

0Execution Petition 92/2021

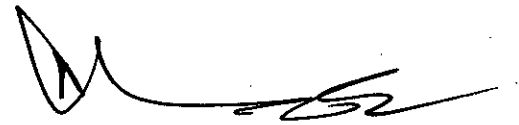
27th Oct 2022

1. Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Mudassir Khan, SO for respondents present.

2. In compliance with the judgment of this Tribunal and the orders dated 28.06.2022, 26.09.2022 and 24.10.2022, the Departmental Promotion Committee met on 18.10.2022 and made recommendations of the petitioner for his promotion from the date of promotion of his juniors with all consequential benefits subject to the result of the CPLA, filed by the respondents before the august Supreme Court of Pakistan. Mr. Mudassir Khan, Section Officer C&W Department Peshawar is present and has submitted that the formal notification would be issued within two weeks for which the case has been sent to the Chief Secretary. This being so this execution petition is filed. If the department fails to issue proper notification within next two weeks as stated by the representative, then the petitioner may make another application.

3. Representative of the respondents submitted an application for release of salaries of the respondents No.1 to 4 which is placed on file. Since the judgment of the Tribunal has been complied with, therefore, salaries of the respondents are released forthwith. Consign.

4. *Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal on this 27th day of Oct, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

24.10.2022

Petitioner in person present.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Junaid Khan SDO and Muhammad Abbas Assistant for respondents present.

The respondent Department submitted certain documents which are placed on file and requested for a short adjournment in order to produce proper implementation report. Case is adjourned to 27.10.2022 before S.B at Camp Court, D.I.Khan.



(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

26th Sept, 2022

Learned counsel for the petitioner present. Mr.

Muhammad Adeel Butt, Addl: AG for respondents present.

It is noted with concerned that no proper representation is made by the respondent department before the Tribunal in violation of the standing orders of the Establishment Department. Despite clear directions given on the previous date, respondents have not submitted implementation report. This Tribunal has no other alternative but to take action against respondents. The Accountant General Khyber Pakhtunkhwa and District Accounts Officer, D.I.Khan are directed to attach salaries of the respondents No. 1 to 4 till further orders by this Tribunal and compliance report be submitted to the Registrar of this Tribunal. Show cause notice be also issued to the respondents as to why they should not be proceeded under the Contempt of Court Ordinance 2003. Respondents are directed to appear in person alongwith the implementation report.

To come up on ^Q24.10.2022 for further proceedings at camp court D.I.Khan.



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

28th June 2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Mudassir, SO (Litigation) and Mr. Muhammad Junaid, Superintendent C&W D.I.Khan for respondents present.

The Section Officer (Litigation), C&W provided copy of the note for Chief Secretary wherein the Secretary C&W, while making recommendations for approval by the Chief Secretary had duly recommended proforma conditional promotion of the petitioner w.e.f 03.10.2017 i.e from the date of promotion of the notification of the Sub-Engineers junior to him to the post of SDO (BS-17) with all consequential benefits subject to the final decision of the august Supreme Court of Pakistan in CPLA filed by the department but the then Secretary Establishment changed the proposal vide para-5 of his note and recommended proforma promotion in respect of the petitioner from one day before his retirement and the Chief Secretary had simply accorded approval without referring to any of the paragraphs either of Secretary C&W or that of the Secretary Establishment. The proposal at serial No.5 of the note of the Secretary Establishment is not in line with the judgment passed by this Tribunal whereas the note of the Secretary C&W (Para-IV) is in line with the judgment of the Tribunal. Although the approval has been accorded by the Chief Secretary but the approval does not contain the number of para-iv of either of the of Secretary C&W or para-5 of the Secretary Establishment, therefore, the representative present on behalf of the respondents is directed to take up the case again with the quarter concerned to modify the notification of retirement to bring it in line with the terms of the judgment. To come up for proper implementation report on 25.07.2022 before S.B at camp court D.I.Khan.

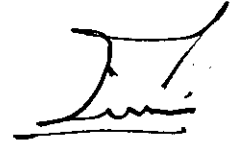


(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

26.05.2022

Petitioner in person present. Mr. Abdul Naeem, Superintendent alongwith Mr. Farhaj Sikandar, District Attorney for the respondents present and produced Notification dated April 1st 2022 by alleging that the judgment under execution has been implemented. Copy of the same is handed over to petitioner.

Petitioner stated at the bar that vide Notification dated April 1st 2022, he has not been given porforma promotion from the required date. He further stated that his counsel is not available today for filing of objection, therefore, adjournment may be granted to him. Adjourned. To come up for filing of objections on 28.06.2022 before the S.B at Camp Court D.I.Khan.



(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

10

25.11.2021

Petitioner alongwith counsel and Mr. Noor Zaman, District Attorney for the respondents present.

The petitioner through this Execution Petition is seeking the implementation of judgment dated 01.12.2020 at his credit whereby he was held entitled to promotion to BPS-17 w.e.f. the date when his case was initially considered by the DPC with all consequential benefits. If the respondent department has challenged the judgment of this Tribunal before the august Supreme Court of Pakistan and no order as to suspension of the judgment of the Tribunal is in field, the department is under obligation to implement the judgment forthwith obviously subject to outcome of CPLA. If the department has not challenged this judgment and in view of the particular date of the judgment the time has elapsed, it is bounded duty of the respondent department to implement the judgment of this Tribunal unconditionally. As the case may be, the respondents are directed to come up with implementation report of the judgment on next date. However, if CPLA against the judgment is pending, the petitioner shall furnish an affidavit to the department that he shall restore the benefit back to the department in case the judgment of this Tribunal is not maintained by the august Supreme court of Pakistan. Case to come up on 26.01.2022 before S.B at camp court, D.I.Khan.


Chairman
Camp Court, D.I.Khan

26.01.2022



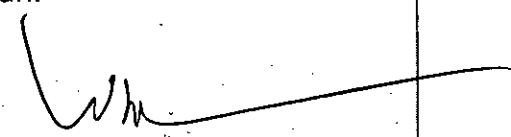
Bench is not available, case is adjourned to 26.5.22 for the same as before.

Reader.

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 92 /2021

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29.03.2021	<p>The Execution Petition submitted by Mr. Muhammad Javed Rahim through Mr. Asif Qadir Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This Execution Petition petition be put up before Touring S. Bench at D.I. Khan on <u>27-10-21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	27.10.2021	<p>Nemo for petitioner.</p> <p>Notice be issued to the appellant/counsel as well as respondents for submission of implementation report. To come up for implementation report on 25.11.2021 before S.B at Camp Court, D.I. Khan.</p> <p style="text-align: right;"> (ATIQ-UR-REHMAN WAZIR) MEMBER (E) CAMP COURT D.I. KHAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. 92 OF 2021

Muhammad Javed Rahim

Versus

The Govt. of KPK & others

EXECUTION PETITION


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S.No	Particulars of the Documents	Annexure	Page
1)	Grounds of Execution petition with affidavits	--	1-3
2)	Copy of service appeal along with judgment dated 01/12/2020	A	4-9
3)	Copy of implementation petition dated 17/01/2021	B	10
4)	Wakalatnama	C	11

Dated: 25/03/2021

Petitioner


Muhammad Javed Rahim
Through Counsel


Asif Qadir
Advocate High Court
District Dera Ismail Khan



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the April 01, 2022

Notification

No SOE/C&W/4-2/2022 (SDOs) In light of the court decision dated 01.12.2020, 25.11.2021 and on the recommendations of the Departmental Promotion Committee (DPC), the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to promote Mr. Javed Rahim Ex-Sub Engineer (BS-16) to the post of Assistant Engineer/SDO (BS-17) C&W Department for proforma promotion w.e.f. 30.12.2018 (one day before his retirement), subject to final outcome of CPLA filed by the department.

AM
17/4/22
EXECUTIVE ENGINEER
C&W Highway Division, D.I. Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst of even number and date

Copy is forwarded to the -

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Chief Engineer (Centre) C&W Peshawar
3. Chief Engineer (South-II) C&W DIKhan
4. Superintending Engineer C&W Circle DIKhan
5. Executive Engineer Building/Highway Division DIKhan
6. District Accounts Officer DIKhan
7. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
8. PS to Secretary Establishment Deptt, Khyber Pakhtunkhwa, Peshawar
9. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
10. PS to Secretary C&W Department, Peshawar
11. PA to Additional Secretary C&W Department, Peshawar
12. PA to Deputy Secretary (Admn) C&W Department, Peshawar
13. Mr. Javed Rahim Retired Assistant Engineer/SDO C&W Department
14. Office order File

Zahoor
01-04-2022
(ZAHOOR SHAH)
SECTION OFFICER (Esib)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
(CAMP COURT D.I.KHAN)

Execution Petition No.92 of 2021
In Service Appeal No.283 of 2019

Mr. Muhammad Javed Rahim
Sub Engr (rtd),
The then SDO (OPS)
Building Sub Division D.I.Khan Appellant

V/S

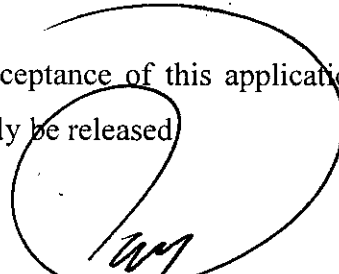
Government of Khyber Pakhtunkhwa through
Secretary Communication & Works Department
Peshawar & others Respondents

APPLICATION FOR RELEASING THE MONTHLY SALARY OF THE
RESPONDENTS NO.1 TO 4 ATTACHED BY THIS HON'BLE COURT

Respectfully Sheweth:-

1. That the above titled Execution Petition is pending before this Hon'ble Court.
2. That this Hon'ble Court has attached the salary of the Applicant alongwith other respondents due to non-filing of implementation report.
3. That in compliance of the order of this Hon'ble Court dated 28/06/2022, the respondents department moved a note for Chief Secretary for approval (**Annex-I**). However the Secretary Establishment returned the case that Administrative Department may place the case before the Departmental Promotion Committee (DPC) (**Annex-II**). Accordingly the case was placed before Departmental Promotion Committee (DPC) on 18.10.2022 wherein recommended proforma promotion of Mr. Javed Rahim to the post of Assistant Engineer / SDO (BS-17) w.e.f. 03.10.2017 (**Minutes of the DPC dated 18.10.2022 attached as Annex-III**). Note for Chief Secretary has again forwarded for approval of proforma promotion in respect of the appellant (**Annex-IV**).
4. That this Hon'ble Court has got ample powers to release the respondents.

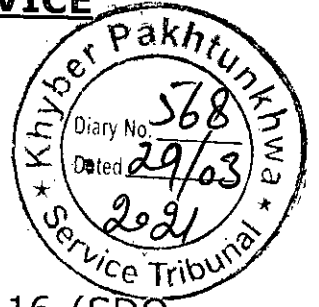
It is, therefore prayed that on acceptance of this application, the salary of the respondents No.1 to 4 may graciously be released


Secretary to Govt of Khyber Pakhtunkhwa
C&W Department
(Respondent No.1)

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. 92 OF 2020



Muhammad Javed Rahim, Ex Sub Engineer BPS-16 (SDO OPS BPS-17) office of the Executive Engineer C&W Building Division-II Dera Ismail Khan. Cell#0300-579 2475

(Petitioner)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa Peshwar.
3. The Superintending Engineer, C & W Circle Dera Ismail Khan.
4. The Executive Engineer C&W Building, Division Dera Ismail Khan.
5. The District Account Officer Dera Ismail Khan.

(Respondents)

EXECUTION PETITION

That the petitioner hereby applies for execution of the Judgment herein below as follows:

1	Suit No.	Service Appeal No. 283/2019
2	Name of Parties	Muhammad Javed Rahim , Ex Sub Engineer BPS-16 (SDO OPS BPS-17) office of the Executive Engineer C&W Building Division-II Dera Ismail Khan. Cell#0300-579 2475 <p style="text-align: right;">(Petitioner)</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none">1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Peshawar.2. The Chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa Peshwar.3. The Superintending Engineer, C & W Circle Dera Ismail Khan.4. The Executive Engineer C&W Building

		Division Dera Ismail Khan 5. The District Account Officer Dera Ismail Khan (Respondents)
2	Date of Judgment	01/12/2020
3	Whether any appeal preferred from department	Nil
4	Previously execution petition is filled or not	No
5	Relief granted in the Judgment	The appeal is accepted and the appellant is held entitled for promotion to BPS-17 with effect from the date when his case was initially considered in departmental promotion committee with all consequential benefits.
6	Amount of Costs, if any	Nil
7	Against whom to be executed	<ol style="list-style-type: none"> 1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Peshawar. 2. The chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa, Peshawar 3. The Superintending Engineer, C&W Circle Dera Ismail Khan. 4. The Executive Engineer C&W Building Division Dera Ismail Khan.
8	Mode in which the assistance of the court if required	By issuing appropriate order against the respondents to promote the appellant in BPS-17 with effect from the date when his case was initially considered in Departmental promotion Committee with all consequential benefits.

It is therefore, humbly prayed that the instant petition may kindly be accepted.

Dated: 25/03/2021

Petitioner

Muhammad Javed Rahim
Through Counsel

Asif Qadir
Advocate High Court
District Dera Ismail Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. 92 OF 2021

Muhammad Javed Rahim
Versus
The Govt. of KPK & others

EXECUTION PETITION

AFFIDAVIT:

I, **Muhammad Javed Rahim**, Ex Sub Engineer BPS-16 (SDO OPS BPS-17) office of the Executive Engineer C&W Building Division-II Dera Ismail Khan. Cell#0300-579 2475, the petitioner, do hereby solemnly affirm and declared on Oath that all the contents of the petition are true and correct to the best of my knowledge and belief and no other petition on the same subject matter was filed earlier.

Deponent



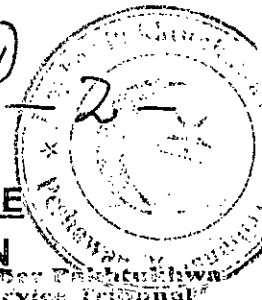
25-3-2021



OATH COMMISSIONER
No. _____
Attest
Dist. Bara

Anexure "A"

(4)



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, CAMP COURT, DERA ISMAIL KHAN**

Service Appeal No. 283 /2019

Entry No. 168

Dated 08-2-2019

Mr. Muhammad Javed Rahim, Ex-Sub-Engineer BPS-16 (SDO OPS BPS-17), Office of Executive Engineer C & W, Building Division-II, Dera Ismail Khan. Mobile # 0300-579-2475

Appellant

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, KPK, Peshawar.
2. The Chief Engineer Centre, Communication & Works Department, KPK, Peshawar.
3. The Superintending Engineer, C&W Circle D.I.Khan.
4. The Executive Engineer C&W Building Division, D.I.Khan.
5. The District Account Officer, Dera Ismail Khan.-

Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICES TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED PROMOTION ORDERS HELD IN DIFFERENT DATED I.E. 18/07/2017, 19/12/2017 AND 19/02/2018 ISSUED BY RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION AGAINST THE POST OF SDO BS-17 ON THE SOLE GROUND (DEFERRED DUE TO INVOLVEMENT IN VR WITH NAB) AND BY NOT DECIDING THE DEPARTMENTAL REPRESENTATION DATED 02/11/2018 BY THE WORTHY SECRETARY COMMUNICATION AND WORKS DEPARTMENT KPK PESHAWAR, HENCE, THE INSTANT APPEAL WHEREBY APPELLANT WAS IGNORED BEING SENIOR MOST FROM THE OTHER DIPLOMA HOLDERS AND TOP ON MERIT ACCORDING TO SERVICE RULE OF C & W DEPARTMENT. FURTHERMORE FOR INDECISION OF THE DEPARTMENTAL APPEAL WHICH IS AGAINST THE LAW AND IN VIOLATION OF SERVICE LAWS AND RULES AND THE APPELLANT WAS CONDEMNED UNHEARD WITH MALAFIDES.

Filed to-day

Registrar

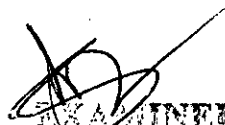
27/2/19

re-submitted to -day and filed.

Registrar

27/2/19

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.283/2019

Date of Institution: 08.02.2019

Date of Decision: 01.12.2020



Mr. Muhammad Javed Rahim Ex Sub Engineer BPS-16 (SDO OPS BPS-17) Office of Executive Engineer C&W, Building Division-II Dera Ismail Khan.

... (Appellant)

VERSUS

The Govt. of Khyber Pakhtunkhwa through Secretary Communication & Works Department and four others.

... (Respondents)

Muhammad Waqar Alam
Advocate

... For Appellant

Mr. Muhammad Jan,
Deputy District Attorney

... For Respondents

Mrs. ROZINA REHMAN
Mr. ATIQ UR REHMAN WAZIR

... MEMBER (J)
... MEMBER (E)

ATTESTED

MEMBER (E)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT: -

Mr. ATIQ UR REHMAN WAZIR:- Brief facts of the case are that the appellant Mr. Mohammad Javed Rahim, was initially appointed as Sub Engineer BPS-11 in the C&W Department during 1981 and was granted personal grade in BPS-16 during the year 2004. The appellant remained posted against the post of SDO (BPS-17) in his own pay & scale until his retirement on 31-12-2018. The appellant time and again requested for his regular promotion to the BPS-17 being the senior most. His case for promotion was considered many times but deferred every time on the grounds of his involvement in voluntary returns (VR) with National Accountability Bureau (NAB). Being aggrieved the appellant

preferred departmental appeal before the competent forum on 02-11-2018 but to no avail, hence the instant appeal with prayers for issuance of his promotion orders from the date due:


2. Written reply/comments were submitted by respondents.
3. Arguments heard and record perused.
4. Learned counsel for the appellant contended that promotion of the appellant was considered by departmental promotion committee (DPC) on 18-07-2017, where fourteen sub engineers (BPS-16) were promoted to the post of Assistant Engineer (BPS-17). The appellant stood at Serial No 12 of the seniority list, but his case was deferred due to involvement in VR with NAB and rest of his colleagues both his seniors as well as juniors were promoted to the next grade. Again, his case for promotion was considered on 19-12-2017 and his case was again deferred on the same reason, but his juniors were promoted. The respondents for the third time convened meeting of DPC on 19-02-2018 and his case again deferred for the same reason, whereas his juniors were promoted. The learned counsel contended that VR was a legal procedure protected under section 25 of the NAB ordinance 1999, entailing no penal consequences. That in 2016 the Supreme Court of Pakistan in Suo Moto Case of 2016 took cognizance over the issue of VR and passed a short order to conclude departmental proceedings against such officials having entered into VR and not to remove such officials from service/no adverse action be taken against such civil servants, if the amount of VR is less than 25 lacs, hence the appellant case is totally protected under the judgment of Supreme Court of Pakistan, as the amount in question in respect of the appellant is Rs. 19,17000/. That the appellant was proceeded against under (Efficiency & Discipline) Rules 2011 for availing the

ATTESTED

Signature
Peshawar

facility of VR and was censured thus left no other point to debar him for further promotion. That other colleagues of the appellant i.e. Zia-ud-Din and Muhammad Khalil Noor, who were also proceeded against under (Efficiency & Discipline) Rules 2011 for availing the facility of VR and minor penalty of withholding of one annual increment for one year imposed upon them, where they stood at Serial No. 33 and 34 of the seniority list were much junior to him, but were promoted to the next grade, but case of the appellant was not considered. The learned counsel also referred to another case of promotion of Engr. Muhammad Nawaz from BPS-18 to 19 subject to final decision of the Supreme Court of Pakistan in Suo Moto Case No. 17 of 2016, who also was beneficiary of VR. The learned counsel argued that civil servant being exonerated from inquiry and punishment standing against him being of minor nature, he could not be deprived of his seniority and promotion along with his batch mates. Reliance was placed on 1998 SCMR 552 & 2018 PLC (C.S) 137. He further argued that voluntary return having been made by the appellant to NAB under section 25(a) of the ordinance and the appellant had been discharged from all liabilities in that case and again proceeded against under (Efficiency & Discipline) Rules 2011 and was awarded minor penalty of censure. That withholding his promotion on the same charges amounts to double jeopardy and no one could be penalized twice for the same offence under the law. Reliance was placed on 2010 PLC (C.S) 876. That pendency of inquiry and minor penalty could not come in way of promotion. Reliance was placed on 2009 PLC (CS.) 40 and 2000 SCMR 645. The learned counsel prayed that impugned orders dated 18-07-2017, 19-12-2017 and 19-02-2018 of the departmental promotion committee issued by respondents may be reversed and set aside and the appellant may be promoted as Assistant Engineer

ATTESTED


 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

(BPS-17) on regular basis according to the seniority list with all back benefits in the best interest of justice.

5. The learned Deputy District Attorney appeared on behalf of the respondents agreed to the point that case of the appellant was thrice considered but deferred due to his involvement in VR with NAB. That the appellant was proceeded against under (Efficiency & Discipline) Rules 2011 for availing facility of VR and was awarded minor penalty of censure. The learned Deputy District Attorney also agreed that departmental appeal of the appellant was processed and filed being devoid of merit. That no mala-fide, no discrimination and violation of rights of the petitioner has been made, rather the department followed rules/ policy strictly in the cases of promotion of officers of the department. The learned Deputy District Attorney prayed that the instant service

ATTESTED

appeal being devoid of merit may be dismissed.

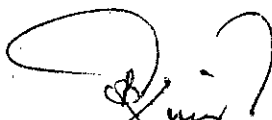
Khairul Azam
Service Tribunal,
Peshawar

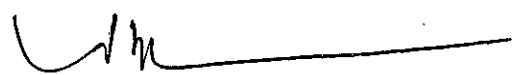
6. We have heard learned counsel for the parties and perused the record. We have observed that promotion of the appellant was deferred due to involvement of the appellant in VR with NAB, but the respondents delayed the departmental proceedings against the appellant inspite of clear directions of Supreme Court of Pakistan in Suo Moto case to conclude departmental proceedings against the officials who have entered into VR, however no final order of removal from service shall be passed against any of the officials, who have entered into VR, if the amount of VR paid by him is less than 25 lacs. It was also observed that the appellant was later on proceeded against under (Efficiency & Discipline) Rules 2011 imposing minor penalty of censure. It was further noted that his other colleagues who were beneficiary of VR and were proceeded against with imposition of minor penalty of withholding one annual increment for one year and who were junior to the appellant were subsequently promoted as Assistant

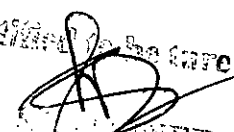
Engineers (BPS-17) vide notification dated November 21, 2019 but in the meanwhile the appellant retired from service on 31-12-2018 and did not avail the benefits of promotion, to which he was entitled otherwise and the respondents were not supposed to withhold his promotion on the basis of VR as the amount of VR was less than 25 lacs. The delay on part of the respondents in initiation of proceedings against the appellant also delayed his promotion, for which the appellant was not responsible.

7. In view of the above, by acceptance of instant appeal, appellant is held entitled to promotion to BPS-17 with effect from the date when his case was initially considered in Departmental Promotion Committee with all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
01.12.2020


(ROZINA REHMAN)
MEMBER (J)


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Certified to be true copy

Khuda Bakhsh
Secretary
Service Tribunal
Faisalabad

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Annexure - "B"

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To:

The Worthy Secretary to the Government of Khyber Pakhtun Khwa,
Communication and Works Department,
Peshawar.

21-1-2021
Diary No: 7P2
Date: 21/01/2021
Secretary C&W BEM

Through: Proper Channel

Subject: IMPLEMENTATION OF ORDER/JUDGMENT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL QUA SERVICE APPEAL NO 283/2019 TITLED MOHAMMAD JAVED RAHIM VS GOVT OF KPK & OTHERS DECIDED ON 01/12/2020 AT CAMP COURT D I KHAN

Respected Sir,

With profound respect, the Applicant makes following submissions for your kind perusal and gracious consideration as per under;

1. That the Applicant was appointed as Sub Engineer in C & W Department on merit and subsequently granted personal grade in BPS-16 during the year 2004. However he was posted against the post of SDO (BPS-17) in his own pay scale until his retirement.
2. That the case of promotion in respect of the Appellant was considered by the Departmental Promotion Committee on 18/07/2017, 19/12/2017 and 19/02/2018 but deferred due to involvement in VR with NAB while rest of his Senior and Junior colleagues were promoted to the next grade.
3. The applicant being aggrieved from the aforesaid DPCs preferred a Departmental Appeal to the competent forum on 02/11/2018; however, the same did not decide representation regarding grievances within the stipulated statutory period. The Appellant, in exercise of his right, having no other option filed a Service Appeal No 283/2019 before KP Service Tribunal, Peshawar on 08/02/2019.
4. That the Hon'ble KP Service Tribunal, Peshawar decided the Service Appeal in favour of the Appellant on dated 01/12/2020 at Camp Court, Dera Ismail Khan and accepted the appeal by granting the Promotion to BPS-17 with the effect when his case was initially considered in DPC with all consequential benefits in favour of the Appellant. (Attested Copy of the Appeal and Order/Judgment is enclosed for favour of perusal and ready reference please).

In pretext of the said decision and afore mentioned facts, it is humbly requested that directions may be issued to the dealing hands to execute and implement the Judgment/order of the Hon'ble KP Service Tribunal, Peshawar at your earliest convenience please.

Dated 17/1/2021

Yours obediently,

(MOHAMMAD JAVED RAHIM)

Sub Division Officer (Rtd)

Dera Ismail Khan

0300-5792475

Received By

KHAYBER PAKHTUNKHWA

SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar, KP Service Tribunal, Peshawar. Any official by name.

Ph: 091-9215281 Fax: 091-9213205

Case No. 25/2021

- 1. The Secretary Communication & Works Department, Khayber Pakhtunkhwa.
- 2. The Chief Engineer, Centre Communication & Works Department, Khayber Pakhtunkhwa.
- 3. The Superintendent Engineer, Communication & Works Department, Circle Dera Ismail Khan.
- 4. The Executive Engineer, Communication & Works Department, Building Division Dera Ismail Khan.
- 5. The District Account Officer, Dera Ismail Khan.

SHOW CAUSE NOTICE IN EXECUTION PETITION NO: 25/2021 TITLED MUHAMMAD JAVED RAHIM-VS- SECRETARY COMMUNICATION & WORKS DEPARTMENT.

It is directed to say that execution petition No. 25/2021 was filed in this Tribunal against the respondents for non-compliance of the order dated 13-10-2020 passed by this Tribunal in Service Appeal No. 25/2021 titled Muhammad Javed Rahim vs Secretary Communication & Works Department.

It is noted that the above execution petition came up for hearing before this Tribunal on 26 day of Sept the following orders were passed:

Learned Counsel for the Petitioner present Mr. Muhammad Azeel Butt, Adv. AG for Respondent for the respondent.

It is noted with concern that no proper representation is made by the respondent before the Tribunal in violation of the standing orders of the establishment Department. It is noted that the respondents have not submitted implementation report. The Tribunal has no other alternative but to take action against respondents. The Accountant Officer, Dera Ismail Khan and District Account Officer, Dera Ismail Khan are directed to attached balance of the respondents and to file further orders by the Tribunal and compliance reports be submitted to the Tribunal of this Tribunal. Show Cause notice is also issued to the respondents as to why they should not be held liable for the contempt of Court Order dated 20/3/2021. Respondents are directed to appear in person before the Tribunal on 24/10/2021. Further proceedings on 24/10/2021 of the court. You are therefore served with show cause notice to explain as to why appropriate action should not be taken against you for non-compliance of order of this Tribunal dated 13-10-2020.

REGISTRAR
KHAYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR
(WASSEM AKHTAR)

Office Copy



ASIF QADIR

Advocate
bc-10-4858
Date of issue: January 2020
Valid upto: January 2023



Secretary
KP Bar Council

وکالت نامہ

کورٹ فیس

Before the K.P. Services Tribunal, Peshawan **بعدالت جناب**
Camp, D.I. Khan.

Petitioner **مخائب**

Muhammad Saïd Rahim **vs** The Government of K.P.K & others

Execution Petition in **دعویٰ یا جرم**

Service Appeal No. 283/2019 **تفصیل دعویٰ یا جرم**

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جواہری برائے پیشی یا تصفیہ مقدمہ بمقام D.I. Khan کیلئے
Asif Qadir Advocate High Court, D.I. Khan

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر مقام بکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا بکھری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا عطا نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف مل کر وہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، یا جواب دعویٰ یا درخواست اجراء کے ذریعہ نظر ثانی اپیل گریڈ و ہر قسم درخواست پر دخل و تہدیب کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر پیشی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از بکھری صدر پیروی مقدمہ مذکورہ نظر ثانی و اپیل و گمرانی و برآمدگی مقدمہ یا منسوخی ڈگری بیکطرف یا درخواست حکم اتنا ہی یا قریبی یا گرفتاری قبل از فیصلہ اجراء کے ذریعہ بھی صاحب موصوف کو بشرط ادائیگی ٹیبلہ و عکاسہ پیروی کا اختیار ہوگا اور تمام ساختہ پر داخلہ صاحب موصوف مل کر وہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا گمرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا ہیر شراک اپنے بجائے اپنے ہمراہ مقرر کریں۔ اور ایسے شیر تانوں کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑاگا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورثہ _____ ہا _____ 201

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد _____ العبد _____ العبد _____

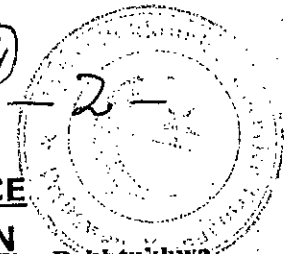
Accepted

(Signature)
Asif Qadir

(Signature)
(Muhammad Saïd Rahim)

Auxiliary-A

(4)



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, CAMP COURT, DERA ISMAIL KHAN**

Service Appeal No. 283 /2019

EP NO 92/21

Diary No. 168

Dated 08-2-2019

Mr. Muhammad Javed Rahim, Ex-Sub-Engineer BPS-16 (SDO
OPS BPS-17), Office of Executive Engineer C & W, Building Division-
II, Dera Ismail Khan. Mobile # 0300-579-2475

Appellant

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary
Communication & Works Department, KPK, Peshawar.
2. The Chief Engineer Centre, Communication & Works Department,
KPK, Peshawar.
3. The Superintending Engineer, C&W Circle D.I.Khan.
4. The Executive Engineer C&W Building Division, D.I.Khan.
5. The District Account Officer, Dera Ismail Khan.—

Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICES
TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED
PROMOTION ORDERS HELD IN DIFFERENT DATED I.E.
18/07/2017, 19/12/2017 AND 19/02/2018 ISSUED BY
RESPONDENTS BY NOT CONSIDERING THE APPELLANT
FOR PROMOTION AGAINST THE POST OF SDO BS-17 ON
THE SOLE GROUND (DEFERRED DUE TO INVOLVEMENT
IN VR WITH NAB) AND BY NOT DECIDING THE
DEPARTMENTAL REPRESENTATION DATED 02/11/2018
BY THE WORTHY SECRETARY COMMUNICATION AND
WORKS DEPARTMENT KPK PESHAWAR, HENCE, THE
INSTANT APPEAL WHEREBY APPELLANT WAS IGNORED
BEING SENIOR MOST FROM THE OTHER DIPLOMA
HOLDERS AND TOP ON MERIT ACCORDING TO SERVICE
RULE OF C & W DEPARTMENT. FURTHERMORE FOR
INDECISION OF THE DEPARTMENTAL APPEAL WHICH IS
AGAINST THE LAW AND IN VIOLATION OF SERVICE LAWS
AND RULES AND THE APPELLANT WAS CONDEMNED
UNHEARD WITH MALAFIDES.

Filed to-day

Registrar

8/2/19

Re-submitted to-day
and filed.

Registrar

22/2/19

ATTENTION

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

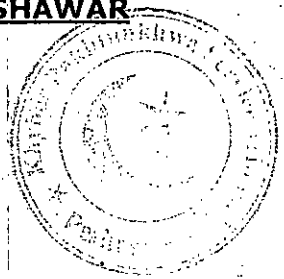
5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.283/2019

Date of Institution: 08.02.2019

Date of Decision: 01.12.2020



Mr. Muhammad Javed Rahim Ex Sub Engineer BPS-16 (SDO OPS BPS-17) Office of Executive Engineer C&W, Building Division-II Dera Ismail Khan.

... (Appellant)

VERSUS

The Govt. of Khyber Pakhtunkhwa through Secretary Communication & Works Department and four others.

... (Respondents)

Muhammad Waqar Alam
Advocate

... For Appellant

Mr. Muhammad Jan,
Deputy District Attorney

... For Respondents

Mrs. ROZINA REHMAN
Mr. ATIQ UR REHMAN WAZIR

... **MEMBER (J)**

... **MEMBER (E)**

ATTESTED

Attestation Officer
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT: -

Mr. ATIQ UR REHMAN WAZIR:- Brief facts of the case are that the appellant Mr. Mohammad Javed Rahim, was initially appointed as Sub Engineer BPS-11 in the C&W Department during 1981 and was granted personal grade in BPS-16 during the year 2004. The appellant remained posted against the post of SDO (BPS-17) in his own pay & scale until his retirement on 31-12-2018. The appellant time and again requested for his regular promotion to the BPS-17 being the senior most. His case for promotion was considered many times but deferred every time on the grounds of his involvement in voluntary returns (VR) with National Accountability Bureau (NAB). Being aggrieved the appellant

preferred departmental appeal before the competent forum on 02-11-2018 but to no avail; hence the instant appeal with prayers for issuance of his promotion orders from the date due.

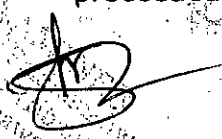
2. Written reply/comments were submitted by respondents.

3. Arguments heard and record perused.

4. Learned counsel for the appellant contended that promotion of the appellant was considered by departmental promotion committee (DPC) on 18-07-2017, where fourteen sub engineers (BPS-16) were promoted to the post of Assistant Engineer (BPS-17). The appellant stood at Serial No 12 of the seniority list, but his case was deferred due to involvement in VR with NAB and rest of his colleagues both his seniors as well as juniors were promoted to the next grade. Again, his case for promotion was considered on 19-12-2017 and his case was again deferred on the same reason, but his juniors were promoted. The

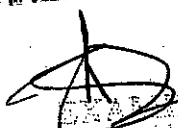
respondents for the third time convened meeting of DPC on 19-02-2018 and his case again deferred for the same reason, whereas his juniors were promoted.

The learned counsel contended that VR was a legal procedure protected under section 25 of the NAB ordinance 1999, entailing no penal consequences. That in 2016 the Supreme Court of Pakistan in Suo Moto Case of 2016 took cognizance over the issue of VR and passed a short order to conclude departmental proceedings against such officials having entered into VR and not to remove such officials from service/no adverse action be taken against such civil servants, if the amount of VR is less than 25 lacs, hence the appellant case is totally protected under the judgment of Supreme Court of Pakistan, as the amount in question in respect of the appellant is Rs. 19,17000/-. That the appellant was proceeded against under (Efficiency & Discipline) Rules 2011 for availing the


Responsible
Signature

facility of VR and was censured thus left no other point to debar him for further promotion. That other colleagues of the appellant i.e. Zia-ud-Din and Muhammad Khalil Noor, who were also proceeded against under (Efficiency & Discipline) Rules 2011 for availing the facility of VR and minor penalty of withholding of one annual increment for one year imposed upon them, where they stood at Serial No. 33 and 34 of the seniority list were much junior to him, but were promoted to the next grade, but case of the appellant was not considered. The learned counsel also referred to another case of promotion of Engr. Muhammad Nawaz from BPS-18 to 19 subject to final decision of the Supreme Court of Pakistan in Suo Moto Case No. 17 of 2016, who also was beneficiary of VR. The learned counsel argued that civil servant being exonerated from inquiry and punishment standing against him being of minor nature, he could not be deprived of his seniority and promotion along with his batch mates. Reliance was placed on 1998 SCMR 552 & 2018 PLC (C.S) 137. He further argued that voluntary return having been made by the appellant to NAB under section 25(a) of the ordinance and the appellant had been discharged from all liabilities in that case and again proceeded against under (Efficiency & Discipline) Rules 2011 and was awarded minor penalty of censure. That withholding his promotion on the same charges amounts to double jeopardy and no one could be penalized twice for the same offence under the law. Reliance was placed on 2010 PLC (C.S) 876. That pendency of inquiry and minor penalty could not come in way of promotion. Reliance was placed on 2009 PLC (CS.) 40 and 2000 SCMR 645. The learned counsel prayed that impugned orders dated 18-07-2017, 19-12-2017 and 19-02-2018 of the departmental promotion committee issued by respondents may be reversed and set aside and the appellant may be promoted as Assistant Engineer

ATTESTED



CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(BPS-17) on regular basis according to the seniority list with all back benefits in the best interest of justice.

5. The learned Deputy District Attorney appeared on behalf of the respondents agreed to the point that case of the appellant was thrice considered but deferred due to his involvement in VR with NAB. That the appellant was proceeded against under (Efficiency & Discipline) Rules 2011 for availing facility of VR and was awarded minor penalty of censure. The learned Deputy District Attorney also agreed that departmental appeal of the appellant was processed and filed being devoid of merit. That no mala-fide, no discrimination and violation of rights of the petitioner has been made, rather the department followed rules/ policy strictly in the cases of promotion of officers of the department. The learned Deputy District Attorney prayed that the instant service appeal being devoid of merit may be dismissed.

ATTESTED

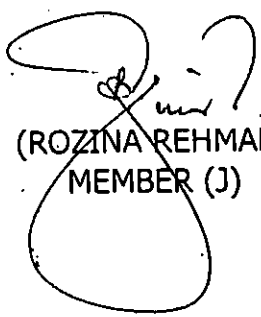
Signature
Khalid Ahmad
Service Tribunal
Peshawar

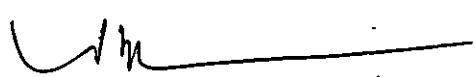
6. We have heard learned counsel for the parties and perused the record. We have observed that promotion of the appellant was deferred due to involvement of the appellant in VR with NAB, but the respondents delayed the departmental proceedings against the appellant inspite of clear directions of Supreme Court of Pakistan in Suo Moto case to conclude departmental proceedings against the officials who have entered into VR, however no final order of removal from service shall be passed against any of the officials, who have entered into VR, if the amount of VR paid by him is less than 25 lacs. It was also observed that the appellant was later on proceeded against under (Efficiency & Discipline) Rules 2011 imposing minor penalty of censure. It was further noted that his other colleagues who were beneficiary of VR and were proceeded against with imposition of minor penalty of withholding one annual increment for one year and who were junior to the appellant were subsequently promoted as Assistant


Engineers (BPS-17) vide notification dated November 21, 2019 but in the meanwhile the appellant retired from service on 31-12-2018 and did not avail the benefits of promotion, to which he was entitled otherwise and the respondents were not supposed to withhold his promotion on the basis of VR as the amount of VR was less than 25 lacs. The delay on part of the respondents in initiation of proceedings against the appellant also delayed his promotion, for which the appellant was not responsible.

7. In view of the above, by acceptance of instant appeal, appellant is held entitled to promotion to BPS-17 with effect from the date when his case was initially considered in Departmental Promotion Committee with all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
01.12.2020


(ROZINA REHMAN)
MEMBER (J)


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of 17-12-2020
Number of Warrants 24.00
Copying Fee 26.00
Urgent 4.00
Total 30.00
Name of Copyist
Date of Completion of Copy 17-12-2020
Date of Delivery of Copy 17-12-2020

Annexure - B

(10)

To,

The Worthy Secretary to the Government of Khyber Pakhtun Khwa,
Communication and Works Department,
Peshawar.

21-1-2021
Diary No: *AYN/01-7P2*
Date: *21-1-2021*
Secretary, C&W DEPT

Through: Proper Channel

Subject: IMPLEMENTATION OF ORDER/JUDGMENT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL QUA SERVICE APPEAL NO 283/2019 TITLED MOHAMMAD JAVED RAHIM VS GOVT OF KPK & OTHERS DECIDED ON 01/12/2020 AT CAMP COURT D I KHAN

Respected Sir,

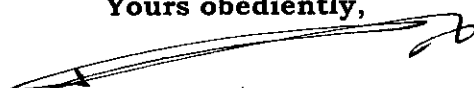
With profound respect, the Applicant makes following submissions for your kind perusal and gracious consideration as per under;

1. That the Applicant was appointed as Sub Engineer in C & W Department on merit and subsequently granted personal grade in BPS-16 during the year 2004. However he was posted against the post of SDO (BPS-17) in his own pay scale until his retirement.
2. That the case of promotion in respect of the Appellant was considered by the Departmental Promotion Committee on 18/07/2017, 19/12/2017 and 19/02/2018 but deferred due to involvement in VR with NAB while rest of his Senior and Junior colleagues were promoted to the next grade.
3. The applicant being aggrieved from the aforesaid DPCs preferred a Departmental Appeal to the competent forum on 02/11/2018; however, the same did not decide representation regarding grievances within the stipulated statutory period. The Appellant, in exercise of his right, having no other option filed a Service Appeal No 283/2019 before KP Service Tribunal, Peshawar on 08/02/2019.
4. That the Hon'ble KP Service Tribunal, Peshawar decided the Service Appeal in favour of the Appellant on dated 01/12/2020 at Camp Court, Dera Ismail Khan and accepted the appeal by granting the Promotion to BPS-17 with the effect when his case was initially considered in DPC with all consequential benefits in favour of the Appellant. (Attested Copy of the Appeal and Order/Judgment is enclosed for favour of perusal and ready reference please).

In pretext of the said decision and afore mentioned facts, it is humbly requested that directions may be issued to the dealing hands to execute and implement the Judgment/order of the Hon'ble KP Service Tribunal, Peshawar at your earliest convenience please.

Dated 17/1/2021

Yours obediently,



(MOHAMMAD JAVED RAHIM)
Sub Division Officer (Rtd)
Dera Ismail Khan
0300-5792475

Received By



KHYBER PAKHTUNKHWA
BAR COUNCIL

ADVOCATE HIGH COURT

ASIF QADIR

Advocate
bc-10-4858
Date of Issue: January 2020
Valid upto: January 2023



وکالت نامہ

کورٹ فیس

Secretary
KP Bar Council

Before the K.P. Services Tribunal, Peshawan

Petitioner

مختاب

عبدالجتیب جناب
Camp. D.I. Khan

Muhammad David Rahim

The Government of K.P.K & others

Execution Petition in

دعویٰ یا جرم

Service Appeal No. 283/2019.

تفصیل دعویٰ یا جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیرودی وجود ہی برائے پیشی یا تصفیہ مقدمہ مقام D.I. Khan کیلئے

Asif Qadir Advocate High Court, D.I. Khan

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت ہمارے جانے مقدمہ وکیل صاحب موصول کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں۔ اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصول ایسے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصول صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا بیچے یا بعد از تعطیل پشوری کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصول صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا بیچے یا بعد از تعطیل پشوری کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پشوری کے علاوہ اور جگہ سماعت ہونے یا بعد از تعطیل یا پشوری کے اوقات کے آگے جیسے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا عائد نہ ہوں گے۔ مجھ کو کل سامنے پر داخلہ صاحب موصول محل کردہ ذات خود حضور و قبول ہوگا۔ اور صاحب موصول کو مرضی دعویٰ، یا جہاب دعویٰ یا درخواست اجراءے ڈگری و نظر ثانی اپنی اپنی ہر قسم درخواست پر دخل و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کا ناسخ اور ہر قسم کا روپیہ وصول کرنے اور سیدہ دینے اور اسلئے کرنے اور ہر قسم کے بیان دینے اور اس پر پٹائی یا راضی نامہ و صلحہ بر ملک کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ پشوری از پشوری صدر پشوری مقدمہ مذکورہ نظر ثانی و اقبال و گمانی و درآمدگی مقدمہ یا منٹوئی ڈگری کی طرف یا درخواست حکم انتہائی یا ترقی یا کرٹاری لٹل از فیصلہ اجراءے ڈگری بھی صاحب موصول کو بشرط ادا لٹل فیصلہ عدالت پشوری کا اختیار ہوگا اور تمام سامنے پر داخلہ صاحب موصول محل کردہ ذات خود حضور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصول کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا ایسے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپنی یا گمانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا پشوری کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور دینے اختیارات حاصل ہوں گے، جیسے صاحب موصول کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا، وہ صاحب موصول کا حق ہوگا۔ مگر صاحب موصول کو پوری نہیں تاریخ پیشی سے پہلے امانت کروں گا۔ تو صاحب موصول کو پورا اختیار ہوگا کہ وہ مقدمہ کی پشوری نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی حکم کا صاحب موصول کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند رہے

سورہ 201

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

Signature of Asif Qadir

(Muhammad David Rahim)

(Mob # 0335-7617659)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. _____ OF 2020

Muhammad Javed Rahim, Ex Sub Engineer BPS-16 (SDO OPS BPS-17) office of the Executive Engineer C&W Building Division-II Dera Ismail Khan. Cell#0300-579 2475

(Petitioner)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa Peshwar.
3. The Superintending Engineer, C & W Circle Dera Ismail Khan.
4. The Executive Engineer C&W Building Division Dera Ismail Khan.
5. The District Account Officer Dera Ismail Khan.

(Respondents)

EXECUTION PETITION

That the petitioner hereby applies for execution of the Judgment herein below as follows:

1	Suit No.	Service Appeal No. 283/2019
2	Name of Parties	<p>Muhammad Javed Rahim, Ex Sub Engineer BPS-16 (SDO OPS BPS-17) office of the Executive Engineer C&W Building Division-II Dera Ismail Khan. Cell#0300-579 2475</p> <p style="text-align: right;">(Petitioner)</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none">1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Peshawar.2. The Chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa Peshwar.3. The Superintending Engineer, C & W Circle Dera Ismail Khan.4. The Executive Engineer C&W Building

		Division Dera Ismail Khan 5. The District Account Officer Dera Ismail Khan (Respondents)
2	Date of Judgment	01/12/2020
3	Whether any appeal preferred from department	Nil
4	Previously execution petition is filled or not	No
5	Relief granted in the Judgment	The appeal is accepted and the appellant is held entitled for promotion to BPS-17 with effect from the date when his case was initially considered in departmental promotion committee with all consequential benefits.
6	Amount of Costs, if any	Nil
7	Against whom to be executed	<ol style="list-style-type: none"> 1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Peshawar. 2. The chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa, Peshawar 3. The Superintending Engineer, C&W Circle Dera Ismail Khan. 4. The Executive Engineer C&W Building Division Dera Ismail Khan.
8	Mode in which the assistance of the court is required	By issuing appropriate order against the respondents to promote the appellant in BPS-17 with effect from the date when his case was initially considered in Departmental promotion Committee with all consequential benefits.

It is therefore, humbly prayed that the instant petition may kindly be accepted.

Dated: 25/03/2021

Petitioner

Muhammad Javed Rahim
Through Counsel

Asif Qadir
Advocate High Court
District Dera Ismail Khan

BEFORE THE PUNJAB HYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. _____ OF 2021


Muhammad Javed Rahim
Versus
The Govt. of KPK & others

EXECUTION PETITION

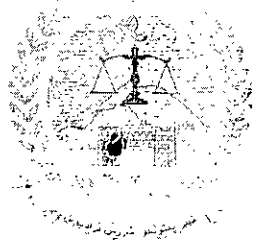
AFFIDAVIT:

I, **Muhammad Javed Rahim**, Ex Sub Engineer BPS-16 (SDO OPS BPS-17) office of the Executive Engineer C&W Building Division-II Dera Ismail Khan. Cell#0300-579 2475, the petitioner, do hereby solemnly affirm and declared on Oath that all the contents of the petition are true and correct to the best of my knowledge and belief and no other petition on the same subject matter was filed earlier.

Deponent


25-3-2021


OATHS COMMISSIONER
No. _____
Attorney
25/3/21



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

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

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

No. 2909-13 /ST Dated 20 / 10 /2022

To:

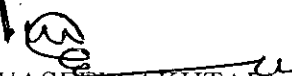
1. The Secretary Communication & Works Department, Khyber Pakhtunkhwa.
2. The Chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa.
3. The Superintendent Engineer, Communication & Works Department, Circle Dera Ismail Khan
4. The Executive Engineer Communication & Works Department, Building division Dera Ismail Khan
5. The District Account Officer Dera Ismail Khan.

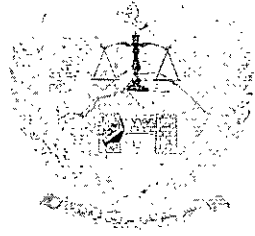
SUBJECT:- ORDER REGARDING PERSONAL APPEARANCE OF RESPONDENTS IN EXECUTION PETITION NO. 92/2021, TITLED MOHAMMAD JAVID RAHIM-VS-C & W DEPARTMENT.

I am directed to forward herewith a certified copy of order dated 26.09.2022, passed by this Tribunal in the above mentioned execution petition for strict compliance.

Encl. As above.

Office copy


(WASEEM AKHTAR),
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

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

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

No. 2902-3 /ST Dated 20 / 10 /2022

To:


1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. District Account Officer, D.I.Khan.

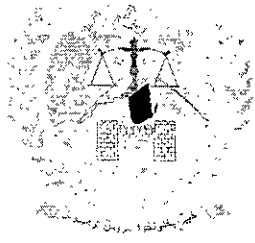
SUBJECT:- ORDER REGARDING ATTACHMENT OF SALARIES OF RESPONDENTS 1 to 4 IN EXECUTION PETITION NO. 92/2021, TITLED MUHAMMAD JAVID RAHIM-VS-C & W DEPARTMEN

I am directed to forward herewith a certified copy of order dated 26.09.2022, passed by this Tribunal in the above mentioned execution petition for strict compliance.

Encl. As above.

o/c


(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

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

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

No. 2904-8 /ST Dated 20/10/2022

To

1. The Secretary Communication & Works Department, Khyber Pakhtunkhwa.
2. The Chief Engineer Centre, Communication & Works Department, Khyber Pakhtunkhwa.
3. The Superintendent Engineer, Communication & Works Department, Circle Dera Ismail Khan
4. The Executive Engineer Communication & Works Department, Building division Dera Ismail Khan
5. The District Account Officer Dera Ismail Khan.

Subject: **SHOWCAUSE NOTICE IN EXECUTION PETITION NO: 92/2020 TITLED MUHAMMAD JAVID RAHIM-VS- SECRETARY COMMUNICATION & WORKS DEPARTMENT.**

I am directed to say that execution petition No. 92/2021 was filed in this Tribunal against the respondents for disobedience of the order dated 1-12-2020 passed by this Tribunal in Service Appeal No. 283/2019 titled Muhammad Javid Rahim-vs- Secretary Communication & Works Department

That when the above execution petition came up for hearing before this Tribunal on 26th day of Sept, the following orders were passed:

“Learned Counsel for the Petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

It is noted with concerned that no proper representation is made by the respondent department before the Tribunal in violation of the standing orders of the Establishment Department. Despite clear direction given on the previous date, respondents have not submitted implementation report. This Tribunal has no other alternative but to take action against respondents. The Accountant General Khyber Pakhtunkhwa and District Account Officer D.I.Khan are directed to attached salaries of the respondents No.1 to 4 till further Orders by this Tribunal and compliance reports be submitted to the Registrar of this Tribunal. Show Cause notice be also issued to the respondents as to why they should not be proceed under the Contempt of Court Ordinance 2003. Respondents are directed to appear in person alongwith proper implementation report. To come up for further proceeding on 24.10.2022 at camp court D.I.Khan.”

You are, therefore, served with show cause notice to explain as to why appropriate action may not be initiated against you for non-compliance of order of this Tribunal dated 1-12-2020.

Office Copy


(WASEEM AKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

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

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

No. 3180-81 /ST Dated 15 / 11 /2022


To:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. District Account Officer, D.I.Khan

SUBJECT:- ORDER REGARDING RELEASE OF SALARIES OF RESPONDENTS 1 TO 4 IN EXECUTION PETITION NO. 92/2021, TITLED MUHAMMAD JAVID RAHIM -VS- COMMUNICATION AND WORKS DEPARTMENT.

I am directed to forward herewith a certified copy of order dated 27.10.2022, passed by this Tribunal in the above mentioned execution petition for strict compliance.

Encl. As above.

For 
(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOG/C&WD/3-365/2022
Dated Peshawar, Oct 12, 2022

To,

1. The Special Secretary (Regulation)
Establishment & Admin Department
Peshawar
2. The Chief Engineer (Centre) *Adij*
C&W Peshawar *14-10-22*
3. The Additional Secretary (Regulation)
Finance Department, Peshawar

27/10/22

Subject: **MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE**

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith working papers duly signed and to state that, the Secretary C&W Department being chairman of the Departmental Promotion Committee has desired to convene meeting of Departmental Promotion Committee (DPC) on **18.10.2022 at 14.00 Hours** under his chairmanship in the Committee Room of C&W Department to discuss the Senior Scale Selection Grade BPS-16 in light of Peshawar High Court and Service Tribunal decisions.

2. It is requested to kindly make it convenient to attend the subject meeting on the scheduled date, time and venue, please.

ofc

Mudasir Khan
(MUDASIR KHAN)
SECTION OFFICER (GENERAL)

Endst even No. & date:

Copy forwarded to:

1. PS to Secretary C&W Department.
2. PA to Deputy Secretary (Admn) C&W Department, Peshawar.
3. Master File 2022.

Mudasir Khan
SECTION OFFICER (GENERAL)

4.15 PM

*Recd
13.10.22*

28-7-2017. ✓



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the April 01, 2022

Notification

No.30E/C&W/4-2/2022 (SDOs): In light of the court decision dated 01.12.2020, 25.11.2021 and on the recommendations of the Departmental Promotion Committee (DPC), the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to promote Mr. Javed Rahim Ex-Sub Engineer (BS-16) to the post of Assistant Engineer/SDO (BS-17) C&W Department for proforma promotion w.e.f. 30.12.2018 (one day before his retirement), subject to final outcome of CPLA filed by the department.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

10

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Chief Engineer (Centre) C&W Peshawar
3. Chief Engineer (South-II) C&W DIKhan
4. Superintending Engineer C&W Circle DIKhan
5. Executive Engineer Building/Highway Division DIKhan
6. District Accounts Officer DIKhan
7. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
8. PS to Secretary Establishment Deptt, Khyber Pakhtunkhwa, Peshawar
8. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
10. PS to Secretary C&W Department, Peshawar
11. PA to Additional Secretary C&W Department, Peshawar
12. PA to Deputy Secretary (Admn) C&W Department, Peshawar
13. Mr. Javed Rahim Retired Assistant Engineer/SDO C&W Department
14. Office order File

21/04/22
9210846

Zahoor
01-04-2022
(ZAHOOR SHAH)
SECTION OFFICER (Estb)



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the April 01, 2022

Notification

No. SOE/C&W/4-2/2022 (SDOs): In light of the court decision dated 01.12.2020, 25.11.2021 and on the recommendations of the Departmental Promotion Committee (DPC), the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to promote Mr. Javed Rahim Ex-Sub Engineer (BS-16) to the post of Assistant Engineer/SDO (BS-17) C&W Department for proforma promotion w.e.f. **30.12.2018** (one day before his retirement), subject to final outcome of CPLA filed by the department.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Chief Engineer (Centre) C&W Peshawar
3. Chief Engineer (South-II) C&W DIKhan
4. Superintending Engineer C&W Circle DIKhan
5. Executive Engineer Building/Highway Division DIKhan
6. District Accounts Officer DIKhan
7. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
8. PS to Secretary Establishment Deptt, Khyber Pakhtunkhwa, Peshawar
9. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
10. PS to Secretary C&W Department, Peshawar
11. PA to Additional Secretary C&W Department, Peshawar
12. PA to Deputy Secretary (Admn) C&W Department, Peshawar
13. Mr. Javed Rahim Retired Assistant Engineer/SDO C&W Department
14. Office order File

Zahoor Shah
01-04-2022
(ZAHOOR SHAH)
SECTION OFFICER (Estb)



NOTE FOR CHIEF SECRETARY

- Subject: (1) PROMOTION OF DIPLOMA HOLDERS SUB ENGINEERS TO THE POST OF ASSISTANT ENGINEER/SDO (BS-17) ON REGULAR BASIS
- (2) PROMOTION OF PRE-SERVICE GRADUATE SUB ENGINEERS TO THE POST OF ASSISTANT ENGINEER/SDO (BS-17) ON REGULAR BASIS
- (3) PROMOTION OF IN-SERVICE GRADUATE SUB ENGINEERS TO THE POST OF ASSISTANT ENGINEER/SDO (BS-17) ON REGULAR BASIS
- (4) PROMOTION OF B-TECH (HONS) SUB ENGINEERS TO THE POST OF ASSISTANT ENGINEER/SDO (BS-17) ON REGULAR BASIS
- (5) PROMOTION OF GIS ANALYST TO THE POST OF ASSISTANT DIRECTOR GIS (BS-17) ON REGULAR BASIS
- (6) PROMOTION/ APPOINTMENT OF CIRCLE HEAD DRAFTSMAN TO THE POST OF CHIEF DRAFTSMAN (BS-17) ON REGULAR/ACTING CHARGE BASIS
- (7) PROMOTION OF ARCHITECTURAL ASSISTANT TO THE POST OF CHIEF DRAFTSMAN ARCHITECT (BS-17) ON REGULAR BASIS
- (8) PROMOTION/ APPOINTMENT OF SENIOR SCALE STENOGRAPHERS/ ASSISTANTS (BS-16) TO THE POST OF SUPERINTENDENTS (BS-17) ON REGULAR/ ACTING CHARGE BASIS
- (9) PROFORMA CONDITIONAL PROMOTION OF MR. JAVED RAHIM RETIRED SUB ENGINEER (BS-16) TO THE RANK OF AE/SDO (BS-17) IN LIGHT OF COURT ORDERS TILL THE FINAL DECISION OF SUPREME COURT OF PAKISTAN

Meeting of Departmental Promotion Committee of C&W Department was held on 21.02.2022 under the chairmanship of Secretary C&W. Minutes of the meeting are at Annex-I. The promotion cases of Diploma Holders Sub Engineers, Pre-Service Graduate Sub Engineers, In-Service Graduate Sub Engineers, B-Tech (Hons) Sub Engineers to the rank of Assistant Engineer/SDO (BS-17), promotion of GIS Analyst to the rank of Assistant Director (GIS), Promotion/Acting Charge Appointment of Circle Head Draftsman to the post of Chief Draftsman on regular/acting charge basis, promotion of Architectural Assistant to the post of Chief Draftsman (Architect), Appointment of Senior Scale Stenographer/Assistant to the post of Superintendent on acting charge basis and proforma conditional promotion of Mr. Javed Rahim Retired Sub Engineer to the rank of Assistant Engineer/SDO in light of court orders till the final decision of Supreme Court of Pakistan were considered and made the following recommendations:

Copy No. 243
Date 16-03-2022

Copy No. 641
STS No. 16/3/22
Date

Item-I: PROMOTION OF DIPLOMA HOLDER SUB ENGINEERS TO THE POSTS OF ASSISTANT ENGINEERS/SDOs (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

The promotion case of Diploma Holder Sub Engineers to the post of Assistant Engineers/SDOs (BS-17) was considered against **fifteen (15)** clear vacancies on regular basis.

1	Hamidullah-I	Deferred due to lack of ACRs
2	Muhammad Attique Farooq	Deferred due to lack of ACRs
3	Nigar-ul-Haq	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
4	Syed Tariq Mehmood	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation till his retirement.
5	Zubair Ullah Babar	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
6	Tariq Hussain Shah	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACRs
7	Mumtaz Ahmad Malik	Deferred due to lack of ACRs
8	Alamzeb-I	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACRs
9	Ikramullah-II	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACRs
10	Muhammad Shaukat	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACR
11	Abdul Saboor Khan	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
12	Rehman Saeed	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACRs
13	Muhammad-Zaka Khan	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
14	Muhammad Naeem-III	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACRs
15	Akbar Ali	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.

16	Syed Jaffar Shah	Deferred due to lack of ACRs
17	Shah Tamas Khan	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACR
18	Muhammad Hayat	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
19	Muhammad Jamil-II	Deferred due to lack of ACRs
20	Hamidullah Khan-II	Deferred due to non-clearing/passing departmental professional Exam
21	Muhammad Iqbal-IV	Deferred due to lack of ACRs
22	Tariq Muhammad	Not considered, due to non-clearing/passing departmental professional Exam and lack of ACR
23	Abdul Farooq	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.

Item No.2 PROMOTION OF PRE-SERVICE GRADUATE SUB ENGINEERS TO THE POSTS OF ASSISTANT ENGINEERS/SDOs (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

The promotion case of Pre-Service Graduate Sub Engineers to the post of Assistant Engineers/SDOs (BS-17) was considered against **Six (06)** clear vacancies on regular basis.

1	Hassan Jan-II	Not considered for promotion due to court case
2	Muhammad Adnan	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
3	Syed Wasiq Zahid Shah	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
4	Muhammad Islam	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
5	Ibrahim Khan	Not considered for promotion due to non-clearing/passing departmental professional Exam
6	Shahid Muhammad	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
7	Fazal Wasai	Not considered for promotion due to non-clearing/passing departmental professional Exam
8	Muhammad Ayub Khan	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
9	Bashir-ud-Din	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.

Item-3: PROMOTION OF IN-SERVICE GRADUATE SUB ENGINEERS TO THE POSTS OF ASSISTANT ENGINEERS/SDOs (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

The promotion case of In-Service Graduate Sub Engineers to the post of Assistant Engineers/SDOs (BS-17) was considered against **Five (05)** clear vacancies on regular basis.

1	Badrul Islam	Not considered for promotion due to court case
2	Roedar Alam	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
3	Nizam-ud-Din	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
4	Misbah Ullah	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
5	Aasim Mumtaz	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.

Item-4: PROMOTION OF B-TECH (HONS) SUB ENGINEERS TO THE POSTS OF ASSISTANT ENGINEERS/SDOs (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

The promotion case of B-Tech (Hons) Sub Engineers to the post of Assistant Engineers/SDOs (BS-17) was considered against **two (02)** clear vacancies on regular basis.

1	Tariq Hussain	Not considered for promotion, as the official was involved in VR case with NAB amounting to Rs.6,985,355/-. In pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a major penalty of "reduction to a lower stage in a time scale for three (03) years" has been imposed upon him on 19.03.2021
2	Murad Ali	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
3	Jawad Aamir	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.

Item-5: PROMOTION OF GIS ANALYST TO THE POST OF ASSISTANT DIRECTOR GIS (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

The promotion case of GIS Analyst to the post of Assistant Director (GIS) was considered against **one (01)** clear vacancy on regular basis.

1	Arshad Ullah	Recommended for promotion to the post of Assistant Director GIS (BS-17) on regular basis. He will be on probation for a period of one year.
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Item-6: PROMOTION/ACTING CHARGE APPOINTMENT OF CIRCLE HEAD DRAFTSMAN TO THE POST OF CHIEF DRAFTSMAN (BS-17) ON REGULAR/ACTING CHARGE BASIS IN THE C&W DEPARTMENT

The promotion/Acting charge appointment case of Circle Head Draftsman to the post of Chief Draftsman was considered against **seven (07)** clear vacancies on regular/acting charge basis.

1	Syed Muhammad Ismail	Recommended for promotion to the post of Chief Draftsman (BS-17) on regular basis. He will be on probation for a period of one year.
2	Niharullah Shah	Recommended for promotion to the post of Chief Draftsman (BS-17) on regular basis. He will be on probation for a period of one year.
3	Muhammad Ayub	Recommended for appointment against the post of Chief Draftsman (BS-17) on acting charge basis.
4	Saeed Ullah	Deferred due to lack of required length of service i.e. 03 years.
5	Imshad Khan	Deferred due to lack of required length of service i.e. 03 years
6	Shakeel Muhammad	Deferred due to lack of required length of service i.e. 03 years
7	S. Muhammad Ali Shah	Deferred due to lack of required length of service i.e. 03 years

Item-7: PROMOTION OF ARCHITECTURAL ASSISTANT TO THE POST OF CHIEF DRAFTSMAN ARCHITECT (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

The promotion case of Architectural Assistant to the post of Chief Draftsman (Architect) was considered against **two (02)** clear vacancies on regular basis.

1	Shaukat Ali	Recommended for promotion to the post of Chief Draftsman Architect (BS-17) on regular basis. He will be on probation for a period of one year.
2	Muhammad Imran	Deferred due to lack of required length of service i.e. 05 years.

Item-8: PROMOTION/APPOINTMENT OF ASSISTANTS & SENIOR SCALE STENOGRAPHER TO THE POST OF SUPERINTENDENT (BS-17) ON REGULAR/ACTING CHARGE BASIS

The promotion/Acting charge appointment case of Assistant & Senior Scale Stenographer to the post of Superintendent was considered against **seventeen (17)** clear vacancies on regular/acting charge basis.

1	Muhammad Ashraf	Recommended for promotion to the post of Superintendent (BS-17) on regular basis. He will be on probation for a period of one year.
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2	Muhammad Iqbal-IV	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
3	Matiullah	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
4	Javeria Tahir	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
5	Abdul Hamid	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
6	Inayat Khan	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
7	Asadullah Khan	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
8	Nekam Khan	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
9	Badshah Hussain	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
10	Muhammad Idrees	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
11	Muhammad Tariq	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
12	Rahim Dad	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
13	Mujahiddin	Deferred due to lack of ACRs
14	Zar Taj	Deferred due to lack of ACRs
15	Amjad Ali-II	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
16	Ibrahim Jan	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis
17	Fazl-e-Qadir	Recommended for appointment against the post of Superintendent (BS-17) on acting charge basis

Item-9: PROFORMA PROMOTION IN RESPECT OF MR. JAVED RAHIM SUB ENGINEER BS-16 (RETIRED) TO THE RANK OF ASSISTANT ENGINEER/SDO (BS-17) WITH ALL BACK BENEFITS IN LIGHT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT

After examining all relevant record of the official and threadbare discussion, the DPC recommended proforma promotion of the Mr. Muhammad Javed Rahim retired Sub Engineer (BS-16) C&W Department to the post of Assistant Engineer/SDO (BS-17) w.e.f. 03.10.2017 (date of promotion Notification of the Sub Engineers junior to him to the post of AE/SDO (BS-17) with all consequential benefits, subject to final decision of the Supreme Court of Pakistan in the CPLA filed by the department.

The Chief Secretary is requested to accord approval to the following proposals in light of DPC recommendations:-

- i. Promotion of Sub Engineers to the posts of Assistant Engineers/SDOs (BS-17), GIS Analyst to the post of Assistant Director (GIS) BS-17, Circle Head Draftsman to the posts of Chief Draftsman (BS-17), Architectural Assistant to the post of Chief Draftsman (Architect), Senior Scale Stenographer/Assistants to the posts of Superintendent (BS-17) on regular basis.
- ii. Appointment of Circle Head Draftsman to post of Chief Draftsman (BS-17) and Senior Scale Stenographer/Assistants to the post of Superintendent (BS-17) on acting charge basis.
- iii. M/S Muhammad Iqbal-IV and Abdul Hamid appearing at Sr.No. 2 & 5 of **item-8** have been retired from Govt service on attaining of superannuation i.e. 60 years w.e.f. 13.03.2022 & 02.03.2022 respectively, therefore their appointment against the posts of Superintendent (BS-17) on acting charge basis may be approved from the date of DPC i.e. **21.02.2022**
- iv. Proforma conditional promotion of Mr. Javed Rahim Retired Sub Engineer to the rank of Assistant Engineer/SDO w.e.f. **03.10.2017** (date of promotion Notification of the Sub Engineers junior to him to the post of AE/SDO (BS-17) with all consequential benefits, subject to final decision of the Supreme Court of Pakistan in the CPLA filed by the department.
- v. Deferment/not-considering of officials appearing at Sr.No.1, 2, 6, 7, 8, 9, 10, 12, 14, 16, 17,19, 20, 21 & 22 of **item-1**, officials appearing at Sr.No.1, 5 & 7 of (**item-2**), official appearing at Sl.No.1 of **item-3**, official appearing at Sl.No.1 of **item-4**, officials appearing at Sr.No. 4, 5, 6 & 7 of **item-6**, official at Sr.No.2 of **item-7** and officials appearing at Sr.No. 13 & 14 of **item-8** above, please.

3. Proposals contained in **para-2 ante** are submitted for approval, please.

Handwritten notes on the left margin:
Total 1600 = 16-3-2022
11/11/2022

SECRETARY
C&W
16.3.2022

ADVISOR TO CM FOR C&WD

CHIEF SECRETARY

Advisor to C.M for C&W
Khyber Pakhtunkhwa

Handwritten initials: P.T.O

4. Note for Chief Secretary Khyber Pakhtunkhwa regarding promotion/appointment of Diploma Holders Sub Engineers, Pre-Service Graduate Sub Engineers, In-Service Graduate Sub Engineers and B-Tech (Hons) Sub Engineers (BS-16) to the post of Assistant Engineer/SDO (BS-17), promotion of GIS Analyst to the post of Assistant Director GIS (BS-17), Circle Head Draftsman to the post of Chief Draftsman (BS-17), Architectural Assistant to the post of Chief Draftsman Architect (BS-17), Senior Scale Stenographers/Assistant (BS-16) to the post of Superintendent (BS-17) and Proforma conditional promotion of Mr. Javed Rahim retired Sub-Engineer (BS-16) to the rank of Assistant Engineer/SDO (BS-17) on regular/acting charge basis in C&W Department has been examined.

5. Proposal of the Administrative Department contained in Para-2 of the Note is in line with the recommendations of the Departmental Promotion Committee (DPC) meeting held on 21.02.2022 as mentioned at Para-2 of the minutes (Items I-IX) (Annex-I). However, in order to implement judgment of Services Tribunal conditionally and in light of Law Department advice, proforma promotion in respect of Mr. Javed Rahim ex-Sub-Engineer to the post of SDO recommended in Item No. IX, will be one day before of his retirement i.e 29.12.2018 subject to final out-come of CPLA.

6. Chief Secretary Khyber Pakhtunkhwa being competent authority in terms of Rule-4(1)(b) of Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 (Annex-II) may approve proposal of the Administrative Department contained in Para-2 of the Note. The Officers promoted on regular basis will be on probation for a period of one year in terms of Rule-15 of ibid rules (Annex-III) while, the officers at S.No. 3, 4 & 15 of Item-1 and S.No. 1 of Item-6 will be on probation till their retirement.

(Flt. Lt. (Retd) Iftikhar Ali Sahoo)

Secretary Establishment

28 March, 2022

Chief Secretary, Khyber Pakhtunkhwa

7

App. d.

Sec. C&W

ASA/ SOE

Chief Secretary
Govt. of Khyber Pakhtunkhwa

29/3/22

Khyber Pakhtunkhwa
City No: 111/2018
Date: 28/03/2022
Date: 29-3-22
Date: 28/3/22
Date: 28/3/22

Preceding paras refer

In light of Competent Authority (Chief Secretary Khyber Pakhtunkhwa) approval vide para-7 of the Note, draft Notifications are prepared and placed on board for perusal and approval before issue, please.

Supdt (Establishment Section) 1/4/22

SO (Estb)

DSCA/COWD (away)

ASCOWD

Spec.

Naam

01-04-2022

h
1.4.2022

SO E

Attention is invited to para 8/w for n.a please.

Secretary C & W

h
1.4.2022

10.

Approved -

SDCE/

01/4

11.

Notifications signed, please issue.

Supdt

Naam
01.4.22



WORKING PAPER FOR DEPARTMENTAL PROMOTION COMMITTEE

SUBJECT: PROFORMA PROMOTION IN RESPECT OF MR. JAVED RAHIM SUB ENGINEER BS-16 (RETIRED) TO THE RANK OF ASSISTANT ENGINEER/SDO (BS-17) WITH ALL BACK BENEFITS IN LIGHT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT

A working paper for proforma promotion in respect of Mr. Javed Rahim Sub Engineer BS-16 (retired) to the rank of Assistant Engineer/SDO (BS-17) with all back benefits in light of Khyber Pakhtunkhwa Service Tribunal Judgment placed before the Departmental Promotion Committee (DPC) (**Annex-I**). The meeting of DPC was held on 21.02.2022 under the chairmanship of Secretary C&W, the promotion of various categories were discussed, including proforma conditional promotion of Mr. Javed Rahim Retired Sub Engineer to the rank of Assistant Engineer/SDO in light of court orders till the final decision of Supreme Court of Pakistan were considered and made recommendations (**Annex-II**). The case was processed and submitted a Note to Chief Secretary Khyber Pakhtunkhwa for approval (**Annex-III**).

2. In light of Competent Authority approval vide para-7 of the Note (**Annex-III**), promotion Notifications, including the proforma promotion of Mr. Javed Rahim Ex-Sub Engineer to the post of Assistant Engineer/SDO (BS-17) C&WD w.e.f. 30.12.2018 (one day before his retirement) has been issued subject to final outcome of CPLA filed by the Department (**Annex-IV**). However, the said appellant filed fresh execution petition in Khyber Pakhtunkhwa Service Tribunal for proper implementation of the judgment dated 01.12.2020 (**Annex-V**). The court has directed through an order sheet dated 28.06.2022 to take up the case with quarter concerned to modify the Notification to bring it in line with the terms of judgment and implementation report be submitted on 25.07.2022 (**Annex-VI**).

3. In compliance of the Khyber Pakhtunkhwa Service Tribunal (DIKhan Bench) order sheet dated 28.06.2022, the Competent Authority was again requested to may like accord approval of the proforma promotion of Mr. Javed Rahim retired Sub Engineer (BS-16) C&W Department to the post of Assistant Engineer/SDO (BS-17) w.e.f. 03.10.2017 (date of promotion Notification of Sub Engineers junior to him to the post of AE/SDO BS-17) with all consequential benefits subject to final decision of Supreme Court of Pakistan in the CPLA filed by the Department, in order to implement the execution petition vide para-13 of the Note (**Annex-III**).

4. In response, Establishment Department observed that the Services Tribunal has directed to take up the case with quarter concerned for modification of Notification, and pointed out that Mr. Javed Rahim Ex-Sub Engineer was deferred on 03.10.2017 and the Administrative Department has not clarified availability of vacancy for his promotion at that point of time when his juniors were promoted to the post of Assistant Engineers/SDOs (BS-17) and advised the Department may place the case before the Departmental Promotion Committee (DPC) afresh for finalization of its recommendations with regard to ante-dation of promotion vide para 17-18 of the Note. In this regard, it is clarified that once the incumbent deferred the post is reserved. Since Mr. Javed Rahim retired was deferred on 03.10.2017, therefore, the vacancy of Assistant Engineer/SDO (BS-17) was reserved at that time.

6. In order to honour and implement the Service Tribunal main judgment dated **01.12.2020**, order sheet dated **25.11.2021** and **28.06.2022** in execution petition No.92/21 and Law Department advice dated **28.12.2021**, the Departmental Promotion Committee (DPC) is requested to determine the suitability of proforma promotion in respect of Mr. Javed Rahim Retired Sub Engineer BS-16 C&W Department to the post of Assistant Engineer/SDO (BS-17) w.e.f. **03.10.2017** till his retirement with all consequential benefits, subject to final decision of the Supreme Court of Pakistan in the CPLA filed by the department.

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SYNOPSIS FROM ACRs IN RESPECT OF MUHAMMAD JAVED RAHIM SUB ENGINEER, C&W DEPARTMENT

Sr. No.	Period		Overall	Good Remarks	Adverse Remarks
	From	TO			
1	01.04.1981	08.07.1981	Good	A noble and technically good official	--
2	08.07.1981	31.05.1982	Good	An obedient, hardworking, honest and knows his job well	--
3	01.06.1982	31.12.1983	Good	He is a good and laborious Sub Engineer	--
4	01.01.1984	11.08.1984	Good	He is capable, very efficient and responsible Sub Engineer	--
5	12.08.1984	23.03.1985	Good	He is very efficient, capable, hardworking and responsible Sub Engineer	--
6	24.03.1985	11.03.1986	Good	He is hardworking, very efficient, capable and energetic Sub Engineer	--
7	12.03.1986	31.03.1987	Good	A noble and competent official	--
8	01.04.1987	30.06.1988	Good	Trustable and intelligent Sub Engineer	--
9	01.07.1988	19.06.1989	Good	He is outstanding Sub Engineer with excellent know how of his job	--
10	20.06.1989	31.08.1990	Good	Hardworking and job knowing Sub Engineer	--
11	01.09.1990	31.12.1990	Good	High reliable and sound in his field	--
12	01.01.1991	07.09.1992	Good	He is hardworking	--
13	08.09.1992	21.11.1992	---	Period less than 03 months	--
14	22.11.1992	31.12.1992	---	Period less than 03 months	--
15	01.01.1993	31.12.1993	Good	He is an obedient, intelligent and hardworking Sub Engineer	--
16	01.01.1994	30.06.1994	Very Good	He is an obedient, efficient and hardworking official	--
17	01.07.1994	31.12.1994	Good	An intelligent and hardworking Sub Engineer	--
18	01.01.1995	23.07.1995	Good	A hardworking and intelligent Sub Engineer	--
10	24.07.1995	31.12.1995	Good	A hardworking official	--
20	01.01.1996	31.12.1996	Good	A hardworking and reliable Sub Engineer	--
21	01.01.1997	31.12.1997	Good	A hardworking official	--
22	01.01.1998	31.08.1998	Good	An obedient and hardworking subordinate	--
23	01.09.1998	31.12.1998	Good	An obedient and hardworking official	--
24	01.01.1999	31.12.1999	Good	An obedient and hardworking official	--