedly, the petitioners will suffer in the future as well unless and until they are placed at their rightful seniority position. As the promotion of the petitioners hinges on seniority-cum-fitness, hence, they will be the ultimate losers in the given circumstances, when their seniority is not fixed correctly.

- E. That the respondents are required under the law to dispose off the petitioners' appeals without any further amount of delay. Besides they are under constitutional duty, as per the provisions of Article 201 of the Constitution, to comply with the order of this Hon'ble Court passed on 17.04.2014, which has required the respondents by observing "that the appeal of the petitioners shall be considered and be decided at the earliest"
- F. That the time is of the essence in such like matters, and the delay caused throws the effectees far behind and it becomes almost impossible for them to keep pace with those who cross the border line before them in point of time.
- G. That the petitioners seek leave of the court to urge additional grounds, after the stance of the respondents becomes known to them.

In view of the above, it is therefore, prayed that on acceptance of this petition, this Hon'ble Court may be pleased to issue an appropriate writ to the respondents by directing them to conclude the inquiry with no further delay and in light thereof dispose of the appeal of the petitioners expeditiously, preferably within 30 days; the petitioners, on the disposal of the appeal, may be allowed

(31)

to avail remedy before the appropriate forum by ignoring the delay so caused by the respondents; and to grant any other remedy to which the petitioners are found fit in law, justice and equity.

Petitioners
Through
Muhammad Isha Khan
Advocate Supreme Court
&

Akhtar Ilyas
Advocate High Court

CERTIFICATE:

Certified that as per information and instructions furnished by petitioners no such like writ petition has earlier been filed by the petitioner on the subject in this hon'ble Court.

LIST OF BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Service Laws
- 3) Rulings as perneed.


Advocate

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. _____ /2014

Akbar Ali & others..... Petitioners

Versus

Govt of KPK through

Secretary Social Welfare and others..... Respondents

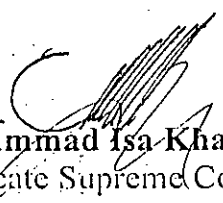
AFFIDAVIT

I, Akhtar Hussain S/o Khan Muhammad R/o Mohalalh Yar Khan Khel, Sufaid Dheri, P.O University Town, Tehsil & District Peshawar (Petitioner NO.3), do hereby affirm and declare on oath that the contents of the accompanying **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.

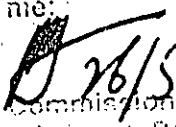
Identified by:


Deponent

17301-8497789-9


Muhammad Isa Khan
Advocate Supreme Court

12774 -
I, Akhtar Hussain S/o Khan Muhammad R/o Mohalalh Yar Khan Khel, Sufaid Dheri, P.O University Town, Tehsil & District Peshawar (Petitioner NO.3), do hereby affirm and declare on solemnly affirmation before me in office, this 26th day of May 2014 by Akhtar Hussain who was identified by Muhammad Isa Khan who is personally known to me.


Oath Commissioner
Peshawar High Court Peshawar

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(33)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. _____/2014

Akbar Ali & others..... Petitioners

Versus

Govt of KPK through

Secretary Social Welfare and others..... Respondents

ADDRESSES OF THE PARTIES

PETITIONERS:

1. Akbar Ali, Junior Clerk, Govt; Blind Institute, Mardan.
2. Abdur Rasheed, Junior Clerk, District Office, Charsadda.
3. Akhtar Hussain, Junior Clerk, District Office, Peshawar.
4. Humayun, Junior Clerk, Deaf School Gulbahar, Peshawar.
5. Mumtaz Khan, Junior Clerk, D.O Office, Nowshera.
6. Murtaza Khan, Senior Clerk, Social Welfare. Workshop,
Peshawar Center for maintain record Bajagi Road,
Peshawar.
7. Sahib Gul, Senior Clerk, Govt. Blink Institute, Mardan
8. Muhammad Azam, Senior Clerk, Social Welfare Home,
Peshawar Madina Colony, Charsadda Road, Peshawar.
9. Rukhsana Akmal, Senior Clerk, GIB, Girls, Peshawar, G.I.T
Nistar Abad, Road, Chowk Peshawar.
10. Akbar Ali, Steno Typist, Government Instituted of Blind,
Mardan.

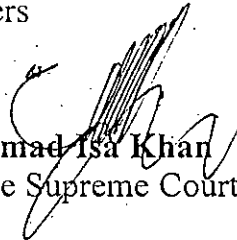
RESPONDENTS:

1. Govt of Khyber Pakhtunkhwa, through Secretary, Social
Welfare, KPK, Peshawar, near Islamia College, Peshawar.
2. Director, Social Welfare, KPK, Peshawar, Near Islamia
College, Peshawar.
3. Assistant Director Admin; Welfare KPK, Peshawar Near
Islamia College, Peshawar.
4. District Officer, Social Welfare, Mardan

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- 5. District Officer, Social Welfare, Charsadda
- 6. District Officer, Social Welfare, Nowshera
- 7. District Officer, Social Welfare, Peshawar.
- 8. Secretary, Finance, KPK, Peshawar

Petitioners
Through


Muhammad Isa Khan
Advocate Supreme Court

&

Akhtar Ilyas
Advocate High Court

ADWAK-M

REGISTERED MAIL

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION & WOMEN
EMPOWERMENT, OPPOSITE ISLAMIA COLLEGE JAMRUD ROAD,
PESHAWAR.

35



No. DSW/Li/1-13/ 8200/01
Dated Peshawar the 23/01/2015

091-9216099

To

The District Officer,
Social Welfare, Peshawar, Nowshera
Charsadda, Mardan & Swabi.

Subject:

MINUTES OF THE MEETING DATED 17.12.2014 REGARDING
IMPLEMENTATION OF JUDGMENT DATED 17.04.2014 PESHAWAR
HIGH COURT PESHAWAR IN WRIT PETITION NO. 2718-P/2011 TITLED
AKBAR ALI & OTHERS V/S GOVT: OF KHYBER PAKHTUNKHWA.

I am directed to refer to the subject noted above and to state that the following officials had filed a writ petition No. 2718-P/2011 titled "Akbar Ali & Others V/S Government of Khyber Pakhtunkhwa" in the Peshawar High Court Peshawar:

1. Mr. Akbar Ali, Junior Clerk, Govt: Institute for the Blind, Mardan.
2. Mr. Abdur Rasheed, Junior Clerk, District Office (SW) Charsadda.
3. Mr. Akhtar Hussain, Junior Clerk, District Office (SW) Peshawar.
4. Mr. Humayun Khan, Junior Clerk, District Office (SW) Peshawar.
5. Mr. Mumtaz Khan, Junior Clerk, District Office (SW) Nowshera.
6. Mr. Murtaza Khan, Senior Clerk, Center for MR & PHC, Peshawar.
7. Mr. Sahib Gul (Directorate of SW) on detailment to DO (SW) Swabi.
8. Mr. Azam Khan, Senior Clerk, Welfare Home Peshawar.
9. Mst: Rukhsana Akmal, Senior Clerk (GIB) Girls Peshawar.
10. Mr. Akbar Ali, Steno, Govt: Institute for the Blind, Mardan.

The Honorable Peshawar High Court Peshawar in its judgment dated 17.04.2014 ordered the Department to listen to the view point of the Petitioners and dispose off their application accordingly.

In compliance with the judgment of the Peshawar High Court Peshawar, a committee was constituted to dispose off the case in accordance with the rules and regulations.

The committee, after detailed consideration finally arrived at a decision in its 3rd meeting held on 17.12.2014. The Committee unanimously regretted request/application of the Petitioners.

A copy of the minutes is enclosed with the request to inform the Petitioners (serving under your respective control) regarding the decision made by the committee.

Encl: copy of judgment.

Assistant Director
(Establishment)

Copy to:

- 1- Section Officer (Litigation) Social Welfare, SE & WE w/r to his letter No. SO-Lit (SWD) 1-13/2011/143-46, dated 07.01.2014.
- 2- The Assistant Director (Lit) Directorate of SW, SE & WE.
- 3- PA to DSW.

Assistant Director
(Establishment)

07/11/2015
llf

317
30/1/15

36

subject:-

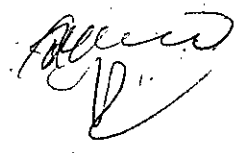
MINUTES OF THE MEETING DATED 27-10-2014
regarding implementation of judgment dated
17-04-2014 of Peshawar High Court, Peshawar
in writ petition No-2718-P/2011 titled
Mr. Akbar Ali v/s Govt of Khyber Pakhtunkhwa.

In continuation of the 2nd meeting held on 08-12-2014, 3rd meeting of the committee was held on 17-12-2014 under the Chairmanship of Additional Secretary, Social Welfare Department, to discuss implementation of judgment dated 17-04-2014 of the Peshawar High Court, Peshawar in writ petition No. 2718-P/2011; titled Mr. Akbar Ali v/s Govt of Khyber Pakhtunkhwa. The following attended the meeting:-

1. Mr. Motasim Billah Shah, Director, Social Welfare, Khyber Pakhtunkhwa,
2. Mr. Adeel Shah, Deputy Secretary (Admn), Social Welfare Department.
3. Mr. Shaista Section Officer (O&M), Establishment Department.
4. Mr. Azmat-ul-Ullah, Section Officer (Opinion-I), Law Department.
5. Mr. S. Adul-Hadi, Section Officer-(Lit) Social Welfare Deptt.
6. Mr. Muhammad Rauf, Assistant Director(Estt.). Social Welfare kpk

2. The representative of Finance Department Khyber Pakhtunkhwa, could not attend the meeting due to some other official engagements. The meeting started with the recitation of Holy Quran. The Chairperson asked the Deputy Secretary Social Welfare, to explain briefly the decision taken in the previous meeting. The Deputy Secretary Social Welfare explained to the forum, about meeting held on 08-12-2014 in which the Directorate was asked to produce all the record relating to seniority lists at District level and promotions made based on those lists. The original record was produced for examination of the members of the committee.

3. After detailed discussion the forum concluded that the officials were devolved to the District Govts in the wake of Local Govt System. Subsequently the Department issued bifurcated seniority list of the employees serving at the Provincial level.




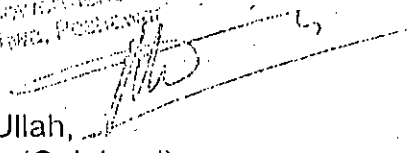
4. In order to fill the vacant posts available at Directorate level from time to time meetings of Departmental Promotion committee (DPCs) were also held to promote the officials as per seniority list. During the same period some of the District Govts also held DPCs to promote employees at District level against the vacant posts.

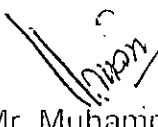
5. After abolition of District Govt system the services of the devolved employees were again placed at the disposal of Provincial Govt. The meeting concluded that legally it was not possible to reverse the promotion already given to employees and hence the petitioners have no legal stand for their promotion in light of any previous/old Seniority list. They should be treated in accordance with the APT rules.

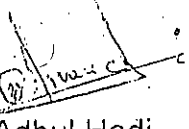
6. The meeting ended with a vote of thanks from the chair.

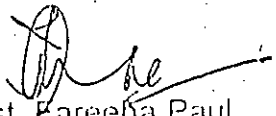

Mr. Motasim Billah Shah,
Director, Social Welfare,
Khyber Pakhtunkhwa,


Mrs. Shaista, Section Officer,
O & M, Establishment Deptt.

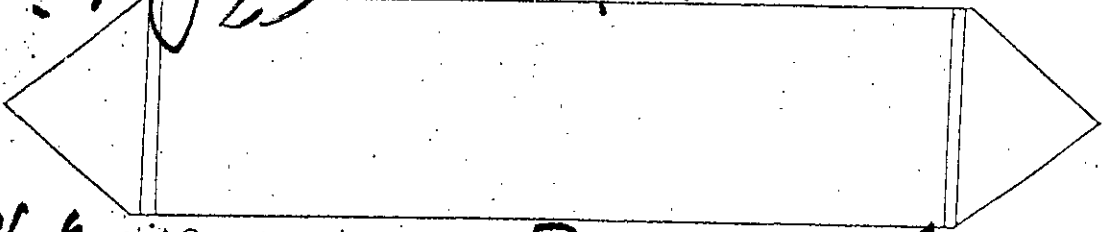

Mr. Azmat-ul-Ullah,
Section Officer (Opinion-I)
Law Department.


Mr. Muhammad Rauf,
Assistant Director (Estt)
Social Welfare KPK


Mr. S Abdul Hadi,
Section Officer-(Lit)
Social Welfare Deptt.


Mst. Fareeha Paul
Additional Secretary,
Social Welfare Department
Chairperson.

یعد البت ضبا بسوس ریزول ۱۹



مورخہ 2/3/15
 مقدمہ
 دعویٰ
 جرم

عبدالرشید منیر گورنمنٹ ہائی اسکول
 2ء منجانب
 عبدالرشید منیر

572

باعث تحریر آئیکہ

نمبر ۱۱

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکلہ کارروائی متعلقہ
 آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثبالت فیصلہ بر حلقہ دینے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و فلٹرنائی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے دہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 2
 ماہ مارچ 2015

بمقام
 کے لئے منظور
 Accepted
 ۱۱

Handwritten signature and notes on the right margin.

POWER OF ATTORNEY

In the Court of MR Justice Tahir Ahmad Peshawar
Abdus Robbil

- } For
- } Plaintiff
- } Appellant
- } Petitioner
- } Complainant

VERSUS

Govt Leprosy Hospital

- } Defendant
- } Respondent 4810
- } Accused

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

Fixed for _____

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

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

ad. Saad Amir Adani my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar 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. Compromises 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 subpoena 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 _____

Handwritten signatures and notes:
Adani
Bin
Saad Amir
Adani

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 & 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

1. مجلس العلم
2. مجلس العلم
3. مجلس العلم
4. مجلس العلم
5. مجلس العلم
6. مجلس العلم
7. مجلس العلم

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service appeal No. 214 / 2015,

Abdur Rasheed S/O Pazeer Gul,
Junior Clerk,
District Charsadda.....

Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary Social Welfare, Zakat, Usher & Women Empowerment Department.
2. Director Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Road Peshawar.
3. Assistant Director (Admn), Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Road Peshawar.
4. Masihullah, Assistant, Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar
5. Mr. Khan Sahib, Senior Clerk Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
6. Mr. Sahar Khan, Senior Clerk Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
7. Mr. Fazli Rabi, Senior Clerk Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
8. Mr. Tilawat Shah, Senior Clerk Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
9. Mr. Tahir Shams, Senior Clerk Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.

10. Mr. Lal Hussain Senior Clerk Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.....**RESPONDENTS**

PRELIMINARY OBJECTIONS:

1. The appellant has got no cause of action
2. The appeal is not maintainable in its present form.
3. The appeal is based on malafide intentions.
4. The appellant has no locus standi.
5. The appeal in hand is badly time barred.
6. The appellant has not come to Honorable Tribunal with clean hands.
7. The appellant has concealed the material facts from this Honorable Tribunal, hence liable to be dismissed.
8. The appeal is liable to be dismissed for non joinder/misjoinder necessary parties.
9. The appeal is against the prevailing law & rules.

PARA-WISE COMMENTS BY RESPONDENT NO. 1,2 & 3


Para No. 1: Correct to the extent that the appellant was appointed as Junior Clerk (BPS-5) on 03.10.1988. So far the seniority dated 01.03.2007 is concerned, it is stated that the same has lost its validity and has become in-executable, after the enforcement of Local Government Ordinance 2001 and laws framed there under (**Annexure-A, B, C & D**).

Para No. 2: Incorrect. No such notification dated 31-8.2007 was found on record.

Para No. 3: No comments.

Para No. 4: Incorrect. In wake of devolution of powers to District Government under local Government Ordinance 2001, and District Government Rules of Business 2001 as well (**Annexure-A**), the appointments upon the posts having BPS-1 to 15 were entrusted to the District Coordination Officers vide rule 6 (b) of the District Govt Rules of Business 2001. (**Annexure-B**) In pursuance of the said rule the Department of Social Welfare properly moved a summary to the then Chief Minister of erstwhile NWFP, regarding the declaration of the

posts in Districts as well as services of the incumbents of that posts, as District Cadres, which was accordingly approved by the competent authority. (Annexure-C&D) Consequently, the posts as well as incumbents (BPS-1-15) at Districts were declared district cadres and the posts in BPS-16 & 17 were retained at the strength of Provincial Government vide Notification dated 16.8.2007.(Annexure-E) As per Para-VIII of the said Notification the District Government had to deal with the cases of the appellant as per Provision of rule 6(2) of the District Rules of Business 2001(Annexure-A) and had to adopt such a mechanism that their inter-se-seniority was not affected. In compliance with Notification dated 16.8.2007 and approved summary, the Directorate of Social Welfare retained its staff as provincial cadre and maintained seniority lists of their officials under section 8 (I) of the Government Servant Act 1973 (Annexure-F) and granted promotions to the senior most officials in their cadres on the provincial cadres posts vide order dated 25.3.2008.(Annexure-G). Similarly the District Governments, following the Rule 6(2) of the District Rules of Business 2001 and section 8(I) of the Civil Servant Act 1973, also disposed off a numerous cases regarding appointments/promotions on District cadre posts (Annexure-H).

 **Para No. 5:** Incorrect. No appeal has been found on the record of Directorate of Social Welfare, while the annexed appeal (Dated 22.05.2011) is time barred one. So far the letter of Directorate Social Welfare (dated 26.02.2011) is concerned, the same is well convincible to decide the fate of District cadres.

Para No. 6: Incorrect. As the letter of the Social Welfare Department, dated 17.2.2011 have no concern with the appeal of the appellant (Dated 30.04.2011), as the appeal has showing been moved, **2 months and 13 days**, post of the said letter. It is pertinent to mention here that on the clarification, vide Directorate Social Welfare letter dated 26.2.2011, the letter of the Social Welfare Department dated 17.2.2011, had principally been withdrawn, as is reveals from the meeting of Departmental Promotion Committee dated 26.04.2011, dully attended by the same representative, who signed/issued the letter dated 17.2.2011, and promotion orders dated 26.04.2011 (**Annexure- I & J**).

Para No. 7: Incorrect. As commented at Para-6 above.

Para No. 8: Correct to the extent, regarding constitution of a committee vide notification dated 30.4.2014 (**Annexure-K**). It is added that meetings of the said committee was held on 05.05.2014 and 9.5.2014, and **unanimously decided that**” since they (Appellant) were working under the Administrative control of District Governments and the DCO being appointing authority was responsible to maintain their seniority lists (under section 8(I) of Government servant Act 1973) and constitute departmental promotion Committee as per prescribed mandate, and they (Appellant) were verbally informed accordingly (**Annexure-L&M**). However, in the interest of justice, the Social Welfare Department made a reference to Establishment Department Khyber Pakhtunkhwa, for their valuable opinion/advice in the matter (**Annexure-N**). After a series of correspondence, the

Establishment Department vide letter No. SOR-III(E&AD)6-2/2013 dated 25 September 2014 (Annexure-O) finally asked the Social Welfare Department to convene a meeting of the representatives of the Law, Establishment and Finance Departments so that the case may be decided once for all. Accordingly, working papers on the subject were circulated amongst the stakeholders, (Annexure-P) and after a series of its meetings, "it was concluded that the appellants were devolved to the District Governments in the wake of local Government System. Subsequently the Department issued bifurcated seniority list of the employees serving at the provincial level. In order to fill the vacant posts available at Directorate Social Welfare level from time to time, meetings of Departmental Promotion Committee (DPCs) were also held to promote the officials as per seniority list. During the same period some of the District Governments also held DPCs to promote employees at District level against the vacant posts. After abolition of the District Governments system the services of the devolved employees were again placed at the disposal of Provincial Government. The meeting concluded that legally it was not possible to reverse the promotions already given to employees and hence the appellants have no legal stand for their promotion in light of any previous/old seniority lists". The decision was accordingly communicated to the appellants vide letter dated 25.5.2015 (Annexure-Q&R)

(12)

Para No. 9: Correct. As commented at Para-8 above

Para No. 10: The appellant has no cause of action/prima fascia, hence the present appeal is liable to be dismissed inter alia on the following grounds:-

GROUNDS


- a. Incorrect & not admitted. The appellant has properly been dealt in accordance with prevailing law.
- b. Incorrect. There is no provision regarding, obtaining options from the incumbents neither in the approved summary nor in the notification. Summary nor in the said Notification.
- c. Incorrect. The District Government had already prepared seniority lists and given promotions to the officials under their control annexure referred in the preceding paras
- d. Incorrect. After devolution to District cadre, the appellant has no right to claim promotion against the post of provincial cadre i.e.(Directorate). As both the cadres had own appointing authority. In case of District, the appointing authority was DCO, while in case of Provincial (Directorate) and under section 8(I), seniority should be maintained by their respective appointing authorities.
- e. Incorrect. Rule-5(a) of the District Rules of Business 2001 provide that "there shall be a Secretariat of District Government headed by the District Coordination Officer and **comprising of the decentralized Departments or group of departments** as shown in schedule-I appended to the rules.


(V)


- f. Incorrect. As far as the creation of offices is concerned, rule-5(a) as mentioned above is quite clear to clarify the ground. So far as, the making of seniority list at District level is concerned, it was not the business of provincial office/Directorate, rather the DCO had to make the seniority in question, as per rule 6(2) of the District Rules of Business 2001 read with section 8(I) of the Civil Servant Act 1973. It is however clarified that obtaining option of the employees was not mandatory as per approved summary as well as notification dully annexed with the preceding para.
- g. Incorrect. The appellant was devolved to the district cadre. Hence he had no right of promotion against the posts at provincial (Directorate) cadre, therefore, he has neither been discriminated nor any deviation from the prevailing rules committed. It is added that after the abolition of District Govt System 2001, the Directorate of Social Welfare issued a seniority list of the Junior Clerks vide (**Annexure-S**) according to which the appellant has been exhibited at S.No. 7, and is willing to be promoted against one of the two vacant post of Senior Clerks each at Peshawar & Kohat (**Annexure-T**). The willingness given by the appellant reveals that the previous promotions made by Directorate of Social Welfare provincial cadre posts are correct and according to the prevailing rules.
- h. Respondents also seek the permission of this honorable Tribunal to adduce more grounds and proofs at the time of hearing.



In view of the above clarifications/explanations, it is therefore humbly prayed that the instant appeal may be dismissed having no weight and being based on malafide intention as the appellant have concealed the facts of the case to misguide this honorable Tribunal.


SECRETARY
Social Welfare, Special Education and
Women Empowerment Department
Government of Khyber Pakhtunkhwa
(Respondent No. 1)


DIRECTOR
Social Welfare, Special Education and
Women Empowerment Department
Government of Khyber Pakhtunkhwa
(Respondent No. 2)


ASSISTANT DIRECTOR ADMIN
Social Welfare, Special Education and
Women Empowerment Department
Government of Khyber Pakhtunkhwa
(Respondent No. 3)

Amren A (17) ADMN/1/28-2001-11-2

**GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
LOCAL GOVERNMENT AND RURAL
DEVELOPMENT DEPARTMENT**

Dated Peshawar the 4th September, 2001

NOTIFICATION

No. ADMN(LG)/DG/1(28)-2001 In partial modifications of all such rules and exercise of the powers conferred on him by section 31, 182 and 191 of the North West Frontier Province Local Government Ordinance, 2001 (Ordinance No XIV of 2001), the Governor, N.W.F.P., is pleased to make and promulgate the following rules, namely:

1. **Short title and commencement:**

- a. These rules may be called the N.W.F.P. District Government Rules of Business, 2001.
- b. It shall come into force on 14th August, 2001.

2. **Definitions:**

The words used shall have respectively the same meaning as assigned to it in section 2 of the ordinance or in the relevant Provincial law for the time being in vogue.

PART I

Administrative Powers

3. **Powers of Zila Nazim:**

- a. Subject to provisions of section 4, 17 and 18 of the Ordinance while working within the ambit of Provincial or Federal laws where ever applicable, the Zila Nazim shall be head of the District Government and shall be responsible for effective control and management.

_____ be assisted by the District Coordination Officer.

c: The following cases shall be submitted to the Zila Nazim for his approval before issuance of orders: -

- (1) Annual Budget Statement.
- (2) Laying of supplementary statement of expenditure before the Zila Council.
- (3) Cases in which Provincial Government has issued directions.
- (4) Complaints to the Provincial Government Commission about disputes between any department of the Government and District Government or between two District Governments.
- (5) All cases which are liable to involve District Government into controversy with Provincial Government or with another District Government.
- (6) Recommendations for the grant of honours and awards.

4. The following reports when received or issued shall be submitted to Zila Nazim for his information: -

- a: All periodical reports of District Coordination Officer, District Police Officer and Executive District Officers.
- b: Press notes issued by District Coordination Officer, District Police Officer and Executive District Officers.
- c: All periodical and special reports relating to law and order such as fortnightly situation reports submitted by the police.
- d: Intelligence reports.
- e: Report of Committees of inquiry appointed by District Government.

(10) 29 - 243

Secretariat of District Government:

- a: There shall be a secretariat of the District Government headed by the District Coordination Officer and comprising of the decentralized departments or group of departments as shown in Schedule-I appended to the rules.
- b: The business of District Government shall be distributed amongst groups of District offices in the manner indicated in Schedule-II appended to the rules.
- c: Each decentralized group of departments shall be headed by an Executive District Officer appointed or nominated by the Government for the purpose.
- d: Each Executive Officer shall be responsible to Zila Nazim through the District Coordination Officer and shall channelize his correspondence through him.
- e: The orders of the District Government shall be expressed in the name of the District Government and shall be signed by a Nazim, a District Coordination Officer, an Executive District Officer or any other officer specifically authorized by the Zila Nazim for the purpose and such signature shall be deemed to be the proper authentication of such order or instrument and shall not be questioned in any court on the ground that was not made or executed by the District Government.

6. Deputation of Civil servants and Power of District Coordination Officers:

- a: The civil servants posted in the decentralized departments shall continue to be civil servants for all intent purposes of the relevant civil servants laws and the rules framed there under with the modification that :-
 - (1) All civil servants in BPS-16 to BPS-20 shall be appointed by the Provincial Government or Federal Government as the case may be and posted in the decentralized Departments from time to time.
 - (2) The District Coordination Officer shall have the powers of the appointing authority in respect of the officers/officials in BPS-1 to BPS-15, provided

that no vacancies are to be filled in by way of direct recruitment or transfers and the officers/officials of the surplus pool are to be absorbed/adjusted against the vacancies, provided further that even after the said period ban on recruitment shall remain continue till the ban is lifted by the Government in the Finance Department.

- b. In a case of disciplinary actions, the Zila Nazim in case of officers in BPS-19 and District Coordination Officer in the case of officers in BPS-16 to BPS-18 shall refer the cases to the competent authority for decision under the N.W.F.P Removal from Service (Special Powers) Ordinance, 2000 (NWFP Ordinance No. V of 2000), through the administrative Secretary concerned.
- c. The District Coordination Officer shall have the powers of competent authority in respect of the officers/officials in BPS-1 to BPS-15 under N.W.F.P Removal from Service (Special Powers) Ordinance, 2000.
- d. The Nazim shall exercise the powers of transferring authority within the district in respect of officers in BPS-19 and BPS-20.
- e. The District Coordination Officer shall exercise powers of the transferring authority in respect of the civil servants in BPS-16 to BPS-18.
- f. The Executive District Officer subject to the approval of the District Coordination Officer shall exercise the powers of the transferring authority in respect of the officers/officials in BPS-1 to BPS-15.
- g. The District Coordination Officer will be the controlling officer of Traveling Allowance bill for himself, all the Executive District Officers and all heads of the institutions in the District in BPS-19 and BPS-20.
- h. The Executive District Officer will be the controlling officer in respect of the District Officers of the group of decentralized departments under him.
- j. The District Coordination Officer shall be competent to sanction leave to any civil servant under the N.W.F.P Civil Servants (Leave) Rules, 1981, provided that if a substitute of the officer proceeding on leave may be required, the leave shall be

انتظامی ضروری

حکومت صوبہ سرحد
حکومت صوبہ سرحد

Block 20, S
Plan No. 393

22/2/07

مورخہ: ۲۱ فروری ۲۰۰۷ء

SO(O&A)E&AD/2-16/2006/Vol-I

391

بشرف ملاحظہ:-

11-144

- (۱) سینئر ممبر بورڈ آف ریویو۔
- معتبرین حکومت صوبہ سرحد۔
- (۲) محکمہ خزانہ۔
- (۳) محکمہ زراعت۔
- (۴) محکمہ کھیل، ثقافت اور سیاحت۔
- (۵) محکمہ منسوبہ بندی و ترقیات۔
- (۶) محکمہ ایگسٹریٹو اینڈ ٹیکنیشن۔
- محکمہ سماجی بہبود۔
- (۸) محکمہ بہبود آبادی۔

عنوان:-
ضلعی سروس کا قیام۔

مجھے ہدایت کی گئی ہے کہ آپ کی توجہ عنوان بالا کی طرف دلاتے ہوئے عرض کروں کہ صوبائی کابینہ کی ایک کمیٹی زیر صدارت سردار محمد اورنگ نے صوبائی وزیر برائے لوکل گورنمنٹ کا اجلاس ۸ فروری ۲۰۰۷ء کو منعقد ہوا۔ اجلاس کو بتایا گیا کہ لوکل گورنمنٹ آرڈیننس ۲۰۰۷ء کے شیڈول فرسٹ کے مطابق مندرجہ بالا محکمہ جات ضلعی حکومتوں کو تفویض کئے گئے ہیں۔ مزید یہ کہ ضلعی حکومتوں کے رولز آف بزنس کے مطابق بنیادی سکیل 15۴1 کی تعیناتی کے اختیار رکھنے کی ضرورت ہے۔ اجلاس کو بتایا گیا کہ حال محکمہ صحت، برائرس، خواندگی اور دیگر ایگزیکٹو ڈسٹرکٹ آفیسر اور ضلعی رابطہ آفیسر کو دینے گئے۔

اجلاس میں فیصلہ کیا گیا کہ وہ محکمہ جات جو ضلعی حکومتوں کو منتقل ہو چکے ہیں اور انہوں نے ضلعی کیڈرز تشکیل نہیں دیئے ہیں، تو اب تشکیل دیں۔

لہذا آپ سے استدعا ہے کہ اپنے محکمے کے ضلعی کیڈرز کی موجودگی کی اطلاع اپنی رپورٹ ۳ دن کے اندر محکمہ نڈا کو مزید کارروائی کے لئے پیش کریں۔

Urgent
AS (11)
22/2

عابد اللہ
سیشن آفیسر (اداریہ)

۱۔ نقل برائے:-

ذاتی معتمد برائے وزیر مہدیات و دیہی ترقی - حکومت صوبہ سرحد۔

۲۔ ذاتی معتمد برائے معتمد علیہ - حکومت صوبہ سرحد۔

عابد اللہ

عابد اللہ

سیکشن آفیسر (ادائیگی)

Amir C

حکومت صوبہ سرحد

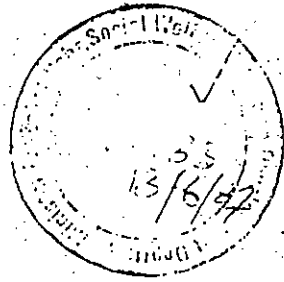
محکمہ زکوٰۃ، عشر، سماجی بہبود و ترقی خواتین

نمبر: NO.SOII(SWD)II-144/2007

8451

23-5-2007

خلاصہ برائے وزیر اعلیٰ صوبہ سرحد



سکیل۔ ۱۵ تا ۱ تک کی صوبائی سطح ملازمین اور آسامیوں کی ضلعی حکومت کو پردگی

عنوان :-

خلاصہ بعنوان بالا برائے منظور کی جناب وزیر اعلیٰ صوبہ سرحد پیش خدمت ہے۔

(سلطان محمود خٹک)

مستند 5-21-07

12/6/2007
Minister for Zakat, Ushak,
Social Welfare &
Special Education Dept. NWFP

وزیر برائے زکوٰۃ، عشر و سماجی بہبود صوبہ سرحد

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Date 13/6/07

مستند اعلیٰ صوبہ سرحد

وزیر اعلیٰ صوبہ سرحد

540-5
13/6/07

13/6/07

CHIEF SECRETARY
N.W.F.P.

Registration ID
14/6/07

مستند

محکمہ عملہ کی رائے خلاصے کی پیرا گراف نمبر ۱۳ تا ۱۹ پر ملاحظہ ہو۔

(44)

مسلمہ صاحبہ
(میاں صاحب جان)

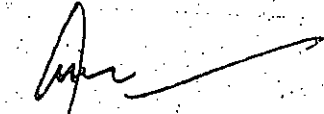
معتد عملہ

۱۹ جون، ۲۰۰۷ء

540-5
19/6/07

No. 35-19
Date 25/6/07

معتد اعلیٰ صفحہ نمبر حد۔


19/6


CHIEF SECRETARY
N.W.F.P

معتد زکوٰۃ

خلاصے کے پیرا گراف میں دئے گئے احصائيات کے مطابق ملازمین

کی نمبر سبب پیرا نمبر ۱۵ پر ملاحظہ فرمائیں

-:4


25/6/07

معتد اعلیٰ صفحہ نمبر حد۔

بحوالہ پیر نمبر۔ ۷ اور ۱۲

۱۵ پیر نمبر۔ ۷ میں دئے گئے احکامات کے مطابق محکمہ سماجی بہبود و ترقی خواتین کے ماتحت سماجی بہبود کے ضلعی دفاتر اور خصوصی تعلیمی اداروں میں سکیل۔ ۱۵ تا ۱۵ کے ملازمین کی فہرستیں بالترتیب منسلک۔ اس اور ط پر ملاحظے کے لئے پیش خدمت ہیں۔

25/6/07
(حضرت گلان اور کرنی)
قائم مقام معتمد

معتمد کل صوبہ سرحد

معتمد کل

25/6/07
CHIEF SECRETARY
N.W.F.P

- ۱۶۔ محکمہ عملہ پہلے ہی کیس کا جائزہ لے کر خلاصے کے پیر نمبر ۹ تا ۱۳ میں اپنی رائے دے چکا ہے۔
 محکمہ زکوٰۃ و عشر نے معتمد اعلیٰ کے احکامات (پیر نمبر ۷) پر ضروری کارروائی کر دی ہے (منسلکہ ص ۵، ۶)۔ لہذا محکمہ
 عملہ خلاصے کے پیر نمبر ۳ میں دی گئی تجویز کی حمایت کرتا ہے۔
 ۱۷۔ لہذا خلاصہ جناب وزیر اعلیٰ صوبہ سرحد کی منظوری کے لئے پیش کرنے کی سفارش کی جاتی ہے۔

میاں صاحب
 (میاں صاحب جان)

معتمد عملہ

۲، جولائی، ۲۰۰۷

معتمد اعلیٰ صوبہ سرحد

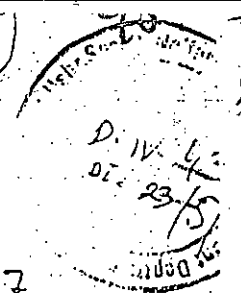
CHIEF SECRETARY
 N.W.F.P.

وزیر اعلیٰ
 سرحد

سید محمد جمال ڈرال

۱۵۔۷۔۰۷

خلاصہ برائے وزیر اعلیٰ صوبہ سرحد



26



عنوان :- سکیل - ۱۵۶۱ تک کی صوبائی سطح ملازمین اور آسامیوں کی ضلعی حکومت کوپہرگی

خلاصہ بعنوان بالا برائے منظوری جناب وزیر اعلیٰ صوبہ سرحد پیش خدمت ہے۔

(سلطان محمود خٹک)

معتد 21-5-07

Minister for Zakat, Usfay,
Social Welfare &
Special Education Dept. NWFP

وزیر برائے زکوٰۃ، عشر و سماجی بہبود صوبہ سرحد

Stamp with fields: Serial No., Date, and other administrative markings.

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on 13-6-07

13/6/07
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Date 13/6/07

معتد اعلیٰ صوبہ سرحد

وزیر اعلیٰ صوبہ سرحد

معتد

540-5
13/6/07

13/6/07

CHIEF SECRETARY
N.W.F.P

Registration ID

...

13/6/07

مندرجہ بالا احصاست کو مد نظر رکھتے ہوئے محکمہ سماجی بہبود و خصوصی تعلیم یہ تجویز پیش کرتا ہے کہ اضلاع میں تعینات محکمہ سماجی بہبود و خصوصی تعلیم کے سکیل - 1 تا 15 تک کے ملازمین کو ڈسٹرکٹ کیڈر قرار دیا جائے اور ان ملازمین کے جملہ امور متعلقہ ضلعی حکومت کے سپرد کئے جائیں اور آئندہ کے لئے ان ملازمین کے تمام امور متعلقہ ضلعی حکومتیں روز آف بزنس 2001 کی شق - 6 (ب) کے تحت انجام دیں گی۔ نیز انصاف کے تقاضوں کو مد نظر رکھتے ہوئے ملازمین کی سینیاری کو محفوظ کیا جانا چاہیے۔ جس کے لئے ضلعی سطح پر خصوصی انتظام کیا جائے تاکہ ملازمین کی حق تلفی بھی نہ ہو اور ضلعی حکومتوں کے لئے کوئی مسائل بھی پیدا نہ ہوں۔

5- پیرا گراف نمبر ۴ میں تجاویز وزیر اعلیٰ صاحب کی منظوری کے لئے پیش کی جاتی ہیں۔

(سلطان محمود خٹک)

5-5-07

M. J. Fisher,
Special Education Dept. NWFP

وزیر برائے زکوٰۃ، عشر و سماجی بہبود صوبہ سرحد

مختار علی صوبہ سرحد

اس ہانسپر سے ملازمین سے کاڈر برائے اسٹریٹ پروٹیکشن اور ان کی سینیاری کے لئے دیگر سینیاری سہولتوں کے ساتھ ساتھ ان ملازمین کی فہرست کیا جاوے۔

وزیر برائے سماجی بہبود صوبہ سرحد

دوسرے عملوں کے بارے میں کیا ضروری اقدام اختیار کیا جاوے۔

Handwritten signature

حوالہ پیرا نمبر ۶-۸ خلاصہ زر غور:-

۶

۹- خلاصے کا جائزہ لیا گیا ہے۔ محکمہ عملہ کی رائے درج ذیل ہے:-

۱۰- اس سے پہلے محکمہ صحت، محکمہ مدارس و خواندگی اور محکمہ ورکس اینڈ سروسز کے ضلعی کیڈر بنائے گئے ہیں (ضمیمہ ج)۔ صوبائی کابینہ نے اپنے اجلاس منعقدہ ۲۷ جنوری ۲۰۰۷ء میں سر داد محمد اور ایس ڈی برائے لوکل گورنمنٹ کی سربراہی میں ایک ذیلی کمیٹی تشکیل دی تاکہ دیگر محکموں کے ضلعی کیڈر بنانے کا عمل تیز کیا جاسکے (ضمیمہ د)۔

۱۱- خلاصے کے پیرا نمبر ۶ کے حوالے سے عرض ہے کہ (9) FR کے مطابق کیڈر سے مراد سروس کی ایک علیحدہ یونٹ ہے۔ اس کا مطلب ہے کہ ضلعی کیڈر کے الگ سروس رولڈ درکار ہیں۔ ضلعی حکومتوں کے قواعد کار مجریہ 2001 کے قاعدہ (b)(1) 6 (ضمیمہ ر) کے مطابق متعلقہ ایگزیکٹو ڈسٹرکٹ آفیسر سکیل ۱۰ تا ۱۵ اور متعلقہ ضلعی رابطہ آفیسر سکیل ۱۱ تا ۱۵ حاکم تعیناتی (Appointing Authority) ہیں۔ محکمہ عملہ نے ضلعی سطح پر چناؤ اور ترقی کیٹیاں بھی تشکیل دی گئی ہیں۔ (ضمیمہ س) کیونکہ صوبہ سرحد پبلک سروس کمیشن آرڈیننس 1978 کی سیکشن (1) 7 کے مطابق ضلعی کیڈر کی آسامیاں کمیشن کے دائرہ اختیار میں نہیں آتیں۔ یوں ضلعوں کو سپردگی کے بعد سکیل ۱۵ (BPS-1-15) کی ملازمت کے تمام معاملات ضلعی سطح پر طے ہوں گے اور ان کی سناریائی اپنے کیڈر میں ضلعی سطح پر مرتب ہوگی۔

۱۲- پیرا نمبر ۸ کی وضاحت مندرجہ بالا پیرا نمبر ۱۰ میں کر دی گئی ہے۔

۱۳- محکمہ عملہ پیرا نمبر ۴ میں دی گئی تجویز کی حمایت کرتا ہے تاہم اضلاع لوکل گورنمنٹ آرڈیننس 2001 کی شق نمبر ۴ کے مطابق صوبائی حکومت کے پالیسیوں کے پابند ہوں گے۔

۱۴- خلاصہ ہذا معتمد محکمہ زکوٰۃ و عشر کو واپس بھیج دیا جائے تاکہ وہ پیرا ۷ پر معتمد اعلیٰ صوبہ سرحد کے احکامات کی تعمیل کے بعد خلاصہ دوبارہ پیش کریں۔

میاں صاحب
(میاں صاحب جان)

معتمد عملہ
۱۹ جون ۲۰۰۷

معتمد اعلیٰ صوبہ سرحد

معتمد زکوٰۃ

Adnan

48

111 26

50

کوالہ پیر نمبر۔ ۷ اور ۱۲

37

پیر نمبر۔ ۷ میں دئے گئے احکامات کے مطابق محکمہ سماجی بہبود و ترقی خواتین کے ماتحت سماجی بہبود کے ضلعی دفاتر اور خصوصی تعلیمی اداروں میں سکیل۔ ۱۵ تا ۱۵ کے ملازمین کی فہرستیں بالترتیب منسلک۔ ص اور ط پر ملاحظے کے لئے پیش خدمت ہیں۔

25/6/07
(حضرت خان اور کرنی)
قائم مقام معتمد

معتمد علی صوبہ سرحد

مستند

25/6/07
CHIEF SECRETARY
N.W.F.P

۱۶۔ محکمہ عملہ پہلے ہی کیس کا جائزہ لے کر خلاصے کے پیرا نمبر ۹ تا ۱۳ میں اپنی رائے دے چکا ہے۔
محکمہ زکوٰۃ و عشر نے معتمد اعلیٰ کے احکامات (پیرا نمبر ۷) پر ضروری کارروائی کر دی ہے (منسلک ص، ط)۔ لہذا محکمہ
عملہ خلاصے کے پیرا نمبر ۴ میں دی گئی تجویز کی حمایت کرتا ہے۔

۱۷۔ لہذا خلاصہ جناب وزیر اعلیٰ صوبہ سرحد کی منظوری کے لئے پیش کرنے کی سفارش کی جاتی ہے۔

میاں صاحب
(میاں صاحب جان)

معتمد عملہ

۲ جولائی، ۲۰۰۷ء

معتمد عملہ صوبہ سرحد۔

CHIEF SECRETARY
N.W.F.P.

وزیر اعلیٰ
سرحد
میاں صاحب
۱۰ جولائی ۲۰۰۷ء

(53) 51

GOVERNMENT OF NWFP
ZAKAT, USHR, SOCIAL WELFARE & WOMEN
DEV. DEPARTMENT
Dated Reshawar the 16th August 2007

NOTIFICATION

GO/SWD/II-144/2007

13419

The competent authority is pleased to declare the provincial cadre posts in BPS-11 to BPS-15 belonging to Social Welfare and Women Development Wing of the Zakat, Ushr, Social Welfare and Women Development Department into District Cadre posts with immediate effect as per following terms and conditions:-

- i) Permanent transfer to the districts will be made on domicile and seniority basis.
- ii) In case the personnel of a particular district exceed the sanctioned strength, deployment will be made on the basis of seniority, and over-flow of junior most being posted temporarily to the adjacent districts till occurrence of vacancies in the districts of their domicile.
- iii) The domicile of female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a Government Employee and his transfer to another district, inter-district transfers of the female officials will be allowed subject to availability of vacancy in the desired district.
- iv) The Directorates and other Provincial level institutions will be allowed to opt once for retention of staff of their choice. It will be incumbent upon the institution concerned that return such employees to carryout all subsequent recruitment at the Provincial level in line with the zonal allocation policy of the Provincial Government.
- v) Subsequent to the permanent transfer of all BPS-15 and staff below to the districts, further inter-district transfers and service matters including appointments, within the districts, shall be made by the District Government in light of the District Government Rules of Business, 2001.
- vi) All cases of transfers from one district to another will be decided and ordered upon by the District concerned, albeit with prior consultation of the relevant Districts.
- vii) Seniority for the purpose of promotion to the posts of provincial cadre i.e. BPS-16 & BPS-17 will be maintained at Directorate/ Secretariat level.

It is further to mention here that the district Governments will deal with the cases of these employees as per clause 6 (B) of District Government Rules of Business. They (the District Govt) will also adopt such a mechanism that inter-se seniority is not affected.

Dis. Cuss

Secretary to Govt. of NWFP
Zakat, Ushr, Social Welfare &
Women Dev. Department

54

NO-SOII(SWD)II-144/2007 / 13420-²13523

Dated Peshawar the 16th August 2007

Copy forwarded to:-

1. All Administrative Secretaries to Government of NWFP.
2. Accountant General NWFP, Peshawar.
3. All District Coordination Officers, N.W.F.P.
4. ✓ Director Social Welfare NWFP, Peshawar.
5. All District Accounts Officers in NWFP.
6. All District Officers Social Welfare in NWFP.
7. PS to Minister for Zakat, Ushr and Social Welfare NWFP.
8. PS to Secretary Zakat, Ushr SW & WD Department.
9. Office order File.

(Iliam Khan Khalafak)
Section Officer -II

(B)
(A) (A)

NWFP CIVIL SERVANTS ACT 1973 (UPDATED UPTO 17th JAN 2009)

(2) A civil servant promoted to a post ¹{ } on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing there-from.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. **Seniority:-** (1) For proper administration of a service, cadre or ²{post}, the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or ³{post} to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or ⁴{post} as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or ⁵{cadre} whether serving the same department or office or not, as may be prescribed.

(3) Seniority on initial appointment to a service, ⁶{cadre} or post shall be determined as may be prescribed.

⁷(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post.

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se-seniority as in the lower post."

⁸(5) The seniority lists prepared under sub-section(1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

9. **Promotion:-**(1) A civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a ⁹{higher} post for the time being reserved under the rule for departmental promotion in ¹⁰{ } the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed-

(a) in the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority-cum-fitness.

10. **Posting and Transfer:-** Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any

¹ The words "or grade" omitted by NWFP Ordinance No. IV of 1985, Section 2
² The word "grade" substituted by NWFP Ordinance No. IV of 1985 Section 3(a)
³ The word "grade" substituted by NWFP Ordinance No. IV of 1985 Section 3(a)
⁴ The word "grade" substituted by NWFP Ordinance No. IV of 1985 Section 3(a)
⁵ The word "grade" substituted by NWFP Ordinance No. IV of 1985 Section 3(b)
⁶ The word "grade" substituted by NWFP Ordinance No. IV of 1985 Section 3(c)

MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING
HELD ON 24.03.2008

A meeting of Departmental Promotion Committee was held on 24.03.2008 at 02:00 PM under the Chairmanship of Director, Social Welfare & Women Development NWFP. The following attended the meeting:

- | | | |
|------|---|--------|
| i)- | Mr.Zahir Shah,
Section Officer (General)
Social Welfare Department. | Member |
| ii)- | Mr.Afsar Khan,
Assistant Director (Admn)
Social Welfare Department. | Member |

2. The Committee discussed the following promotion cases:

- i- Promotion of Senior Clerk (BPS-09) to the post of Assistant (BPS-14).
- ii- Promotion of Junior Clerk (BPS-07) to the post of Senior Clerk (BPS-09).

3. After thorough examination of working paper, synopsis and P.E.Rs, the Committee recommended the name of Mr.Noor Rahman, Senior Clerk Directorate of Social Welfare & Women Dev: NWFP Peshawar for promotion to the post of Assistant (BPS-14) in the Directorate of Social Welfare & Women Development NWFP Peshawar.

4. The panel of promotion of Junior Clerk to the post of Senior Clerk consisted of the following officials:

- a- Mr. Khan Sahib.
- b- Mr.Masihullah
- c- Mr.Sahar Khan.

5. After thorough examination of the working paper, synopsis and P.E.Rs, the committee pointed out that a departmental enquiry was conducted against the official at S.No. 1 of the promotion panel namely Mr. Khan Sahib Junior Clerk and consequently a minor penalty of censure was imposed upon him vide order No. E-11/150/DSW/2401-04 dated 2.09.2004. The Committee, therefore, recommended the name of Mr. Masihullah Junior Clerk (at S.No. 2) for promotion against the post of Senior Clerk (BPS-09) in the Directorate of Social Welfare & Women Dev: NWFP Peshawar.

(Afsar Khan)
Assistant Director (Admn)
Social Welfare Department
(Member)

(Zahir Shah)
Section Officer (General)
Social Welfare Department.
(Member)

(Dr.Fakhr-ul-Islam)
Director
Social Welfare & Women Dev:
Department NWFP

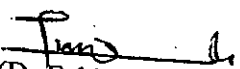
**GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE
AND WOMEN DEV: JAMRD ROAD PESHAWAR.**

Dated Peshawar the 25/03/2008

NOTIFICATION.

No. E-17/16/DSW/1599-1602. Consequent upon recommendation of the Departmental Promotion Committee in its meeting held on 24.03.2008 in the Directorate of Social Welfare & Women Development NWFP Peshawar, the following officials are hereby promoted and posted with immediate effect to the vacant posts mentioned against their names:

S.No	Name of official	Designation	Promoted as	Place of posting
1	Mr.Noor Rahman	Senior Clerk (BPS-09)	Assistant (BPS-14)	Directorate of Social Welfare & Women Development NWFP Peshawar.
2	Mr.Masihullah	Junior Clerk (BPS-07)	Senior Clerk (BPS-09)	Directorate of Social Welfare & Women Development NWFP Peshawar.

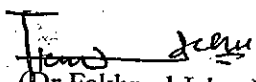

(Dr.Fakhr-ul-Islam)

Director
Social Welfare & WDD

Copy forwarded to:

- 1- The Accountant General, NWFP, Peshawar.
- 2- The Section Officer (General) Social Welfare Department Peshawar.
- 3- The Assistant Director (Budget & Accounts), Directorate of Social Welfare & Women Development NWFP Peshawar.
- 4- The officials concerned.


Director
Social Welfare & WDD


(Dr.Fakhr-ul-Islam)

Annex I 67

(71)

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE AND
WOMEN DEV. JAMRUD ROAD PESHAWAR.

Dated Peshawar the 26 / 04 / 2011

ORDER

No.E-17/16/DSW/V- 161124-28 On the recommendations of Departmental Promotion Committee, in its meeting held on 20-4-2011, and the approval of the competent authority, the following Senior Clerks (BPS-9) are hereby appointed as Assistant (BPS-14) on Acting Charge basis with immediate effect.

1. Mr Masih Ullah Senior Clerk (BPS-09)
Directorate of Social Welfare & WDD Khyber Pakhtunkhwa
Peshawar.
2. Mr Saeed Mohammad, Senior Clerk (BPS-09)
Directorate of Social Welfare & WDD Khyber Pakhtunkhwa
Peshawar.


Consequent upon their appointment as Assistant (BPS-14) on Acting Charge basis, they are posted in the Directorate of Social Welfare & Women Development Khyber Pakhtunkhwa.

Sd/-
Director
Social Welfare & Women Dev.

Encl: Even No. & Dated:-

Copy to:-

1. The Accountant General Khyber Pakhtunkhwa.
2. The Section Officer-II, Social Welfare Department Peshawar
3. The Assistant Director (Budget & Account) Directorate of Social Welfare and WDD Khyber Pakhtunkhwa Peshawar.
4. The officials concerned.


Assistant Director, (Admin)
Social Welfare & Women Dev.

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE AND
WOMEN DEV: JAMRUD ROAD PESHAWAR

Annex-68

(72)

Dated Peshawar the 9/1 / 04 /2011

ORDER

No.E-17/16/Dsw/V- 19129-38 On the recommendation of Departmental Promotion Committee in its meeting held on 20-1-2011 and approval of the competent authority, the following Senior Clerks are hereby promoted as Assistant (BPS-14) with immediate effect.

1. Mr Muhammad Umar, Senior Clerk (BPS-09)
Directorate of Social Welfare & WDD Khyber Pakhtunkhwa
Peshawar.
2. Mr Muhammad Abid, Senior Clerk (BPS-09)
Centre for Mentally Retarded and Physically Handicapped Children
Peshawar.
3. Sardar Ali, Senior Clerk (BPS-09)
Directorate of Social Welfare & WDD Khyber Pakhtunkhwa
Peshawar.
4. Mr Ayub Khan, Senior Clerk (BPS-09)
Directorate of Social Welfare & WDD Khyber Pakhtunkhwa
Peshawar.


The officials concerned on promotion will remain on probation for a period of one year in terms of Section (2) of NWFP Civil Servant Act 1973 read with rules -15-(f) of NWFP civil servants (Appointment, Promotion and Transfer) Rules 1989.

Consequent upon their promotion they are posted as Assistant (BPS-14) in the Directorate of Social Welfare & Women Development Khyber Pakhtunkhwa Peshawar.

Sd/-
Director
Social Welfare & Women Dev:

Endst: Even No. & Dated:-
Copy to:-

1. The Accountant General Khyber Pakhtunkhwa.
2. The Section Officer-II, Social Welfare Department Peshawar.
3. The District Account Officer, Peshawar.
4. The Assistant Director (Budget & Account) Directorate of Social Welfare and WDD Khyber Pakhtunkhwa Peshawar.
5. The District Officer Social Welfare Department Peshawar.
6. The Manager, Center for Mentally Retarded & Physically Handicapped Children Peshawar.
7. The officials Concerned.


Assistant Director, (Admin)
Social Welfare & Women Dev:

Government of Khyber Pakhtunkhwa,
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department

Amo 27
317

No. SO-Lit (SWD) 1-13/2014
Dated Peshawar the, 30-04-2014

NOTIFICATION:

2512-16

No-SO-Lit/SWD/1-13/2014 In compliance with the Judgment dated 17-04-2014 of the Peshawar High Court, Peshawar passed in Writ Petition No. 27/18/2011, Akbar Ali & others v/s Govt. of Khyber Pakhtunkhwa, and in pursuance of the decision taken in the meeting held on 28.04.2014, a committee consisting of the following is hereby constituted to discuss & dispose of the grievances of the petitioners

1. Mr. Farhad Khan Chairman
Deputy Secretary (SW),
Social Welfare, Special Education &
Women Empowerment Department.
2. Mr. Fahidullah Member
Section Officer-II,
Social Welfare, Special Education &
Women Empowerment Department.
3. Mr. Kibaz Khan Member
Section Officer (Lit)
Social Welfare, Special Education &
Women Empowerment Department.
4. Mr. Bilal Khan Member
Assistant Director(Lit),
Directorate of Social Welfare, Special Education &
Women Empowerment, Khyber Pakhtunkhwa.
5. Mr. Muhammad Rauf Khattak Member/Secretary
Assistant Director (Estt),
Directorate of Social Welfare, Special Education &
Women Empowerment, Khyber Pakhtunkhwa.

Copy to:
MA
GIS

2. The Terms of Reference of the Committee are as under:-

- (i) The committee will discuss and dispose of the grievances of the petitioners in light of the relevant rules & regulations and in light of the judgment (dated 17-04-2014) of the Peshawar High Court Peshawar, within the shortest possible time.

- (i) The committee shall have the authority to call the petitioners as well as private respondents to listen to their view-point in detail.
- (ii) The committee shall consult the sister Departments who might have confronted such like situation.
- (iv) Establishment & Law Departments Khyber Pakhtunkhwa will also be consulted to ensure an amicable solution to the problem.
- (v) The committee shall meet at least twice a week till disposal/settlement of the issue.

SECRETARY,
Zakat, Ushr, Social Welfare, Special Education
& Women Empowerment Department.

Enclosed. No and Date. Even Answer.

Copy forwarded to:-

- 1. Additional Registrar (Judicial) Peshawar High Court, Peshawar w/r to court judgment dated 17-04-2014 in writ petition No-2718/2011.
- 2. Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
- 3. All the members with the remarks that 1st meeting of the committee will be held on Monday the 5th May 2014 in the office of Deputy Secretary Social Welfare at 11:00 A.M.
- 4. PS to Secretary to Government of Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.

(Signature)
(Name Blank)
Section Officer (Jr)

Amir LG 33
321

MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED IN PURSUANCE OF THE COURT ORDERS TO DISPOSE OFF THE GRIEVANCES OF THE PETITIONERS, HELD ON 05.05.2014

First meeting of the Committee constituted vide Notification No. SO (Lit) / SWD / 1-13 / 2014 / 2512-16, dated 30.04.2014 was held on 05.05.2014 under the Chairmanship of Mr. Farhad Khan Deputy Secretary, Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa. The following attended the meeting:

1. Mr. Fahidullah,
Section Officer-II (SW, SE & WE) (Member)
2. Mr. Kibaz Khan,
Section Officer (Litigation) SW, SE & WE (Member)
3. Mr. Bilal Khan,
Assistant Director (Litigation) SW, SE & WE (Member)
4. Mr. Muhammad Rauf,
Assistant Director (Estab) SW, SE & WE
(Member/Secretary)

2. The meeting started with the recitation of verses from the Holy Quran. The Chairman welcomed the participants and asked Mr. Muhammad Rauf Member / Secretary to highlight the background of the case along with history of the devolution and District Government system under Ordinance 2001.

3. Mr. Muhammad Rauf Member / Secretary explained the background of the case in detail and thereafter the representative of the petitioners called upon for hearing. The following appeared before the Committee.

1. Mr. Akbar Ali Steno typist Mardan District.
2. Mr. Akhtar Hussain, Junior Clerk Peshawar District.

4. The above petitioners raised the following reservations / queries regarding seniority, absorption in district cadre.

- a. Their names were not formally notified to be placed on the disposal of District Government.
 - b. They were deprived from the promotions during their stay with the District Government.
 - c. Their names were un-authorizedly excluded from the joint seniority list.
 - d. Consequently the junior officials of ministerial cadres got promotions at Directorate.
 - e. They should be adjusted according to the seniority list maintained prior to 16th August, 2007 and be promoted with allowing back date benefits.
- MA

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5. In response to the above reservations the petitioners were explained that the process of devolution and introduction of District Government system was implemented under proper constitutional amendments and rules of business. The employees working in the subordinate offices under the attached department automatically devolved to the district government system with full financial and administrative autonomy and their pay etc were drawn from Account-IV. Thus the appointment, inter district transfers, creation of posts, promotions and issuance of seniority lists, grievances, appeals, representations regarding service matters were the entire responsibilities of District Governments / District Coordination Officers concerned. If some of the officials working at that time under the defunct system have some grievances, reservations regarding their status or seniority should be dealt there. The Directorate of Social Welfare has updated their existing employee's seniority lists and excluded all officials drawing pay etc from Account-IV.

6. The District Government during their tenure appointed a number of staff on all vacant posts within their jurisdiction and competency and thereof promoted number of officials in different cadres according to the available posts in district Peshawar, Swat and Dir Lower. In fact the petitioners working against the posts of Junior Clerk, Senior Clerk and Steno Typist never knocked the competent authority for creation of higher scale posts to provide them an opportunity of promotions especially in Mardan, Charsadda, Nowshera and Peshawar districts. On the other hand under the same system the post of Senior Clerk (BPS-9) was created at district Dir Lower by the District Government consequently a Junior Clerk got promotion there. Similarly in death case the post of Senior Clerk was fallen vacant at District Swat and the Junior Clerk of the same district was promoted. When it was questioned that a post of Assistant was vacant at Peshawar district why they did not tried and approach the competent forum to consider their promotion against the same. No justified response received from the petitioners.

7. On behalf of the private respondents, the following officials appeared before the Committee:

1. Mr. Ikramullah Jan, Senior Scale Stenographer
2. Mr. Masihullah, Office Assistant.

8. The private respondents explained their positions that in fact the orders referred by the petitioners as baseline (SO-II(SW)II-201/954, dated 17.02.2011) stand withdrawn as per Para No. 8 of the comments submitted in

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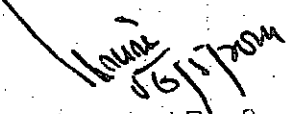
the Court. Moreover the signing officer of the same order (Mr. Muhammad Saeed Section Officer-II) attended the meeting of Departmental Promotion Committee at Directorate of Social Welfare on 20.04.2011, and signed the minutes of promotion of the private respondents. Hence this formal DPC and implementation thereof clearly reveals that neither the letter in question is signed nor issued.

9. On conclusion of the meeting both the parties were questioned to find out legal steps in which no one can be suffered and no one can be deprived from his right to settle the issue but no acceptable and doable way under the rules was offered by them.

10. In view of the above, it was unanimously decided that the sister departments may also be consulted as per TORs of the Committee. Mr. Muhammad Rauf was deputed by the Chairman to discuss the case with the authorities of the sister departments and remaining districts and submit his report in the next meeting to be held on Friday the 9th May, 2014.

11. The meeting ended with a vote of thanks from the Chair.

Chairman / D.S (sw)


(Muhammad Rauf)
Assistant Director
(Establishment)
Secretary / Member

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323



GOVERNMENT OF KHYBER PAKHTUNKHWA
Social Welfare, Special Education & Women
Empowerment Department.

NO. SO-Lit (SWD) 1-13/2011/2933-34
Dated Peshawar the, 10-09-2014

Annex N
300

To

The Secretary to Govt. of
Khyber Pakhtunkhwa,
Establishment Department.

Subject: ADVISE IN WRIT PETITION NO-2718-P/2011 AKBAR ALI.

π. 306

Dear Sir,

I am directed to refer to your letter No-SOR-III (E&AD) 6-2/13 dated 19-08-2014 on the subject noted above.

Para-wise reply to the points raised by Establishment Department Govt. of Khyber Pakhtunkhwa, is as under:-

1. A-letter addressed to all the District Officer Social Welfare was issued vide No. E-1771/KC-1/8075-79 dated 25-08-2007 for obtaining option of the employees serving at various Districts (**Annex-A**). It is however added that as per para-4 of the summery obtaining option from the District cadre employees was not mandatory. (Copy of the summery is enclosed at (**Annex-B**).
2. Non of the employees of District cadre has sought for Departmental or other remedy at the time of bifurcation.
3. The then District Coordination officers concerned were the competent authorities in respect of officials in BPS-1-15, hence all type of official matters including seniority/promotion etc were settled at District level as provided under Rule-6(2) of the Rules of Business District Government 2001, no such reservation on seniority lists etc issued by the District Coordination Officers was communicated to the Provincial Government. So far the seniority at provincial level is concerned, non of the employees at Provincial cadre showed any reservation on the seniority list issued by the provincial Government. The District employees were decided in the meetings of Departmental Promotion Committee, while Provincial Cadre Employees did not show any resentment over the promotions made at District level.
4. Social Welfare Department was devolved to the District Government as evident from the rules of business 2001(**Annex-C**).
5. The local Government Act 2013 is yet to be implemented. So far the Department has received no instructions in this connection from any quarter.

Encl: As above:- Directorate of
Social Welfare, P.K.

No. 27619

Date: 16-9-2014

Yours faithfully,

(KIBAZ KHAN)
Section Officer-(Lit)

Copy forwarded to Director Social Welfare, Spt. Edu. & WE Khyber Pakhtunkhwa, w/r to his letter No-DSW/Lit/1-13/ 3087 dated 8th September, 2014 for information.

(KIBAZ KHAN)
Section Officer-(Lit)

duplt. M. 199

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
SOCIAL WELFARE, SPECIAL EDUCATION & WOMEN
EMPOWERMENT DEPARTMENT.**

NO. SO-Lit (SWD) 1- 13 /2014
Dated Peshawar the, 06/11/2014

246-44

To

1. The Section Officer (R-III) Govt of Khyber Pakhtunkhwa, Establishment Department.
2. The Section Officer (SR-II) Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Section Officer (Opinion-I) Govt of Khyber Pakhtunkhwa, Law, Parliamentary Affairs & Human Rights Department.

Subject:-

Implementation of the judgment of the Peshawar High Court, Peshawar dated 17-04-2014 in writ petition No. 2718-P/2011 Akbar Ali & others v/s Govt.

I am directed to refer to this Department's letter NO. SO-Lit (SWD) 1- 13 /2014 dated 21/10/2014 on the subject noted above and to enclose a copy of the minutes of the meeting held on 27-10-2014 for your perusal please.

I am further directed to state that the Additional Secretary Social Welfare/Chairperson has been pleased to convene 2nd meeting of the committee on 11-11-2014 at 10: 30 AM in her office at Benevolent Fund Building Peshawar cantt. It is requested to make it convenient to attend the meeting on due date & time.


Section Officer-(Lit)

Copies forwarded to:-

- 1: The Director Social Welfare alongwith a copy of the minutes with the request to produce original record of the case in the next meeting.
- 2: P.S to Additional Secretary Social Welfare Department.


Section Officer-(Lit)

Directorate of
Social Welfare K.P.K.
No. 855
Date: 7-11-14

Amir QSR

Subject:-

MINUTES OF THE MEETING DATED 27-10-2014
regarding implementation of judgment dated
17-04-2014 of Peshawar High Court, Peshawar
in writ petition No-2718-P/2011 titled
Mr. Akbar Ali v/s Govt of Khyber Pakhtunkhwa.

A meeting was held on 27-10-2014 under the Chairpersonship of Mst. Fareeha Paul Additional Secretary Social Welfare Department, to discuss implementation of judgment dated 17-04-2014 of the Peshawar High Court, Peshawar in writ petition No. 2718-P/2011, titled Mr. Akbar Ali v/s Govt of Khyber Pakhtunkhwa.

The following attended the meeting:-

- | | |
|---|--------|
| 1. Mr. Motasim Billah Shah,
Director, Social Welfare,
Khyber Pakhtunkhwa, | Member |
| 2. Mr. Adeel Shah,
Deputy Secretary (Admn),
Social Welfare Departemnt. | Member |
| 3. Mr. Wazir Muhammad
Section Officer (SR-II),
Finance Department. | Member |
| 4. Mr. Shafi-ul-Ahmad,
Section Officer (R-III),
Establishment Department. | Member |
| 5. Mr. Azmat-ul-Ullah,
Section Officer (Opinion-I),
Law Department. | Member |
| 6. Mr. Bilal Khan,
Assistant Director-(Lit). | |
| 7. Mr. Kibaz Khan,
Section Officer-(Lit) | |
| 8. Mr. Muhammad Rauf,
Assistant Director(Estt.). | |

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2. The meeting started with recitation from the Holy Quran. The Chairperson informed the forum about purpose of the meeting. Section Officer-Lit and Assistant Director (Estt) Directorate of Social Welfare briefly explained the background of the case. The forum was informed that after introduction of Local Govts: System in 2001 and devolution of power to District Govts the Social Welfare Department was also devolved alongwith staff and assets. Consequently separate seniority lists of employees of District and Provincial level were prepared by the Department. A number of promotion cases were decided on the basis of these bifurcated seniority lists, both at District and Provincial levels. As a result of these promotions, some of the officials who were otherwise junior, but were serving at Provincial level were promoted and some senior officials at District level were not afforded the opportunity of promotion at District level. These employees submitted a Departmental representation which was turned down as District Govt rules of business did not allow promotion of officials at the strength of District Govts against provincial cadre posts. The relevant officials filed a writ petition in the Peshawar High Court. The Hon'able Peshawar High Court, in its judgment dated 17-04-2014 directed the Department to redress the grievance of the petitioners at the Department level and ordered that the copy of the decision taken thereof should be sent to Additional Registrar Peshawar High Court. The forum examined in detail various aspects of the case. The representatives of Finance and Law Departments asked the Director Social Welfare, to provide original record pertaining to bifurcation of seniority lists and promotions notified there under. The Chairperson with the consent of all members adjourned the meeting till next week with the direction to the Director Social Welfare to produce all the relevant record in original thereby allowing the forum to take prudent decision in the light of relevant rules.

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

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MINUTES OF THE MEETING DATED 27-10-2014
regarding implementation of judgment dated
17-04-2014 of Peshawar High Court, Peshawar
in writ petition No-2718-P/2011 titled
Mr. Akbar Ali v/s Govt of Khyber Pakhtunkhwa.

In continuation of the 2nd meeting held on 08-12-2014, 3rd meeting of the committee was held on 17-12-2014 under the Chairmanship of Additional Secretary, Social Welfare Department, to discuss implementation of judgment dated 17-04-2014 of Peshawar High Court, Peshawar in writ petition No. 2718-P/2011, titled Mr. Akbar Ali v/s Govt of Khyber Pakhtunkhwa. The following attended the meeting:-

1. Mr. Motasim Billah Shah, Director, Social Welfare, Khyber Pakhtunkhwa,
2. Mr. Adeel Shah, Deputy Secretary (Admn), Social Welfare Department.
3. Mr. Shaista Section Officer (O&M), Establishment Department.
4. Mr. Azmat-ul-Ullah, Section Officer (Opinion-I), Law Department.
5. Mr. S. Adul Hadi, Section Officer-(Lit) Social Welfare Deptt:
6. Mr. Muhammad Rauf, Assistant Director(Estt.). Social Welfare kpk

The representative of Finance Department Khyber Pakhtunkhwa, could not attend the meeting due to some other official engagements. The meeting started with recitation of Holy Quran. The Chairperson asked the Deputy Secretary Social Welfare to explain briefly the decision taken in the previous meeting. The Deputy Secretary Social Welfare explained to the forum, about meeting held on 08-12-2014. in which the Directorate was asked to produce all the record relating to seniority lists at Provincial level and promotions made based on those lists. The original record was produced for examination of the members of the committee.

After detailed discussion the forum concluded that the officials were devolved to Provincial Govts in the wake of Local Govt System. Subsequently the Department decided to produce seniority list of the employees serving at the Provincial level.

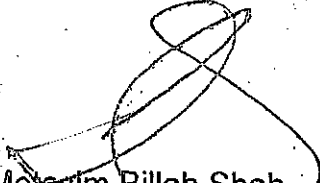



4/10 2/13

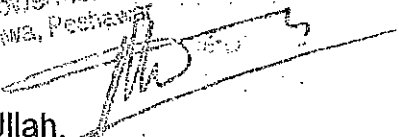
4. In order to fill the vacant posts available at Directorate level from time to time meetings of Departmental Promotion committee (DPCs) were also held to promote the officials as per seniority list. During the same period some of the District Govts also held DPCs to promote employees at District level against the vacant posts.


5. After abolition of District Govt system the services of the devolved employees were again placed at the disposal of Provincial Govt. The meeting concluded that generally it was not possible to reverse the promotion already given to employees and hence the petitioners have no legal stand for their promotion in light of any previous/old seniority list. They should be treated in accordance with the APT rules.

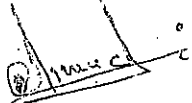
6. The meeting ended with a vote of thanks from the chair.



Motasim Billah Shah,
Director, Social Welfare,
Khyber Pakhtunkhwa,
Peshawar


Mrs. Shaista, Section Officer,
O & M, Establishment Deptt:


Zamat-ul-Ullah,
Senior Officer (Opinion-I)
Department.


Mr. Muhammad Rauf,
Assistant Director (Estt)
Social Welfare KPK


Adbul Hadi,
Senior Officer-(Lit)
Social Welfare Deptt:


Mst. Fareeha Paul
Additional Secretary,
Social Welfare Department
Chairperson.

To,

The Additional Registrar Judicial,
Peshawar High Court, Peshawar

Subject:- IMPLEMENTATION OF JUDGMENT DATED 17-04-2014 OF PESHAWAR HIGH COURT IN WRIT PETITION NO-2718-P/2011 TITLED AKBAR ALI & OTHER V/S GOVT: OF KPK.

Dear sir,

I am directed to refer to the subject noted above and state that in compliance with the Peshawar High Court's order dated 17-04-2014 in writ petition No. 2718-P/2011 titled Akbar Ali & others v/s Govt of Khyber Pakhtunkhwa, a series of meetings were held within the Department of Social Welfare. The meeting were attended by the representatives of Law, Establishment and Finance Departments also.

2. After detailed deliberations on the subject, it was concluded that the officials were devolved to the District Governments as a result of Local Govt System. Subsequently the Department issued bifurcated seniority list of the employees serving at the Provincial level.

3. In order to fill the vacant posts available at Directorate level, meetings of Departmental Promotion Committee (DPC) were held from time to time to promote the officials as per seniority list. During the same period some of the District Govts also held DPCs to promote employees at District level against the vacant posts.

4. After abolition of District Govt System, the services of the devolved employees were again placed at the disposal of Provincial Govt. Now legally it is not possible to reverse the promotion already given to employees and hence the petitioners have no legal stand for their promotion in light of any previous/old Seniority list. They should now be treated in accordance with the Appointment, Promotion, Transfer rules 1989.

*Work urgent
Court needs
ABC (initials)
[Signature]*

Yours faithfully,

Section Officer (Lit)

Copy forwarded to Director Social Welfare Khyber Pakhtunkhwa for information.

*Trace out another
in nature letter from
Account by put up
[Signature]*

Directorate of
Social Welfare K.P.K.
No: 2835
Date: 13-1-15

[Signature]
Section Officer-(Lit)

Annex T

154
260

Annex-J

**OFFICE OF THE DISTRICT OFFICER
SOCIAL WELFARE DEPARTMENT, CHARSADDA**

NO/DO/SW/CHD/ 5463

Dated, CHD: the 17/5/2015

To,

The Director,
Social Welfare Spl: Educ: & Women Empowerment,
Khyber Pakhunkhwa Peshawar.

SUBJECT: - PROMOTION OF JUNIOR CLERK BPS-11 TO THE POST OF SENIOR CLERK BPS-14.

Reference to your office letter NO.E-17/16/DSW/Vol-9/12250-57 date 23-4-2015 on the subject noted above where in willingness of Mr. Abdur Rasheed Junior Clerck of this office was desired. The willingness of the official as attached in original for further necessary action please.

**DISTRICT OFFICER
SOCIAL WELFARE DEPARTMENT -
CHARSADDA**

The Director
Social Welfare
Educ

Handwritten notes:
AD (E)
19/5

office was de... the will... ss of the official as attached... further necessary

SOCIAL WELFARE DEPARTMENT

Stamp: District Officer, Social Welfare Dept. P.K.
No: 7135
Date: 20-5-15

Handwritten notes:
Copy
MA
20/5
A-504

کنندہ صاحب ڈسٹرکٹ آفیسر سوشل ویلفیئر ڈیپارٹمنٹ چارسدہ

Willingness for Promotion.

عنوان:

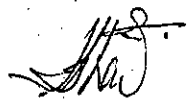
صاحب عالی:

گزارش ہے کہ ڈائریکٹر سوشل ویلفیئر ایسٹریڈ
میں جوڈر کلر کو پروموشن دی گئی ہے۔ جس کے بعد ہماری رضامندی
پہنچی ہے۔ پروموشن کیے ہیں رضامندیوں
رپورٹ عرض ہے۔

رضا رض احمد

عبدالرشید جوڈر کلر ڈسٹرکٹ آفیسر سوشل ویلفیئر ڈیپارٹمنٹ

Seen & Sent to OSW for
Action Please.



17/5/2017

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Annex-K

To

The Assistant Director, (estt)
Social Welfare & Women Development.
Khyber Pakhtunkhwa Peshawar

Subject: PROMOTION OF JUNIOR CLERK BPS-11
TO THE POST SENIOR CLERK BPS-14

Kindly with reference to your office letter No, E-17/16/DSW/Vol-9/12250-57 dated 23/4/2015 on the subject noted above addressed to the District Officer Social Welfare Nowshera.

It is submitted that I Mr. Mumtaz Khan is willing for promotion.

M.K. 18/5/2015
(MUMTAZ KHAN)
JUNIOR CLERK Distt. Office
SOCIAL WELFARE NOWSHERA

No. 4564

Dated, 18/5/15

Forwarded for
further necessary action
PJ

PS
DISTRICT OFFICER
SOCIAL WELFARE NOWSHERA

ple x i x
proccm. 12/5

ADLE

17/16



Directorate of
Social Welfare K.P.K.
No: 735
Date: 25-5-15

Receipt

Received a sum of Rs. 500/-
(five hundred only) regarding
a fine in Service appeal No. 214/2015
from Service Tribunal in Cash
Today on 31/3/2016

Attest

ABDUR-RASHID

Teluk 31-3-2016

~~Attest~~

~~AS~~
31.03.16

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Service appeal No. 214 / 2015

Abdur Rasheed S/O Pazeer Gul, Junior Clerk, District,
Charsadda

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Social
Welfare, Zakat, Usher & Women Empowerment Department
and others.

(Respondents)

Written Statement on behalf of Respondent No. 4 to 10

Respectfully submitted

PRELIMINARY OBJECTIONS:

1. The appellant has got no cause of action
2. The appeal is not maintainable in its present form.
3. The appeal is based on malafide intentions.
4. The appellant has no locus standi.
5. The appeal in hand is badly time barred.
6. The appellant has not come to Honorable Tribunal with clean hands.
7. The appellant has concealed the material facts from this Honorable Tribunal, hence liable to be dismissed.
8. The appeal is liable to be dismissed for non joinder/misjoinder necessary parties.
9. The appeal is against the prevailing law & rules.

Facts of the case:

Para No. 1: Correct to the extent that the appellant was appointed as Junior Clerk (BPS-5) on 03.10.1988. So far the seniority dated 01.03.2007 is concerned, it is stated that the same has lost its validity and has become in-executable, after the enforcement of Local Government Ordinance 2001 and laws framed there under (**Annexure-A, B, C & D**).

Para No. 2: Incorrect. No such notification dated 31-8.2007 was found on record.

Para No. 3: No comments.

Para No. 4: Incorrect. In wake of devolution of powers to District Government under local Government Ordinance 2001, and District Government Rules of Business 2001 as well (**Annexure-A**), the appointments upon the posts having BPS-1 to 15 were entrusted to the District Coordination Officers vide rule 6 (b) of the District Govt Rules of Business 2001. (**Annexure-B**) In pursuance of the said rule the Department of Social Welfare properly moved a summary to the then Chief Minister of erstwhile NWFP, regarding the declaration of the posts in Districts as well as services of the incumbents of that posts, as District Cadres, which was accordingly approved by the competent authority. (**Annexure-C&D**) Consequently, the posts as well as incumbents (BPS-1-15) at Districts were declared district cadres and the posts in BPS-16 & 17 were retained at the strength of Provincial Government vide Notification dated 16.8.2007. (**Annexure-E**) As per Para-VIII of the said Notification the District Government had to deal with the cases of the appellant as per Provision of rule 6(2) of the District Rules of Business 2001 (**Annexure-A**) and had to adopt such a mechanism that their inter-se-seniority was not affected. In compliance with Notification dated 16.8.2007 and approved summary, the Directorate of Social Welfare retained its staff as provincial cadre and maintained seniority lists of their officials under section 8 (I) of the Government Servant Act 1973 (**Annexure-F**) and granted promotions to the senior most officials in their cadres on the provincial cadres posts vide order dated 25.3.2008. (**Annexure-G**). Similarly the District Governments, following the Rule 6(2) of the District Rules of Business 2001 and section 8(I) of the Civil

Servant Act 1973, also disposed off a numerous cases regarding appointments/promotions on District cadre posts (**Annexure-H**).

Para No. 5: Incorrect. No appeal has been found on the record of Directorate of Social Welfare, while the annexed appeal (Dated 22.05.2011) is time barred one. So far the letter of Directorate Social Welfare (dated 26.02.2011) is concerned, the same is well convincible to decide the fate of District cadres.

Para No. 6: Incorrect. As the letter of the Social Welfare Department, dated 17.2.2011 have no concern with the appeal of the appellant (**Dated 30.04.2011**), as the appeal has showing been moved, **2 months and 13 days**, post of the said letter. It is pertinent to mention here that on the clarification, vide Directorate Social Welfare letter dated 26.2.2011, the letter of the Social Welfare Department dated 17.2.2011, had principally been withdrawn, as is reveals from the meeting of Departmental Promotion Committee dated 26.04.2011, dully attended by the same representative, who signed/issued the letter dated 17.2.2011, and promotion orders dated 26.04.2011 (**Annexure- I & J**).

Para No. 7: Incorrect. As commented at Para-6 above.

Para No. 8: Correct to the extent, regarding constitution of a committee vide notification dated 30.4.2014 (**Annexure-K**). It is added that meetings of the said committee was held on 05.05.2014 and 9.5.2014, and unanimously decided that" since they (Appellant) were working under the Administrative control of District Governments and the DCO being appointing authority was responsible to maintain their seniority lists (under section 8(I) of Government servant Act 1973) and constitute departmental promotion Committee as per prescribed mandate, and they (Appellant) were verbally informed accordingly (**Annexure- L&M**). However, in the interest of justice, the Social Welfare Department made a reference to Establishment Department Khyber Pakhtunkhwa, for their valuable opinion/advice in the matter (**Annexure-N**). After a series of correspondence, the Establishment Department vide letter No. SOR-III(E&AD)6-2/2013 dated 25 September 2014 (**Annexure-O**) finally asked the Social Welfare Department to convene a meeting of

the representatives of the Law, Establishment and Finance Departments so that the case may be decided once for all. Accordingly, working papers on the subject were circulated amongst the stakeholders, (Annexure-P) and after a series of its meetings, "it was concluded that the appellants were devolved to the District Governments in the wake of local Government System. Subsequently the Department issued bifurcated seniority list of the employees serving at the provincial level. In order to fill the vacant posts available at Directorate Social Welfare level from time to time, meetings of Departmental Promotion Committee (DPCs) were also held to promote the officials as per seniority list. During the same period some of the District Governments also held DPCs to promote employees at District level against the vacant posts. After abolition of the District Governments system the services of the devolved employees were again placed at the disposal of Provincial Government. The meeting concluded that legally it was not possible to reverse the promotions already given to employees and hence the appellants have no legal stand for their promotion in light of any previous/old seniority lists". The decision was accordingly communicated to the appellants vide letter dated 25.5.2015 (Annexure-Q&R)

Para No. 9: Correct. As commented at Para-8 above

Para No. 10: The appellant has no cause of action/prima fascia, hence the present appeal is liable to be dismissed inter alia on the following grounds:-

GROUNDS

- a. Incorrect & not admitted. The appellant has properly been dealt in accordance with prevailing law.
- b. Incorrect. There is no provision regarding, obtaining options from the incumbents neither in the approved summary nor in the notification. Summary nor in the said Notification.

- c. Incorrect. The District Government had already prepared seniority lists and given promotions to the officials under their control annexure referred in the preceding paras
- d. Incorrect. After devolution to District cadre, the appellant has no right to claim promotion against the post of provincial cadre i.e.(Directorate). As both the cadres had own appointing authority. In case of District, the appointing authority was DCO, while in case of Provincial (Directorate) and under section 8(I), seniority should be maintained by their respective appointing authorities.
- e. Incorrect. Rule-5(a) of the District Rules of Business 2001 provide that" there shall be a Secretariat of District Government headed by the District Coordination Officer and **comprising of the decentralized Departments or** group of departments as shown in schedule-I appended to the rules.
- f. Incorrect. As far as the creation of offices is concerned, rule-5(a) as mentioned above is quite clear to clarify the ground. So far as, the making of seniority list at District level is concerned, it was not the business of provincial office/Directorate, rather the DCO had to make the seniority in question, as per rule 6(2) of the District Rules of Business 2001 read with section 8(I) of the Civil Servant Act 1973. It is however clarified that obtaining option of the employees was not mandatory as per approved summary as well as notification dully annexed with the preceding para.
- g. Incorrect. The appellant was devolved to the district cadre. Hence he had no right of promotion against the posts at provincial (Directorate) cadre, therefore, he has neither been discriminated nor any deviation from the prevailing rules committed. It is added that after the abolition of District Govt System 2001, the Directorate of Social Welfare issued a seniority list of the Junior Clerks vide (**Annexure-S**) according to which the appellant has been exhibited at S.No. 7, and is willing to be promoted against one of the two vacant post of Senior Clerks each at Peshawar & Kohat (**Annexure-T**). The willingness given by the

appellant reveals that the previous promotions made by Directorate of Social Welfare provincial cadre posts are correct and according to the prevailing rules.

h. Respondents also seek the permission of this honorable Tribunal to adduce more grounds and proofs at the time of hearing.

In view of the above clarifications/explanations, it is therefore humbly prayed that the instant appeal may be dismissed having no weight and being based on malafide intention as the appellant have concealed the facts of the case to misguide this honorable Tribunal.

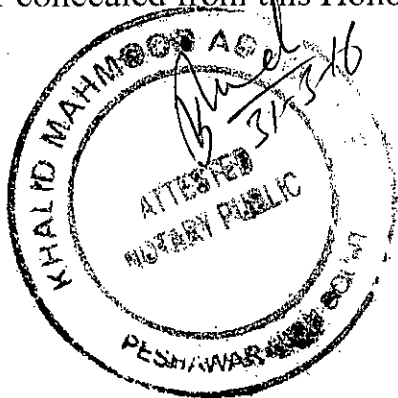
② Khensari Fazli Roshan
T. W. & Talib
Sahib
Through

Respondent No. 17 to 10

Ijaz Anwar
IJAZ ANWAR
Advocate Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above comments 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.



[Signature]
Deponent



2019ء منجانب

عبدالرشید بنام

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام یہاں کیلئے روایتی عدالت کے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted By (P)

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ماہ

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A # ____/2015

Abdul Rasheed

Versus

Government of Khyber Pakhtunkhwa and Others

REJOINDER ON BEHALF OF
APPELLANT TO THE COMMENTS OF
RESPONDENTS

Respectfully Sheweth,

REPLY TO PRELIMINARY OBJECTION

1. Para No. 1 of the appeal is correct while para 1 of the reply is incorrect.
2. Para No. 2 of the appeal is correct while Para 2 of the reply is incorrect, the notification dated 31/08/2007 is attached with appeal as well as with the rejoinder.
3. Para No. 3 of the appeal is correct
4. Para No. 4 of the appeal is correct, moreover according to section 8 (4) of Civil servant Act 1973 Seniority should be counted from the date of regular appointment, so the department, before devolution, maintain joint

Seniority list from the date of regular appointment in that seniority list the appellant stood at serial No.1!² But the department without obtaining consent of the appellant, was considered to have been devolved to District. According to section 8 of civil servant Act 1973 it is the duty of the Respondent/department to issued seniority list at every year, but after devolution of the appellant to District, neither any seniority list was issued at District level, nor the appellant was promoted despite being on the top position before devolution. That without maintaining Seniority list either at District or Directorate level regarding the appellant, juniors to the appellant are illegally promoted by the directorate it is also clear cut violation of section 8 of Civil servant Act 1973.

5. Para No.5 of the appeal is correct while para No.5 of the reply is incorrect, moreover the Departmental appeal dated 22/05/2011 is well within time.
6. Para No.6 of the appeal is correct while reply is incorrect.
7. Para No.7 of the appeal is correct while reply is incorrect.
8. Para No.8 of the appeal is correct while para No.8 of the reply is incorrect to the extent that the committee was constituted and after passing of a lengthy process and after abolition of the District Government system

the service of the devolved employee were assign placed at the disposal of provincial Government.


9. Para No.9 of the appeal is correct.

10. Para No.10 of the appeal is correct while reply is incorrect.

ON GROUNDS:-

All the grounds of the appeal is correct while reply is incorrect because the Respondent department are not adopted the proper procedure for promotion junior of the appellant has been promoted and it is a well settled law when in illegality are irregular to has been committed by the department the suffer should not be a civil servant.

It is, therefore, most humbly prayed that on acceptance of instant rejoinder to the comments of Respondent No.1 to 6 may kindly be accepted and prayer of the appellant in the main appeal may kindly be allowed as prayed therein.

Appellant
Through 
Counsel

POWER OF ATTORNEY

In the Court of Khyber Pakhtun Khwa Special Tribunal Peshawar
Abdul Rasheed

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of KPK and others.

} Defendant
} Respondent 4 to 7, 9, 10
} Accused
}

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

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

ZARAJ ANWAR ADVOCATE, my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar 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.

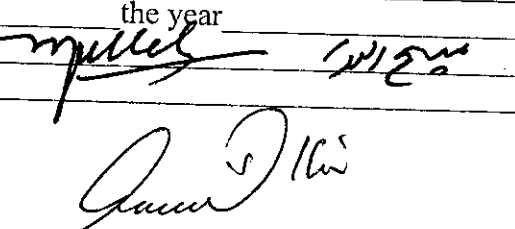
AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

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

~~F.A.S.~~ (2) فہرست
کان صاحب

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(3) تراویح مکاتیب - (4) عالم سنس

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لال سنس