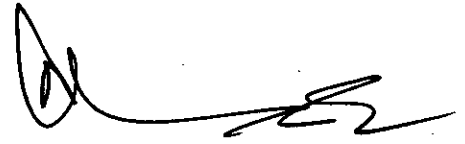


Service Appeal No. 215/2015

1. Ms. Roeeda 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

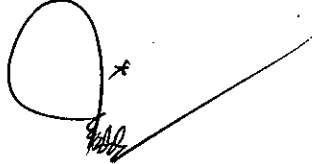


(FAREEHA PAUL)
Member (E)

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 7 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)

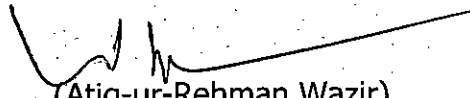


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

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.

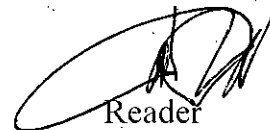
The latter seeks adjournment due to non-availability of learned senior counsel for private respondents. Request is accorded but as last chance. To come up for arguments on 11.01.2022 before the D.B.


(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

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/counsel be put on notice for 31.08.2021 for arguments before D.B.

(Rozina Rehman)
Member (J)

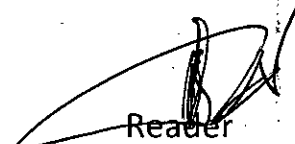

Chairman

31.08.2021 Due to summer vacations, the case is adjourned to 04.01.2022 for the same as before.


READER

27.08.2020

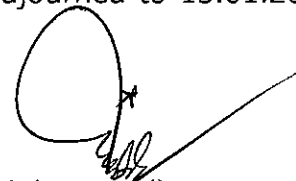
Due to summer vacation, the case is adjourned to 03.11.2020 for the same as before.


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

Noted
QJ
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

None for the appellant present. Learned Asst: AG for official respondents and private respondents no. 4 and 5 present. Notices be issued to the appellant. 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 present. Clerk to counsel for private respondents No. 4 to 7 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 Paidakheil learned Assistant Advocate General alongwith Nabi Gul Superintendent for official respondents present. Private respondents No.4, 5 & 7 present. Clerk to counsel for private respondents present. he 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 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, 5 and 7. 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 respondents No. 4 & 5 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

~~24-9-18~~
24-9-18

Due to retirement of Honible
Chairman, the Tribunal is defact
Therefore case is adjourned to
27-12-18


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 BAKHISH 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

None present for appellant. Mr. Rahim Shah, Assistant alongwith Addl: A.G for official respondents No. 1 to 3 and counsel for private respondent No. 5 present. Para-wise comments on behalf of official respondents No. 1 to 3 submitted. Written reply by private respondent No. 5 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. 5 from his own pocket. To come up for written reply/comments on behalf of private respondent No. 5 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. 5 present. Written statement by private respondent No. 5 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 respondent No. 5 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

3

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 3.3.2015.

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


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



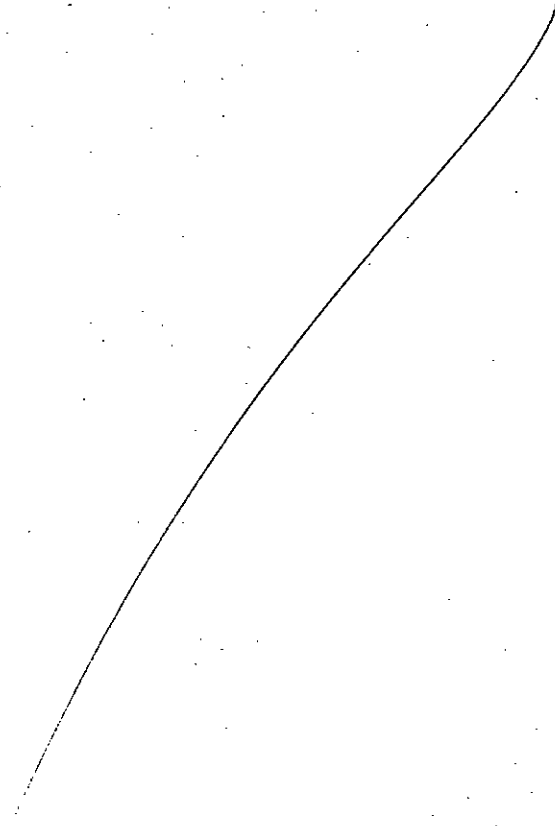
Appellant in person and Mr. Haleem Shah, Assistant alongwith Addl: A.G for official respondents No. 1 to 3 present. Mr. Sajid Amin, Advocate on behalf of private respondents No. 4 to 7 present and submitted Wakalat Nama. Requested for adjournment. To come up for written reply/comments on 26.01.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 215/2015

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. Murtaza Khan 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. Murtaza Khan son of Zahir ul Hassan Senior Clerk MRPH pajjagi Road Peshawar received to-day i.e. on 03.03.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant. ✓
- 2- Copy of order dated 31.8.2007 mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Page Nos. 6, 8, 10, 12, 13, 14 and 19 of the appeal are illegible which may be replaced by legible/better one.
- 4- Annexures of the appeal may be attested.

No. 275 /S.T,

Dt. 4/3 /2015

690
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Isa Khan Advocate Pesh.

Si Resubmitted Abiter Compilans

D
m/3/13

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S. Appeal No. 215 /2015

Murtaza Khan..... Appellant

Versus

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

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2.	Affidavit.		5
3.	Copy of final seniority list.	A ✓	6
4.	Copy of notification dt.31.08.21/07	B	7
5.	Copy of notification dt.16.08.2007 ✓	C	8
6.	Copy of order dt.26.04.2011 ✓	D ✓	9-10
7.	Copy of departmental appeal.	E ✓	11
8.	Copy of letter dt.26.02.2011 ✓	F	12-13
9.	Copy of order dated 17.02.2011 ✓	G	(14)
10.	Copy of order in W.P.No.2718/2011 dated 17.04.2014	H	15-18
11.	Copy of notification dt.30.04.2014	I	19-20
12.	Copy of W.P.No.1684/2014	J	21-
13.	Copy of impugned order dt.23.01.2015	K	22-24

Murtaza Khan

Appellant

Through

Muhammad Isa Khan Khalil
Advocate Supreme Court

&

Akhtar Ilyas
Advocate High Court.
Peshawar.

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

1

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 215 /2015.

**A.W.F. Province
Service Tribunal**

Diary No. 181

Dated 03-3-2015

Murtaza Khan son of Zahir ul Hassan
Senior Clerk, MRPB, Pajjagi Road
Peshawar 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, near Islamia College, Jamrud Road, Peshawar.
5. Saeed Muhammad, Assistant, Directorate Social Welfare, Special Education and Women Empowerment, KPK, Peshawar, near Islamia College, Jamrud Road, Peshawar.
6. Muhammad Abid, Assistant, Directorate Social Welfare, Special Education and Women Empowerment, KPK, Peshawar, near Islamia College, Jamrud Road, Peshawar.
7. Sardar Ali, Assistant, Directorate Social Welfare, Special Education and Women Empowerment, KPK, Peshawar, near Islamia College, Jamrud Road, Peshawar.

..... Respondents

Filed to-day
3/3/15
Registrar

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 Senior Clerk on 04.05.1994, who stood at S.No.7 of the Seniority List issued on 30.11.2005. (**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 26.04.2011 (**Annex: "D"**), whereby the private respondents were promoted as Assistants.
- 5) That appellant preferred departmental appeal (**Annex: "E"**) 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: "F"**) 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: "G"**) 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: “H”**).
- 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: “I”**).
- 9) That the appellant filed another writ petition No.1684/2014 dated 26.05.2014 (**Annex: “J”**) 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: “K”**).
- 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.

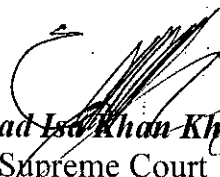
PRAYER:

In view of the above, it is, therefore, prayed that the appellant kindly be considered for promotion to the post of Assistant BPS-16 and fixation of his seniority as Assistant as he maintained in the lower post.

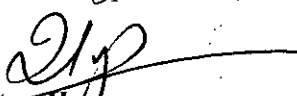
Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for, may kindly, also be granted.


Appellant

Through


Muhammad Ishaq Khan Khalil
Advocate Supreme Court

&


Akhtar Ilyas
Advocate High Court,
Peshawar.

5

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S. Appeal No. _____ /2015

Murtaza Khan..... Appellant

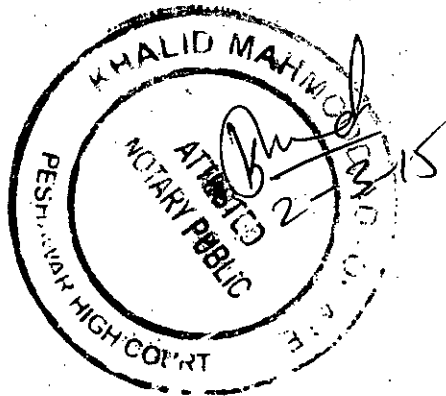
Versus

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

AFFIDAVIT

I, Murtaza Khan son of Zahir ul Hassan Senior Clerk, MRPB, Pajjagi Road Peshawar do hereby affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Murtaza Khan
Deponent



Most Immediate./Registered.

Annexure - B

7

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

No.E-17/71/KC-I

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.

1565
7/11/07

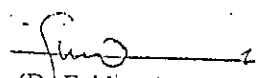
Subject: NOTIFICATION.

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 on 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.

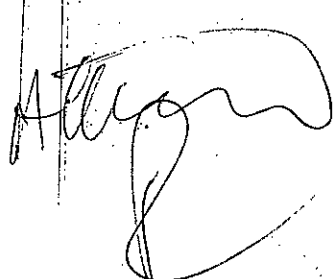
Encl: As above.


(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



870
31/8/07

Scanned
31/8/07

Annexure - B

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

Pu / S
N.R. / 78

NOTIFICATION:

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

1349

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.

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

(P.T.O.)

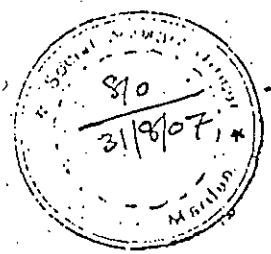
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NO.SOII(SWD)II-144/2007/13420-13523

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



(Iam Khan Khattak)
Section Officer -II

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

Service appeal No. 215 / 2015,

Murtaza Khan S/O Zahir ul Hussain
Senior Clerk,

MR&PH Pajagi Road Peshawar.....**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. Masih Ullah Assistant Directorate of Social Welfare KPK. Near Islamia College Jamrud Road Peshawar.
5. Saeed Mohammad Assistant Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar
6. Mohammad Abid Assistant Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
7. Sardar Ali Assistant Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Road 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 senior clerk on 4.5.1994. So far the seniority dated 30.11.2005 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. Actually 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 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 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 30.4.2011) 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 30.4.2011), as the appeal has showing been moved, **2 months and 23 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

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principally been withdrawn, as is revealed from the meeting of Departmental Promotion Committee dated 26.04.2011, duly 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 hold meetings of the DPCs to promote employees at District level against the vacant posts. After completion of tenure 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:-

GROUND

- 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 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(1), 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(1) 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 duly 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.


R

- 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)

(4)

FINAL SENIORITY LIST OF SENIOR CLERK UP TO 30-11-2005

No.	NAME	QUALIFICATION	DOMICILE	DT. OF BIRTH	DT. OF 1st ENTRY INTO S-SERVICE	PRESENT APPT. WITH DATE	PRESENT B.P.S.	MOVE OVER/SELECTION GRADE
1.	Mr. Tila Muhammad A.	Matric	Peshawar	7-4-1951	31-1-1974	12-5-1991	9	Selection Grade
2.	Mat. Rukhsana Akhtar	Matric	Peshawar	5-10-1958	27-5-1979	19-5-1991	9	-do-
3.	Qalar Khan	Matric	Dir	1-1-1958	30-7-1977	1-6-1991	9	Selection Grade
4.	Mr. Ayoub Khan	Matric	Peshawar	1959	1-7-1979	2-12-1991	9	Selection Grade
5.	Sahib Gul	M.A.	Swabi	5-4-1956	16-2-1983	1-1-1992	7	By Promotion
6.	Mr. Noor Rehman	Matric	Charsadda	12-4-1964	26-2-1984	10-6-1992	7	-do-
7.	Mr. Murtaza Khan	F.A.	Charsadda	1-10-1964	13-5-1984	4-5-1994	7	-do-
8.	Mr. Muhammad Umar	B.A.	Charsadda	10-10-1960	25-5-1982	5-5-1994	7	-do-
9.	Mr. Muhammad Azam	Matric	Charsadda	9-9-1966	1-9-1985	2-6-1996	7	-do-
10.	Mr. Abis Mahmood	Matric	Peshawar	16-7-1965	17-5-1984	2-6-1996	7	-do-
11.	Mr. Abdul Salam	Matric	Haripur	6-2-1960	25-5-1979	1-6-2000	7	-do-
12.	Mr. Hurmad Ali	Matric	D.I. Khan	1-1-1958	10-11-1981	(1-10-2001) (Adj: from S.Pool) (on-1-10-1992) (as S/Clerk)	7	-do-
13.	Mr. Sardar Ali	Matric	Charsadda	14-8-1966	17-5-1987	31-12-2004	7	-do-

[Signature]
 DIRECTOR
 SOCIAL WELFARE
 NWFP PESHAWAR

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Answer

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

Dated Peshawar the 4th September, 2001

NOTIFICATION

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 Coordinator

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

- (1) Annual Budget Statement.
- (2) Laying of supplementary statement of expenditure before the Zila.
- (3) Cases in which Provincial Government has issued directions.
- (4) Complaints to the Provincial Government Commission about dispute between any department of the Government and District Government 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 Enquiry appointed by District Government.

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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 the Government through the District Coordination Officer and shall submit reports to the Government through him.
- e: The orders of the District Government shall be issued in the name of the District Government and shall be signed by a District Coordination Officer, an Executive District Officer or any other officer specifically authorized by the Zila Nazim for the purpose. Such signature shall be deemed to be the proper authentication of such orders and shall not be questioned in any court on the ground that they were made or executed by the District Government.

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

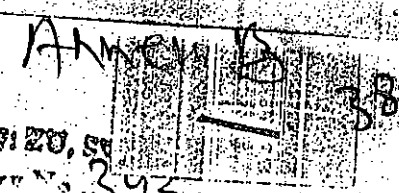
- a: The civil servants posted in the decentralized departments shall continue to be civil servants for all intents and purposes of the relevant civil servants laws and the rules framed there under with the exception that

(1) All civil servants in the ranks of BPS-7 shall be appointed by the Provincial Government and the District Government as the case may be and posted in the decentralized departments from time to time.

(2) The District Coordination Officers shall have the powers of the appointing authority for the decentralized departments 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 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 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 substitute of the officer proceeding on leave may be required, the leave shall be



حکومت صوبہ پنجاب
ضلعی عملہ و انتظامیہ

Page No. 391

22/02/07

مورخہ: ۲۱ فروری ۲۰۰۷ء

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

391

بشرف ملاحظہ:-

(۱) سینئر ممبر بورڈ آف ریویژن۔

مستقرین حکومت صوبہ سرحد۔

(۲) محکمہ خزانہ۔

(۳) محکمہ زراعت۔

(۴) محکمہ کھپان، ثقافت اور سیاست۔

(۵) محکمہ منصوبہ بندی و ترقیات۔

(۶) محکمہ ایگسٹرائزمنٹ ڈیپارٹمنٹ۔

(۷) محکمہ سماجی بہبود۔

(۸) محکمہ بہبود آبادی۔

ضلعی سروس کا قیام۔

عنوان:-

مجھے ہدایت کی گئی ہے کہ آپ کی توجیہ عنوان بالا کی طرف دلاتے ہوئے عرض کروں کہ صوبائی کابینہ کی ایک کمیٹی زیر صدارت سردار محمد ادریس صوبائی وزیر برائے لوکل گورنمنٹ کا اجلاس ۸ فروری ۲۰۰۷ء کو منعقد ہوا۔ اجلاس کو بتایا گیا کہ لوکل گورنمنٹ آرڈیننس ۲۰۰۶ء کے شیڈول فرسٹ کے مطابق مندرجہ بالا محکمہ جات ضلعی حکومتوں کو تفویض کئے گئے ہیں۔ مزید یہ کہ ضلعی حکومتوں کے رولز آف برنس کے مطابق بنیادی سکیل 15۲1 کی تعیناتی کے اختیار رکھنے کی ضرورت ہے۔ اجلاس کو بتایا گیا کہ تاحال محکمہ صحت، افسانہ و خواندگی اور دیگر ایگزیکٹو ڈسٹرکٹ آفیسر اور ضلعی رابطہ آفیسر کو دیئے گئے۔ اجلاس کو بتایا گیا کہ ایسے کیڈرز نہیں بنائے ہیں۔ اجلاس میں فیصلہ اینڈ سرسز نے ضلعی کیڈرز کا قیام عمل میں لایا ہے۔ جبکہ دیگر محکمہ جات نے ایسے کیڈرز نہیں بنائے ہیں۔ 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۔

۲۔ لہذا آپ سے استدعا ہے کہ اپنے محکمہ کے ضلعی کیڈرز کی فہرست جو فوراً بحال کی رپورٹ ۳ دن کے اندر مجھے لہذا کو مزید کارروائی کے لئے پیش کریں۔
Urgent
AS (11)
عناہدہ
عابد اللہ
سیشن آفیسر (اوائینڈ اپر)
۱۱-۱۶۶

نقل برائے:-

ذاتی معتمد برائے وزیر بلدیات و دیہی ترقی حکومت صوبہ سرحد۔
ذاتی معتمد برائے معتمد علیہ حکومت صوبہ سرحد۔

عابد اللہ
مابد اللہ
سیکشن آفیسر (اوپنڈا من)

(42)

Amir C

حکومت صوبہ سرحد

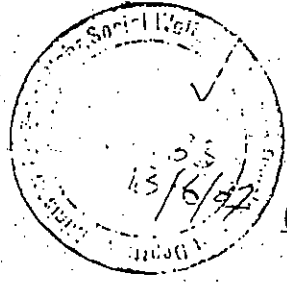
محکمہ زکوٰۃ، عشر سماجی بہبود و ترقی خواتین

نمبر: NO.SOII(SWD)II-144/2007

8451

23-5-2007

خلاصہ برائے وزیر اعلیٰ صوبہ سرحد



سکیل۔ 15 تا 1 تک کی صومالی سطح ملازمین اور آسامیوں کی ضلعی حکومت کو سپردگی

عنوان۔

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

(سلطان محمود خٹک)

معتمد 5-5-07

Stamp: Director, Government of Ferozpur, dated 13/6/07.

Minister for Zakat, Ushhar, Social Welfare & Special Education Deptt. NWFP

وزیر برائے زکوٰۃ، عشر سماجی بہبود صوبہ سرحد

File received in CS office on 13-6-07

معتمد اعلیٰ صوبہ سرحد

CLASSIFIED No 3745 Date 13/6/07

وزیر اعلیٰ صوبہ سرحد

540-5 13/6/07

Handwritten signature and date 13/6/07

CHIEF SECRETARY N.W.F.P

معتمد

Compilation III 14/6/07

محکمہ عملہ کی رائے خلاصے کی پیرا گراف نمبر ۹ تا ۱۴ پر ملاحظہ ہو۔

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(44)

میاں صاحب جان

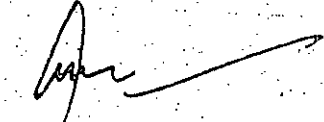
معتد عملہ

۱۹ جون ۲۰۰۷ء

540-5
19/6/07

No. 357
Date 20/6/07

معتد اعلیٰ عملہ سرحد



19/6

CHIEF SECRETARY
N.W.F.P.

معتد زکوٰۃ

خلاصے کے پیرا گراف میں دئے گئے اہتمامات کے مطابق عملہ میں

سب سے پہلے پیرا گراف ۱۵ پر ملاحظہ فرمائیں


25/6/07

معتد اعلیٰ عملہ سرحد

بحوالہ پیرا نمبر۔ ۷ اور ۱۲

۱۵ پیرا 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۔ ۱۵۵۱ کے ملازمین کی فہرستیں بالترتیب منسلک۔ اس اور ط پر ملاحظے کے لئے پیش خدمت ہیں۔

25/6/07
(حضرت خان 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 پیرا نمبر ۹ تا ۱۳ میں اپنی رائے دے چکا ہے۔
محکمہ زکوٰۃ و عشر نے معتد اعلیٰ کے احکامات (پیرا نمبر ۷) پر ضروری کارروائی کر دی ہے (منسلکہ - ص ۵، ۶)۔ لہذا محکمہ
عملہ خلاصے کے پیرا نمبر ۳۲ 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)

معتد عملہ

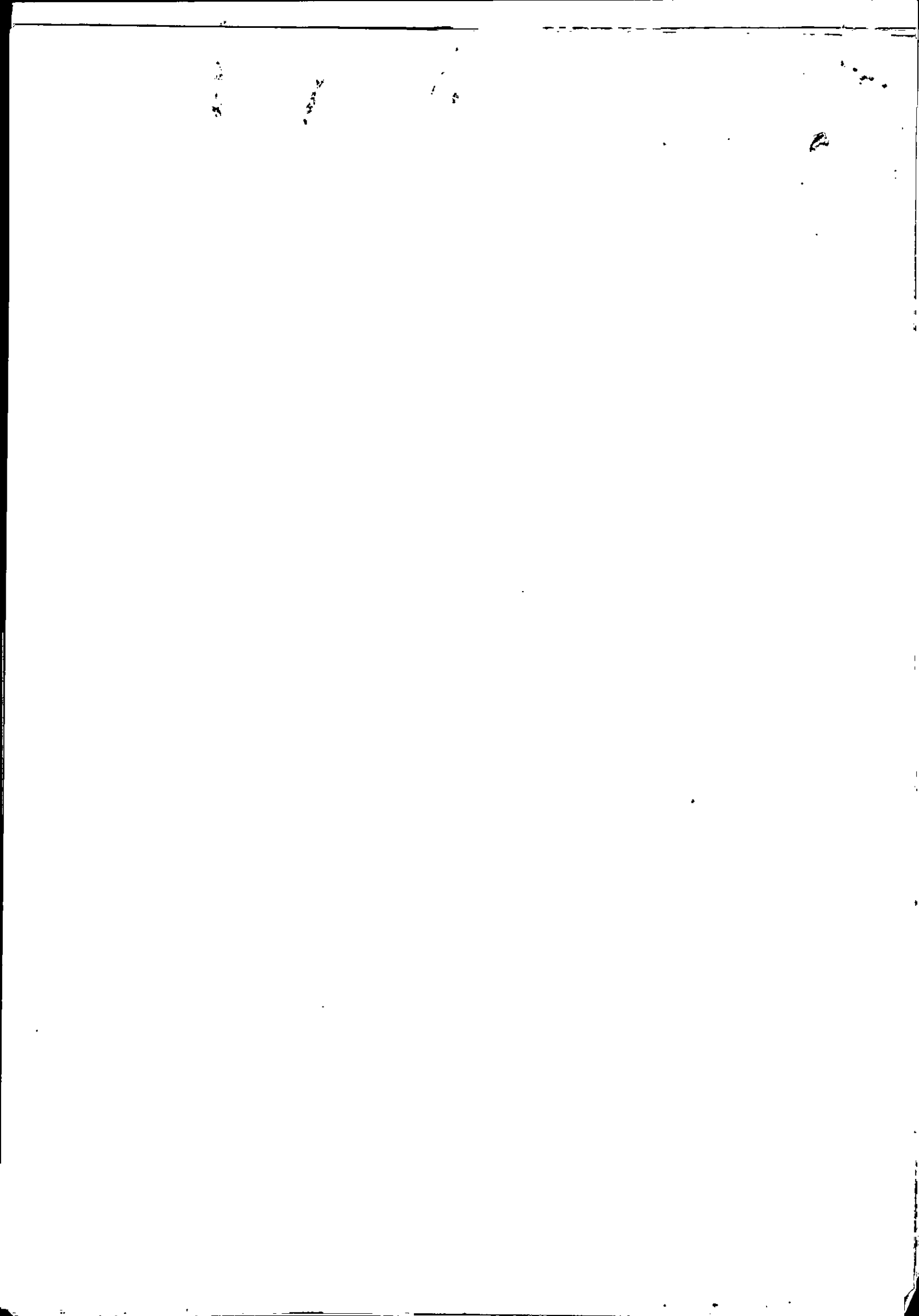
۲، جولائی، ۲۰۰۷

معتد اعلیٰ صوبہ سرحد۔

CHIEF SECRETARY
N.W.F.P.

وزیر اعلیٰ
سرحد

اسحاق ڈال



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 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۔

۱۶

میاں صاحب جان

(میاں صاحب جان)

معتمد عملہ

۲ جولائی، ۲۰۰۷

معتمد عملہ صوبہ سرحد۔

۱۰/۱۱/۰۷

CHIEF SECRETARY
N.W.F.P

وزیر اعلیٰ سرحد

اسمہ خان ڈرال

۱۰۔۷۔۰۷

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

26
D. No. 4
23/5
2007



عنوان:- سکیل-1511 تک کی صوبائی سطح ملازمین اور آسامیوں کی ضلعی حکومت کوپیرنگ

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

(سلطان محمود خٹک)

مستند 21-5-07

وزیر برائے زکوٰۃ، عشر سماجی بہبود صوبہ سرحد

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

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مستند اعلیٰ صوبہ سرحد

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13/6/07

CHIEF SECRETARY
N.W.F.P.

Evolution-ID

13/6/07

مندرجہ بالا احکامات 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 - اتا ۱۵ 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 برنس 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۔

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

(سلطان محمود خٹک)

تاریخ ۰۷/۰۵/۱۹

12/6/2007
Minister for Technical, Higher & Special Education Deptt. NWFP

وزیر برائے زکوٰۃ، عشر و سماجی بہبود صوبہ سرحد

معتمد اعلیٰ صوبہ سرحد

۶۔ اس سے پہلے سے ملازمین سے گادار پیر کیا اثر پروڈی گا اور ان کا Seniority کے Protect ہوگی بشمول دیگر سہولتیں Service conditions - ان ملازمین کا فہرست کیا جاوے۔

وزیر اعلیٰ صوبہ سرحد

۱۔ دوسرے عملوں کے ایسے کیوں میں کیا طریقہ تعلیم کار اختیار کیا جاوے۔

Handwritten signature

بحوالہ پیرا نمبر ۸۳۶ خلاصہ زیر غور:-

58 ۱۱۱

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 ادریس وزیر 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 لئے الگ سروس رولز 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 کمیٹیاں 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 تا 15 (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 کردی 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۔

ہنیالکھتہ
(میاں صاحب جان)

معتمد عملہ
۱۹ جون ۲۰۰۷

معتمد اعلیٰ صوبہ سرحد

معتمد زکوٰۃ

Amir

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۵۰

سوالہ پیر نمبر۔ ۷ اور ۱۲

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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 ۱۷ کے ملازمین کی فہرستیں بالترتیب منسلک۔ اس اور ط پر ملاحظے کے لئے پیش خدمت ہیں۔

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

معتمد اعلیٰ صوبہ سرحد

۳۱

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

(53) 5

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

NOTIFICATION:

Notification (SWD) II-144/2007

113419

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 reverse seniority is not affected.

Discuss
27

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

DSW/LIT/

54

NO. SOI(SWD)II-144/2007

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.

(Iliam Khan Khattak)
Section Officer-II

(E)
(B)
(A) (V)

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

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

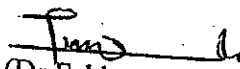
GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE
AND WOMEN DEV: JAMRD ROAD PESHAWAR.

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.

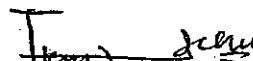

(Dr.Fakhr-ul-Islam)

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)

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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- 101124-28 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.

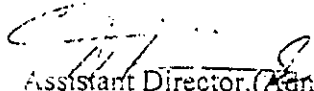
Consequent upon their appointment as Assistant (BPS-14) on Acting Charge basis, they are posted in the Directorate of Social Welfare & Women Development, Khyber Pakhtunkhwa.

Sd/-
Director
Social Welfare & Women Dev:

Endst: 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:

Annex 5 68
(72)

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

Dated Peshawar the 9 / 04 / 2011

ORDER

No.F-17/16/DSSW/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.

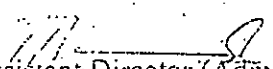
The officials concerned on promotion will remain on probation for a period of one year in terms of Section (2) of NWFP Civil Servant Act 1973 read with rules -15-(F) of NWFP civil servants (Appointment, Promotion and Transfer) Rules 1989.

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:

Ends: 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

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. Khaz 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 Raul Khattak Member/Secretary
Assistant Director (Estt),
Directorate of Social Welfare, Special Education &
Women Empowerment, Khyber Pakhtunkhwa.

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.

Copy dt.
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G/S

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


(Rizwan Khan)
Section Officer (L&E)

Annex 29M 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.
- 114

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322

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

MA

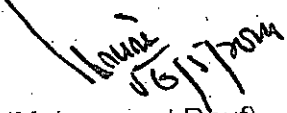
the Court. Moreover the signing officer of the same order (Mr. Muhammad Saeed Section Officer-II) attended the meeting of Departmental Promotion Committee at Directorate of Social Welfare on 20.04.2011 and signed the minutes of promotion of the private respondents. Hence this formal DPC and implementation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

4. 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 / DS (SW)


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



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

To

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

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

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)

Ammer 0391



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

NO. SO-Lit (SWD) 1- 13 /2014 240-44
Dated Peshawar the, 06/11/2014

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.

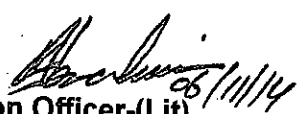
I am directed to refer to this Department's letter NO. SO-Lit (SWD) 1- 13 /2014 dated 21/10/2014 on the subject noted above and to enclose a copy of the minutes of the meeting held on 27-10-2014 for your perusal please.

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

Amman 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.) | |

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 Director was asked to produce all the record relating to seniority lists at the Provincial level and promotions made based on those lists. The original record was produced for examination of the members of the committee. After a detailed discussion the forum concluded that the officials were devolved to Provincial Govts in the wake of Local Govt System. Subsequently the Department was requested to prepare a seniority list of the employees serving at the Provincial level.



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 sent
Court Memo - ABC (Litig)
[Signature]*

Yours faithfully,

Section Officer (Lit)

Copy forwarded to Director Social Welfare Khyber Pakhtunkhwa for information.

*Trace out another
in nature letter from
recall by put up*
Directorate of
Social Welfare K.P.K.
No: 2835
Date: 13-1-15

[Signature]
Section Officer-(Lit)

Annex T

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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:
Rasheed
proced. 19/5

office was desired of the willingness of the official as attached in original for further necessary

Handwritten: AD(E)

Handwritten: Aqil
MA
20/5/15

SOCIAL WELFARE DEPARTMENT
Office of the District Officer
Social Welfare S.P.O.
No. 7135
Date 20-5-15

Annex - J

کنوینشنل ڈیپارٹمنٹ آف ایجوکیشن و ویلفیئر ڈیپارٹمنٹ، حیدرآباد

Winningness for Promotion.

عنوان :-

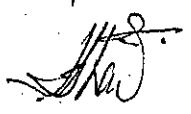
ضامہ عالی

گزارش ہے کہ ڈائریکٹر سوشل ویلفیئر ایجوکیشن
میں جونیئر کلرک کو پروموشن دینی ہے۔ جس کے ہماری رضامندی
پہنچی ہے۔ پروموشن کیلئے میں رضامند ہوں
رپورٹ عرض ہے۔

ای اے ایف احمد

عبدالرشید جونیئر کلرک ڈیپارٹمنٹ آف ایجوکیشن و ویلفیئر ڈیپارٹمنٹ

Seen & sent it. DSW for
Action please.



17/5/2017

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Annex - K

To

The Assistant Director, (E&H)
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. Khan
18/5/2015
(MUMTAZ KHAN)
JUNIOR CLERK *Distt. Office*
SOCIAL WELFARE NOWSHERA

No. 4564 Dated, 18/5/15

Forwarded for
further necessary action

P.S.

P.S.
DISTRICT OFFICER
SOCIAL WELFARE NOWSHERA

plexxxx
proccn 22/5

ADLES

17/16

↓
Directorate of
Social Welfare K.P.K.
No: 7215
Date: 25-5-15

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

Service appeal No. 215 / 2015,

Murtaza Khan S/O Zahir ul Hussain
Senior Clerk,
MR&PH Pajagi Road Peshawar.....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. Masih Ullah Assistant Directorate of Social Welfare KPK. Near Islamia College Jamrud Road Peshawar.
5. Saeed Mohammad Assistant Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
6. Mohammad Abid Assistant Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Peshawar.
7. Sardar Ali Assistant Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Road 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 senior clerk on 4.5.1994. So far the seniority dated 30.11.2005 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. Actually 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 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 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 30.4.2011) 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 30.4.2011), as the appeal has showing been moved, 2 months and 23 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 revealed from the meeting of Departmental Promotion Committee dated 26.04.2011, duly 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 hold meetings of the DPCs to promote employees at District level against the vacant posts. After completion of tenure 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:-

GROUND

- 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 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 duly 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.

- 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 appellants 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)~~

U1
11/11/01 2

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
LOCAL GOVERNMENTS AND RURAL
DEVELOPMENT DEPARTMENT

Dated Peshawar the 4th September, 2001

NOTIFICATION

No. ADMN(LG)/DC/1(28)-2001 In partial modifications of all such rules and exercise of the powers conferred on him by section 31, 32 and 31 of the North-West Frontier Province Local Governments 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.

3. Powers of Zila Nazims:
 - a. Subject to provisions of section 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 referred 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 Magistrate.
- b: Press notes issued by District Coordination Officer, District Police Officer and Executive District Magistrate.
- c: All periodical and special reports relating to law and order such as fortnightly statement of law and order by District Magistrate.
- d: Intelligence reports.
- e: Report of Committees and other agencies created by District Government.

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 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 (N.W.F.P. 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 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 controlling officer in respect of the District Officers of the group of decentralized departments under him.
- i. 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 substitute of the officer proceeding on leave may be required, the leave shall be

22/02/07

مورخہ: ۲۱ فروری ۲۰۰۷ء

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

بشرف ملاحظہ۔

391

11-144

(۱) سینئر ممبر بورڈ آف ریویو۔

معتبرین حکومت صوبہ سرحد۔

(۲) محکمہ خزانہ۔

(۳) محکمہ زراعت۔

(۴) محکمہ کھپا، ثقافت اور سیاحت۔

(۵) محکمہ مشنریہ بندی و ترقیات۔

(۶) محکمہ ایگسٹریٹو اینڈ ایکسیشن۔

(۷) محکمہ سماجی بہبود۔

(۸) محکمہ بہبود آبادی۔

ضلعی سروس کا قیام۔

عنوان:-

مجھے ہدایت کی گئی ہے کہ آپ کی توجہ عنوان بالا کی طرف دلاتے ہوئے عرض کروں کہ سوہائی کاہنڈی کی ایک کمیٹی زیر صدارت سردار محمد ادریس سوہائی وزیر برائے لوکل گورنمنٹ کا اجلاس ۸ فروری ۲۰۰۷ء کو منعقد ہوا۔ اجلاس کو بتایا گیا کہ لوکل گورنمنٹ آرڈیننس ۲۰۰۶ء کے شیڈول فرسٹ کے مطابق مندرجہ بالا محکمہ جات ضلعی حکومتوں کو تفویض کئے گئے ہیں۔ مزید یہ کہ ضلعی حکومتوں کے رولز آف برنس کے مطابق بنیادی سکیل 1541 کی تعیناتی کے اختیار رکھنے والے ایگزیکٹو ڈسٹرکٹ آفیسر اور ضلعی رابطہ آفیسر کو دینے گئے۔ اجلاس کو بتایا گیا کہ حال محکمہ صحت، ایس و فوائڈنگ اور دیگر ایڈمنسٹریٹو سروسز کے ضلعی کیڈرز کا قیام عمل میں لایا ہے۔ جبکہ دیگر محکمہ جات نے اپنے کیڈرز نہیں بنائے ہیں۔ 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۔

۲۔ لہذا آپ سے استدعا ہے کہ اپنے نکلے کے ضلعی کیڈرز کی موجودگی کے متعلق اپنی رپورٹ ۳ دن کے اندر محکمہ مذکورہ کاروان کے ایجنٹوں کو کریں۔

AS (11)

22/2/07

AS (11)

عابد اللہ

سیکشن آفیسر (اوائیڈنگ)

Handwritten signatures and initials

(42)

حکومت صوبہ سرحد

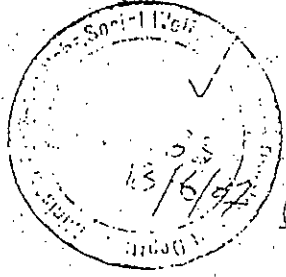
محکمہ زکوٰۃ، عشر، سماجی بہبود و ترقی خواتین

نمبر: NO.SOII(SWD)II-144/2007

8451

23-5-2007

خلاصہ برائے وزیر اعلیٰ صوبہ سرحد



عنوان - سکیل - 15 تاک کی صومالی سطح ملازمین اور آسامیوں کی ضلعی حکومت کوپردگی

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

(سلطان محمود خٹک)

21-5-07

Minister for Zakat, Ushraf, Social Welfare & Special Education, Dept. N.W.F.P.

وزیر برائے زکوٰۃ، عشر و سماجی بہبود صوبہ سرحد

Stamp: Date: 13/6/07, District: Ferozpur

File received in CS office on 13-6-07

13/6/07 CA

G.A. No. 3745 Date: 13/6/07

مستند اعلیٰ صوبہ سرحد

13/6/07

540-3 13/6/07

13/6/07

CHIEF SECRETARY N.W.F.P.

Registration No. 14/8/07

مستند

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 سٹریٹس کے ضلعی کیڈر بنائے گئے ہیں (ضمیمہ-ج)۔ صوبائی کابینہ نے اپنے اجلاس منعقدہ ۲۷ جنوری ۲۰۰۷ء میں سر داد محمد ادریس وزیر 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 سہرا سروس کی ایک علیحدہ یونٹ ہے۔ اس کا مطلب ہے کہ ضلعی کیڈر کے لئے الگ سروس رولڈز رکاز ہیں۔ ضلعی حکومتوں کے قواعد کار مجریہ 2001 کے قاعدہ (b)(1) 6 (ضمیمہ-ر) کے مطابق متعلقہ ایگزیکٹو ڈسٹرکٹ آفیسر سکیل ۱۰ تا ۱ اور متعلقہ ضلعی رابطہ آفیسر سکیل ۱۱ تا ۱۵ احکام تعیناتی (Appointing Authority) ہیں۔ محکمہ عملہ نے ضلعی سطح پر چناؤ اور ترقی کمیٹیاں 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 کردی 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 بند 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۔

میٹھا محمد
(میاں صاحب جان)

معتمد عملہ
۱۹ جون ۲۰۰۷

معتمد اعلیٰ صوبہ سرحد

معتمد زکوٰۃ

۱۹/۰۶/۰۷

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

(44)

میاں صاحب جان

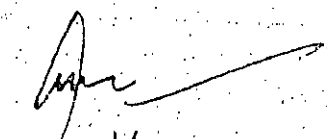
معتز علی

۱۹ جون، ۲۰۰۷

540-5
19/6/07

No. 25/19
Date 25/6/07

معتز علی صاحب سرحد

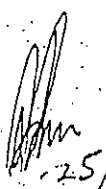

19/6

CHIEF SECRETARY
N.W.F.P

معتز زکوة

خلاصے کے پیرا گراف میں دئے گئے افعانات کے مطابق ملازمین

کی نمبر سب سے پیرا گراف ۱۵ پر ملاحظہ فرمائیں


25/6/07

معتز علی صاحب سرحد

(53) 5

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

NOTIFICATION:

13419
DII/SWD/II-144/2007

The competent authority is pleased to declare 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 seniority is not affected.

Dis. Class

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

54

NO. SOH(SWD)II-144/2007

/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

(Ilan Khan Khattak)
Section Officer -II

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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

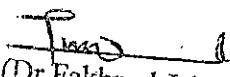
GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE
AND WOMEN DEV. JAMRD ROAD PESHAWAR.

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:

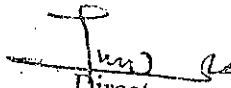
S.No	Name of official	Designation	Promoted as	Place of posting
1	Mr. Noor Rahman	Senior Clerk (BPS-09)	Assistant (BPS-14)	Directorate of Social Welfare & Women Development NWFP Peshawar.
2	Mr. Masihullah	Junior Clerk (BPS-07)	Senior Clerk (BPS-09)	Directorate of Social Welfare & Women Development NWFP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

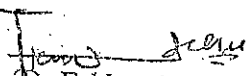

(Dr. Fakhur-ul-Islam)

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. Fakhur-ul-Islam)

GOVERNMENT OF PUNJAB
DIRECTORATE OF SOCIAL WELFARE AND
CHILDREN DEVELOPMENT PESHAWAR

63

Dated Peshawar the 22/11/2017

ORDER

No.E-7/DSWA/2017-18 on the recommendations of Departmental Promotion Committee in its meeting held on 20-11-2017, and the approval of the concerned authority the following Senior Clerks (BPS-19) are hereby appointed as Assistant (BPS-18) on deputation charge basis with immediate effect.

1. Mr. Asim Gulab Senior Clerk (BPS-19)
Directorate of Social Welfare & W.D. Peshawar
2. Mr. Saeed Monammas Senior Clerk (BPS-19)
Directorate of Social Welfare & W.D. Peshawar

Consequently Mr. Asim Gulab & Mr. Saeed Monammas (BPS-19) are hereby appointed as Assistant (BPS-18) on deputation charge basis in the Directorate of Social Welfare & W.D. Peshawar.

Signature
Director

Registered No & Dated:-

Copy to:-

1. The Accountant General, Peshawar
2. The Section Officer, Social Welfare Department, Peshawar
3. The Assistant Director, Budget & Accounts, Directorate of Social Welfare and Children Development, Peshawar
4. The Training Officer

Signature
22/11/2017

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

Dated Peshawar the 26 / 04 /2011

ORDER

No. 17.6.DSW/W- 16129-38 On the recommendation of Departmental Promotion Committee in its meeting held on 20-4-2011 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 (1) 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

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No. SO-Lit(SWD)/1-13/2014
Dated Peshawar this, 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. Fahid Khan Member
Section Officer-II,
Social Welfare, Special Education &
Women Empowerment Department.
3. Mr. Ahsan 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 (Ghatrak) Member/Secretary
Assistant Director (Estt),
Directorate of Social Welfare, Special Education &
Women Empowerment, Khyber Pakhtunkhwa.

Copy dt. /
M/G
G/S

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.

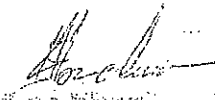
- (ii) The committee shall have the authority to call the petitioners as well as private respondents or listen to their view-point in detail.
- (iii) The committee shall consult the sister Departments who might have confronted such like situation.
- (iv) Establishment & Law Departments Khyber Pakhtunkhwa 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.

Enclosed. No. and Date Given 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-2713/2011.
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 & Woman Empowerment Department.


(Ghulam Khan)
Section Officer (L2)

Annex 294 32
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.
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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 (nos)

Muhammad Rauf
05/05/2014

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



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

AMR... 390

To

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

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

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.

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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-17/71/KC-I/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 summary obtaining option from the District cadre employees was not mandatory. (Copy of the summary 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
 (KIBAZ KHAN)

Yours faithfully,

(KIBAZ KHAN)
 Section Officer-(Lit)

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

Deptt. ME 19/9

(KIBAZ KHAN)
 Section Officer-(Lit)

Amended 3911



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

NO. SO-Lit (SWD) 1- 13 /2014 **240-46**
Dated Peshawar the, 06/11/2014


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)

Ministry of
Social Welfare, K.P.K.
No: **855**
Date: **7-11-14**

ANNEX 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-II),
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 Director of Social Welfare 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 submitted for examination of the members of the committee.

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

