

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1194/2013

Date of Institution ... 31.07.2013

Date of Decision ... 30.06.2022

Shaukat Hussain, PMS Officer (BPS-17), Posted as Additional
Assistant Commissioner Revenue, District Abbottabad.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Mr. KAMRAN KHAN,
Advocate

--- For appellant.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through the instant service
appeal, the appellant has invoked jurisdiction of this Tribunal with
the prayer copied as below:-

*"on acceptance of this appeal, the impugned
order dated 04.10.2012 may very kindly be
modified to the extent that the appellant be
granted/allowed regular promotion to the post of
PMS Officer (BPS-17) from the date when appellant
was promoted on acting charge basis i.e
25.03.2010 with all consequential benefits and
seniority. Any other remedy which this august
Tribunal deems fit may also be awarded in favour
of the appellant".*



2. Briefly stated the averments as raised by the appellant in his appeal are that vide Notification dated 06.09.2008, he alongwith others were promoted to the post of Tehsildar (BPS-16) on regular basis. Vide Notification dated 25.03.2010, the appellant was promoted as Provincial Management Services (PMS) Officer (BPS-17) on acting charge basis and that too with immediate effect, therefore, he filed representation, requesting therein for his regular promotion as Provincial Management Services Officer (BPS-17) with effect from 25.03.2010. The representation of the appellant was, however not responded by the department. Vide the impugned Notification dated 04.10.2012 the services of the appellant as Provincial Management Services Officer (BPS-17) were regularized with immediate effect instead of 25.03.2010, when he was promoted on acting charge basis. The relief sought by the appellant through instant service appeal has already been granted to his colleague namely Fazal Hussain, whose service appeal was allowed by this Tribunal. The appellant being similarly placed employee was also entitled to the relief granted to his colleague namely Fazal Hussain but the appellant was not treated alike, therefore, he filed departmental appeal but the same was not responded, hence the instant service appeal.



3. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions raised by the appellant in his appeal.

4. Learned counsel for the appellant has argued that the appellant was promoted as Provincial Management Services Officer (BPS-17) on 25.03.2010 on acting charge basis, which would show that vacant post of PMS Officer (BPS-17) was available at that time; that vide impugned Notification dated 04.10.2012, the services of appellant were regularized as PMS Officer (BPS-17) with immediate effect instead of 25.03.2010, when he was promoted as PMS Officer (BPS-17) on acting charge basis; that one Fazal Hussain, who was colleague of

the appellant, had filed similar nature service appeal before this Tribunal, which has been allowed vide judgment dated 11.01.2012 and his promotion was ante-dated with effect from 25.03.2010 i.e the date on which he was promoted as PMS Officer (BPS-17) on acting charge basis; that the appellant being similarly placed employee was also entitled to the relief granted to Fazal Hussain, however the appellant has been treated with discrimination as he has not been granted promotion with effect from 25.03.2010. Reliance was placed on 2006 SCMR 1938, 1984 PLC (C.S) 386, 2009 SCMR 1 & 2002 PLC (C.S) 1388.

5. On the other hand, learned Assistant Advocate General for the respondents has argued that at the time of meeting of PSB held on 29.12.2009, there were only 11 posts of PMS Officers (BPS-17) to be filled by promotion from amongst Tehsildars (BPS-16), while 28 posts of PMS Officers (BPS-17) were available for filling through initial recruitment; that in view of his position in the seniority list, the appellant was not even eligible for promotion to the post of PMS Officers (BPS-17) in the promotion quota, therefore, in view of rule 9 (3) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989, appellant alongwith some others were promoted on acting charge basis on the posts reserved for initial recruitment; that as per the seniority list, one Habibullah Arif was placed at higher position then the appellant but similar nature service appeal, filed by the said Habibullah Arif has been dismissed by this Tribunal, therefore, the appellant cannot be legally granted promotion as PMS Officer (BPS-17) w.e.f. 25.03.2010; that in view of rule 9 (6) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989, the promotion of the appellant on acting charge basis on 25.03.2010 could not confer any vested right upon the appellant to claim regular promotion from the date of appointment on acting charge basis; that the appellant has been treated in accordance with the relevant rules and no discrimination has been caused to him. Reliance was placed on 2013 PLC (C.S) 1031, 2003 PLC

(C.S) 212, 2018 PLC (C.S) Note 100, 1997 SCMR 1730 & 2015 SCMR 165.

6. We have heard arguments of learned counsel for the parties and have perused the record.

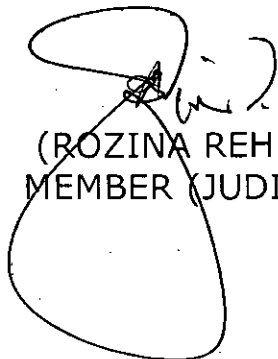
7. The appellant has mainly sought relief on the ground that similar nature service appeals filed by his colleagues Fazal Hussain and others have already been allowed by this Tribunal vide judgment dated 11.01.2012. Copy of the aforementioned judgment is available on the record, which would show that service appeals No.1398/2010, 1400/2010, 1401/2010 & 1403/2010 were allowed through consolidated judgment dated 11.01.2012 passed by this Tribunal and the appellants therein namely Fazal Hussain, Hidayatullah Khan, Muhammad Nasir Khan & Syed Kazim Hussain Shah were granted ante-dated promotion as PMS Officers (BPS-17) w.e.f. 25.03.2010 i.e the date on which they were promoted on acting charge basis. However, through the very same consolidated judgment dated 11.01.2012, the same relief was not granted to one Habibullah Arif and his service appeal bearing No. 1404/2010 was declined on the ground that only 11 posts were available and he was at serial No. 12 of the eligible candidates. The aforementioned Habibullah Arif was regularly promoted vide Notification dated 21.12.2011, while the appellant has been regularly promoted later on vide impugned Notification dated 04.10.2012. Admittedly Habibullah Arif was senior to the appellant and his service appeal seeking regular promotion w.e.f 25.03.2010 has been turned down by this Tribunal vide the above mentioned judgment dated 11.01.2012, therefore, the appellant cannot claim any relief by placing reliance on the said judgment.

8. One of the plea of learned counsel for the appellant is that as the appellant was promoted as PMS Officers (BPS-17) on acting charge basis vide Notification dated 25.03.2010, which confirms the fact that vacant post for filling through promotion was available at that time, hence the appellant is entitled for regular promotion from 25.03.2010. The said plea

of learned counsel for the appellant is having no force for the reason that in view of rule 9 (6) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989, the promotion of the appellant on acting charge basis on 25.03.2010 could not confer any vested right upon him to claim regular promotion from the date of appointment on acting charge basis. Even otherwise too the minutes of meeting of PSB held on 29.12.2009 would show that only 11 posts of PMS Officers (BPS-17) were lying vacant in promotion quota, while 28 posts were lying vacant for filling through initial recruitment. According to the Notification dated 25.03.2010, issued regarding promotion of the appellant as well as others as PMS Officers (BPS-17), the appellant has been placed at serial No. 19 of the list, while only 11 posts of PMS Officers (BPS-17) were available in promotion quota. While going through the minutes, we have observed that the appellant as well as certain other Tehsildars (BPS-16) were promoted as PMS Officers (BPS-17) on acting charge basis in excess of the promotion quota by invoking the provision of rule 9 (3) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989. We are of the humble view that the appellant has been unable to make out a case of ante-dation of his promotion w.e.f. 25.03.2010.

9. Consequently, the appeal in hand being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
30.06.2022



(ROZINA REHMAN)
MEMBER (JUDICIAL)



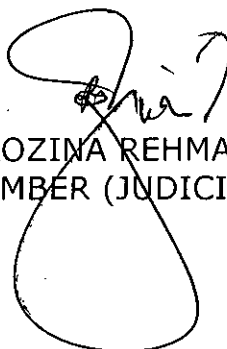
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
30.06.2022

Learned counsel for the appellant present. Mr. Imran Akbar, Assistant alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today separately placed on file, the appeal in hand being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
30.06.2022



(ROZINA REHMAN)
MEMBER (JUDICIAL)

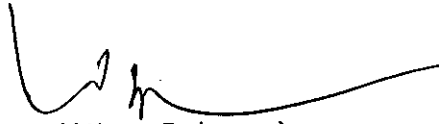


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

20.12.2021

Junior to counsel for the appelolant and Mr. Muhammad Adeel Butt, for the respondents present.

Former seeks adjournment due to non-availability of his learned counsel. Request is accorded. To come up for arguments on 02.02.2022 before the D.B.



(Atiqur Rehman)
Member(E)

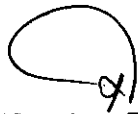


Chairman

02.02.2022

Learned counsel for the appellant present. Mr. Naheed Gul Assistant alongwith Mr. Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for the respondents present.

After hearing learned counsel for the appellant at certain length, it transpired that the concerned rules for promotion have neither ^{been} annexed with the appeal nor the same have been filed by the respondents alongwith their comments. In order to properly appreciate the controversy in question, representative of the respondents is directed to submit the concerned promotion rules and to come up for arguments on 07.03.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)

7-3-22

Due to Retirement of the Honble
Chairman the case is adjourned on
30-6-22




Reader

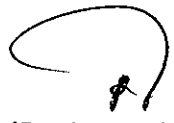
19.11.2020

Appellant with counsel present.

Zara Tajwar learned Deputy District Attorney alongwith Nahid Gul Assistant for respondents present.

Arguments heard. To come up for order on 02.12.2020 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

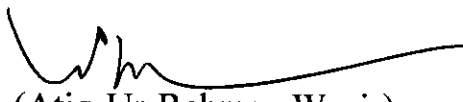
02.12.2020


Appellant present through counsel.

Zara Tajwar, learned Deputy District Attorney alongwith Naheed Gul, Assistant for respondents present.

This case was fixed for order but today different documents were submitted by the representative of respondents, therefore, order couldn't be dictated.

Representative is directed to provide a set of all these documents to learned counsel for the appellant and then file to come up for perusal of documents and arguments on 15.12.2020 before D.B.

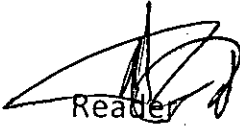

(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

15-5 .2020

Due to COVID19, the case is adjourned to

07/8/2020 for the same as before.


Reader

07.08.2020

Due to summer vacation case to come up for the same on
08.10.2020 before D.B.



Reader

08.10.2020

Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General
alongwith Muhammad Salim Section Officer for respondents
present.


Former requests for adjournment. Adjourned. To co come
up for arguments on 19.11.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

11.02.2020

Junior to counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. ~~Junior~~ counsel for the appellant seeks adjournment. Adjourned. To come up for further proceedings/arguments on 16.03.2020 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

16.03.2020

Clerk to counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Zar Muhammad, Assistant for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 15.05.2020 before D.B.


(MAIN MUHAMMAD)
MEMBER


(M.AMIN KHAN KUNDI)
MEMBER

02.12.2019

Junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 06.01.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

06.01.2020

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Muhammad Arif Superintendent (for respondent No.3) present. Saleem Khan Superintendent representative of respondent No.2 absent.

In support of the present service appeal, learned counsel for the appellant relied upon the judgment dated 11.01.2018 passed in Service Appeal No.394/2013. On the other hand, learned DDA stated that at the relevant time, only 11 vacancies of PMS were available in the share of Tehsildars instead of 21 and seeks adjournment to furnish the relevant record and additional documents. Adjourn. To come up for additional documents/record and arguments on 11.02.2020 before D.B



Member


Member

25.07.2019

Junior counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel is busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned to 27.09.2019 for arguments before D.B.

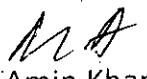

(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

27.09.2019

Learned00 counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Mr. Arif Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.11.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

05.11.2019

Junior to counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. M. Arif, Supdt for respondents present. Junior to counsel for the appellant seeks adjourned as his senior counsel was busy before the apex court. Notice be issued to the appellant for appearance. Adjourn. To come up for arguments on 02.12.2019 before D.B.


Member


Member

10.04.2019

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Arif, Supdt for respondents present. Counsel for the appellant seeks adjournment on the ground that he has not prepared the case. Adjourned. Case to come up for arguments on 13.05.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13.05.2019

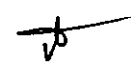
Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Javed Iqbal, Assistant for the respondents present. Member copy of instant service appeal is not available on record. Learned counsel for the appellant is directed to provide the same on or before the next date of hearing. Adjourned to 21.06.2019 for arguments before D.B.


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

21.06.2019

Shaz Ullah Yousafzai Advocate junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 25.07.2019 before D.B.


Member


Member

10.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Fazal Khaliq ADEO present. Adjourn. To come up for arguments on 18.01.2019 before D.B.


Member


Member

18.01.2019

Counsel for the appellant present. Mr. M. Arif, Supdt alongwith Mr. Kabirullah Khattak, Adll: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 13.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amih Khan Kundi)
Member

13.03.2019


Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Muhammad Arif Superintendent present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 10.04.2019 before D.B.

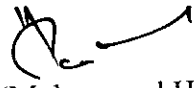

Member


Member

13.07.2018

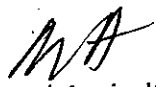
Junior to counsel for the appellant and Mr. Usman Ghani, learned District Attorney present. Junior to counsel for the appellant seeks adjournment on the ground that senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 06.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

06.09.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 23.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

23.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 10.12.2018.


Chairman

10.10.2017

Counsel for the appellant and Addl. AG alongwith Sultan Shah, Assistant for the respondents. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments 12.1.2018 before the D.B.


Member


Chairman

12.01.2018


Counsel for the appellant present and Mr. Zia Ullah, DDA for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 15.03.2018 before D.B.



Member


Chairman

15.03.2018

Junior to counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General on behalf of the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 15.05.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

15.05.2018

Appellant absent. Counsel for the appellant is also absent. However, junior counsel for appellant present and seeks adjournment. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Attaullah, Assistant Secretary for the respondents also present. Adjourned. To come up for arguments on 13.07.2018 before D.B.

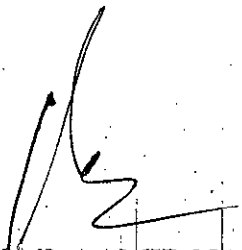

(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

03.01.2017


Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 12.05.2017.



(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

12.05.2017

Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 04.09.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

04.09.2017

Since 4th September, 2017 has been declared as Public Holiday on account of Eid-UI-Azha. Therefore the case is adjourned for the same on 10.10.17 before D.B. Parties be informed accordingly.


(Registrar)

3: No. 3,

~~7-18/17~~
30/0/17

msel

MS

22.06.2016

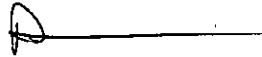
Counsel for the appellant and Addl:AG for respondents present. Rejoinder submitted. While hearing arguments for a while, it transpired that relevant record like availability of vacancies and seniority position of the appellant be produced on the next date. To come up for such record and arguments on 20.10.2016.


Member


Member

20.10.2016

Counsel for the appellant and Mr. Sultan Shah, Supdt alongwith Mr. Muhammad Jan, GP for respondents present. Representative of the respondents produced record which is placed on file, copy also handed over to the learned counsel for the appellant who requested for adjournment to go through the same. Case is adjourned. To come up for arguments on 17.01.2017.

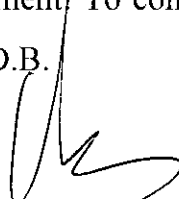


(ABDUL LATIF)
MEMBER


(PIR BAKSH SHAH)
MEMBER.

16.11.2016

Appellant in person and Assistant AG for respondents present. Appellant requested for adjournment. To come up for arguments on 03.01.2017 before D.B.


Member


Chairman

03.09.2015

Agent of counsel for the appellant and Mr. Mukhtiar Ali, Supdt. for respondent No.3 alongwith Addl: A.G for all respondents present. Written reply by respondent No.3 submitted while request for further time made on behalf of respondents No.1 & 2. Last opportunity granted. To come up for written reply/comments on behalf of respondents No.1 & 2 on 24.11.2015 before S.B.


Chairman

24.11.2015

Counsel for the appellant and M/S Sultan Shah, Assistant for respondents No. 1 and 2 and Mukhtiar Ali, Supdt. for respondent No. 3 alongwith Addl: A.G for respondents present. Written reply not submitted by respondents No. 1 and 2 despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents No. 1 and 2 from their own pockets. To come up for written reply/comments on behalf of respondents No. 1 and 2 and cost on 1.3.2016 before S.B.


Chairman

01.03.2016

Counsel for the appellant and Mr. Sultan Shah, Assistant alongwith Addl: A.G for respondents present. Written reply submitted. Cost of Rs. 1000/- paid and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 22.6.2016.



Chairman

13

09.02.2015

Counsel for the appellant and Mr. Kabirullah Khattak, Asst.

Advocate General for the respondents present. Counsel for the appellant requested for adjournment. Request accepted! To come up for preliminary hearing on 13.03.2015.


Member

13.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant, while serving as Tehsildar when appointed as PMS Officer (BPS-17) on acting charge basis with immediate effect vide notification dated 25.03.2010. That the appellant later on promoted on regular basis with immediate vide notification dated 04.10.2012 though he was entitled to the same w.e.f the date when he was appointed as PMS Officer on acting charge basis i.e 25.03.2010. Placed reliance on case-law reported ad. 2006 SCMR P1938.

Appellant Deposited
Security & Process Fee




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/comments for 30.06.2015 before S.B.


Chairman

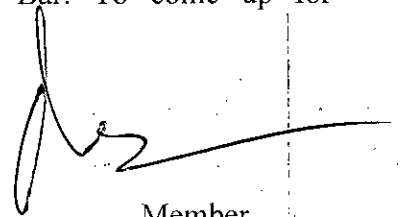
30.06.2015

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 3.9.2015 before S.B.


Chairman

10.
21.08.2014

Clerk of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Preliminary arguments could not be heard due to General Strike of the Bar. To come up for preliminary hearing on 18.09.2014.



Member

11.
18.09.2014

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Assistant Advocate General for the respondents present. Clerk of counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 21.11.2014.



Member

12.
Reader Note:

21.11.2014


Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 09.02.2015 for the same.



Reader


7.
27.03.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. During the course of arguments the learned counsel for the appellant requested for adjournment. To come up for preliminary hearing specially on the point of maintainability of appeal on 21.05.2014.


Member


8.
21.05.2014

Clerk of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Clerk of counsel for the appellant requested for adjournment as his counsel was busy in Dar-Ul-Qaza, Swat. Request accepted. To come up for preliminary hearing specially on the point of maintainability of appeal on 09.07.2014.


Member

9.
09.07.2014

Clerk of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Clerk of counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 21.08.2014.


Member


4
05.12.2013

Junior to counsel for the appellant and Mr. Mukhtiar, Supdt with Mr. Muhammad Jan, GP for the respondents present. Junior to counsel for the appellant requested for adjournment. To come up preliminary hearing on 13.01.2014.


Member

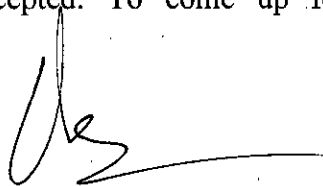
5
13.01.2014

Clerk of counsel for the appellant and Mr. Mir Qasim Khan, Assistant Secretary for the respondents present. Clerk of counsel for the appellant requested for adjournment. To come up for preliminary hearing on 25.02.2014.


Reader

6
25.02.2014



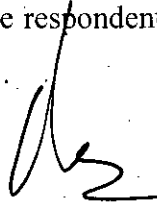
Junior to counsel for the appellant and Mr. Mir Qasim Khan, Assistant Secretary with Mr. Muhammad Jan, GP for the respondent present. Junior to counsel for the appellant requested for adjournment as his senior counsel was busy in the Peshawar High Court, Peshawar. Request accepted. To come up for preliminary hearing on 27.03.2014.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1194/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31/07/2013	<p>The appeal of Mr. Shaukat Hussain presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	19-8-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-11-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	4.11.2013	<p>Counsel for the appellant present. Preliminary arguments to some extent heard. Pre-admission notice be issued to the respondents. To come up for further preliminary hearing on 5.12.2013.</p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1194 /2013

SHAUKAT HUSSAIN

VS

REVENUE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2.	Promotion order	A	4.
3.	Notification dt:25.3.2010	B	5- 7.
4.	Representation	C	8- 9.
5.	Notification	D	10.
6.	Judgment	E	11- 14.
7.	Departmental appeal	F	15- 16.
8.	Vakalat nama	17.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED PAGE NO.1

IN APPEAL NO. 1194 /2013

Mr. Shaukat Hussain, PMS Officer (BPS-17),
Posted as Additional Assistant Commissioner Revenue,
District Abbottabad **Appellant**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department Khyber Pakhtunkhwa Peshawar
- 3- The Senior Member board of Revenue Khyber Pakhtunkhwa Peshawar..... **Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE NOTIFICATION DATED 4.10.2012 WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF PMS OFFICER (BPS-17) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT I.E. 25.3.2010 WHEN THE APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 4-10-2012 may very kindly be modify to the extent that the appellant be granted/allowing regular promotion to the post of PMS Officer (BPS-17) from the date when appellant was promoted on acting charge basis i.e 25-3-2010 with all consequential benefits and seniority. Any other remedy which this august tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was promoted as Tehsildar (BPS-16) on the recommendation of Departmental selection committee on regular basis vide Notification dated 06-09-2008 along with others. Copy of the promotion order is attached as annexure **A.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO 1194 /2013

Mr. Shaukat Hussain, PMS Officer (BPS-17),
Posted as Additional Assistant Commissioner Revenue,
District AbbottabadAppellant

1206
31-7-13

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department Khyber Pakhtunkhwa Peshawar
- 3- The Senior Member board of Revenue Khyber Pakhtunkhwa Peshawar..... **Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR THE GRANT OF ANTI DATED PROMOTION TO THE POST OF PMS OFFICER (BPS-17) FROM THE DATE WHEN APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS i.e. 25-3-2010 INSTEAD OF 4-10-2012 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 4-10-2012 may very kindly be modify to the extent that the appellant be granted/allowing regular promotion to the post of PMS Officer (BPS-17) from the date when appellant was promoted on acting charge basis i.e 25-3-2010 with all consequential benefits and seniority. Any other remedy which this august tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was promoted as Tehsildar (BPS-16) on the recommendation of Departmental selection committee on regular basis vide Notification dated 06-09-2008 along with others. Copy of the promotion order is attached as annexure **A.**

- 2- That although vide dated 25-03-2010 the appellant was promoted from the post of Tehsildar (BPS-16) to Provincial Management Services Officer (BPS-17) on the recommendation of provincial selection Board but on acting charge basis and that too with immediate effect. Copy of the order is attached as annexure **B.**
- 3- That on 20-7-2012 appellant submitted representation for his regular promotion w.e.f 25-03-2010, (date of promotion to the present post) but no reply to the said representation has been received. Copy of the representation is attached as annexure **C.**
- 4- That on 04-12-2012 vide the impugned Notification issued by the respondent department that my service were regularized as PMS Officer (BPS-17) with immediate effect instead of retrospective effect i.e 25-03-2010 was promoted on acting charge basis. Copy of the Notification is attached as annexure **D.**
- 5- That recently my other colleagues namely Fazal Hussain has challenged the Notification dated 25-3-2010 regarding acting charge promotion of PMS Officer (BPS-17) before the honorable Service Tribunal Peshawar. That the said appeal was allowed in favor of appellant colleague vide judgment dated 11.1.2012 and was allowed BPS-17 from the date when he was promoted on acting charge basis. That feeling aggrieved the appellant filed Departmental appeal but no has been received so far. Copy of the Judgment is attached as annexure **E.**
- 6- That under the principal of consistency reported in 2009 SCMR page No.1 appellant also prayed for the same relief which were given to his other colleagues mentioned above.
- 7- That feeling aggrieved appellant filed Departmental appeal but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **F.**

GROUND:

- A- That not granting anti dated promotion to the appellant to the post of PMS Officer (BPS-17) is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondent Department

violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the respondent Department acted in arbitrary and malafide manner by not allowing anti dated promotion to the appellant in spite of seniority and eligibility.
- D- That the appellant colleague was promoted as PMS Officers BPS-17 on regular basis through the Judgment of Honorable Service Tribunal Peshawar vide judgment dated 11.1.2012 and under the principle of consistency the appellant also similarly placed person for the same relief as given to his colleague.
- E- That the respondent Department discriminated the appellant by not allowing/granting anti dated promotion to the post of PMS officer (BPS-17) while colleague of the appellant have been awarded the same relief as prayed by the appellant.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Shaukat Hussain

SHAUKAT HUSSAIN

THROUGH:

Noor Mohammad Khattak
**NOOR MOHAMMAD KHATTAK
ADVOCATE**

A-4

**GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT.**

Peshawar dated the, 06 /09/2008

NOTIFICATION

22315 Admn:1/DPC/26/2008. The Competent Authority in consultation with the Departmental Promotion Committee is pleased to order the promotion of the following Naib Tehsildars and Tehsildars working on Acting Charge Basis to the post of Tehsildar (BS -16) on Regular basis with immediate effect.

S.NO	NAME OF OFFICER	PRESENT POSTING
1.	Mr.Shabbir Muhammad	Political Tehsildar Lower Orakzai Agency
2.	Mr.Gulfam Abbas Shah	Board of Revenue NWFP
3.	Mr.Afsar Ali Shah	Tehsildar Pabbi
4.	Mr.Maqsood Hassan	Political Tehsildar Baizai Mohmand Agency
5.	Muhammad Jamal Azmat	Board of Revenue NWFP
6.	Muhammad Ikramullah	Tehsildar Paharpur (DIKhan)
7.	Muhammad Kashif Nadeem	Tehsildar CRBC WAPDA DIKhan
8.	Mr. Bakhtiar Khan	Political Tehsildar Jamrud
9.	Mr.Ghazi Nawaz	Tehsildar Irrigation DIKhan
10.	MR.Kiramanullah	Tehsildar DIKhan
11.	Mr.Abdul Kabir	Board of Revenue NWFP
12.	Mr.Abdul Hameed	Tehsildar Nowshera
13.	Mr.Asadullah	Tehsildar Behrain (Swat)
14.	Mr.Javed Ali	Tehsildar SME Bank Peshawar
15.	Mr.Tariq Ali	Tehsildar Samar Bagh (Dir Lower)
16.	Muhammad Nasir Khan	Tehsildar Jabor (Swabi)
17.	Mr.Hidayatullah	Tehsildar Daggar (Buner)
18.	S.Kazim Hussain Shah	Tehsildar Babuzai (Swat)
19.	Mr.Fazal Hussain	Board of Revenue NWFP
20.	Muhammad Irshad	Board of Revenue NWFP
21.	Mr.Habibullah Arif	Tehsildar /Recovery Officer SIDB Peshawar
22.	Mr.Naeem Akhtar	Deputy District Officer (R) Swat
23.	Mr.Njuz Muhammad	Tehsildar Alpuri (Shangla)
24.	Mr.Duftar Khan	Political Tehsildar Mahal Kuram Agency

ATTESTED

- 4 -

S.NO	NAME OF OFFICER	PRESENT POSTING
25	Mr. Abdul Mateen Qasuria	Board of Revenue NWFP
26	Mr. Shaukat Hussain	Tehsildar Land Acquisition Abbottabad
27	Mr. Gul Nawaz Ali	Tehsildar Oghi
28	Mr. Nowsherwan	Tehsildar Pattan (Kohistan)
29	Mr. Qazi Atta-ur-Rehman	Tehsildar Ghazi
30	Mr. Shad Muhammad	Tehsildar Batagram

They shall continue to work against their present posts except Gulfam Abbas Shah appearing at S. No. 2, Muhammad Jamal Azmat S. No. 5, Abdul Kabir S. No. 11, Fuzal Hussain S. No. 19, Muhammad Irsad S. No. 20, and Abdul Mateen Qasuria at S. No. 25 whose are waiting for posting in the Board of Revenue NWFP

By Order of,
Senior Member
Board of Revenue, NWFP

(N) 22316-22462 (Admin: I/DP) 26/2008.

Copy forwarded to the :-

1. All District Coordination officer, in NWFP.
2. All District Officer (Revenue & Estate) / Collector, in NWFP.
3. All Political Agent in NWFP.
4. All District Accounts Officer, / Agency Accounts Officer in NWFP.
5. Chief Engineer CRBC WARDA, Dikhan.
6. Manager SME Bank Peshawar.
7. General Manager SADB Peshawar.
8. Officer concerned.
9. Personal File.
10. Office Order File.


Assistant Secretary (Admin)
Board of Revenue NWFP

ATTESTED



**GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT**

Dated Peshawar the 25th March, 2010

NOTIFICATION

NO. SOE.II(ED)2(192)2009:- Consequent upon the recommendations of the Provincial Selection Board, the Competent Authority is pleased to appoint the following Tehsildars as PMS Officers BS-17, on acting charge basis, with immediate effect.

Sr. NO.	NAME OF OFFICER WITH DESIGNATION	PRESENT POSTING
1.	Mr. Iftikhar Ahmad	Tehsildar, Board of Revenue
2.	Mr. Mumtaz Ahmad	DDO(J), Peshawar
3.	Syed Masood Shah	Tehsildar, Board of Revenue
4.	Mr. Iqrar Ali Shah	DDO(R), Karak
5.	Mr. Muhammad Yaqoob Barki	DDO(J), Tank
6.	Mr. Muhammad Kashif Nadeem	DDO(J), Paharpur D.I.Khan
7.	Mr. Ghazi Nawaz	Tehsildar, Bannu
8.	Mr. Abdul Kabeer	DDO(R), Lahor, Swabi
9.	Mr. Muhammad Nasir Khan	APA, Bara, Khyber Agency
10.	Mr. Hidayatullah Khan	DDO(J), Tangi Charsadda
11.	Syed Kazim Hussain Shah	Tehsildar, Housing Department, Peshawar
✓(12)	Mr. Fazal Hussain	ACO, Peshawar.
13.	Mr. Muhammad Irshad	Tehsildar, Nowshera
14.	Mr. Habibullah Arif	Tehsildar, SIDB, Peshawar
15.	Mr. Naeem Akhtar	HRDO, Swat
16.	Mr. Niaz Muhammad	Tehsildar, Babuzai, Swat
17.	Mr. Daftar Khan	Political Tehsildar, Jamrud
18.	Mr. Abdul Mateen Qasuria	Tehsildar, LA, D. I. Khan
19.	Mr. Shaukat Hussain	Tehsildar, LA, Abbottabad
20.	Mr. Gul Nawaz Ali	DDO(R), Mansehra
21.	Qazi Atta-ur-Rehman	Tehsildar, Haripur
22.	Mr. Shad Muhammad,	Tehsildar, Batagram

2. Resultantly the following postings/transfers are ordered with immediate effect:-

Sr. NO.	NAME OF OFFICER WITH DESIGNATION	From	To
1.	Mr. Iftikhar Ahmad	Tehsildar, Board of Revenue	DDO(R), Oghi, Mansehra agai the vacant post.

ATTESTED

2.	Mr. Mumtaz Ahmad	DDO(J), Peshawar	Retained on the same post
3.	Syed Masood Shah	Tehsildar, Board of Revenue	DDO(J) Charsadda relieving Mr. Ihsanullah, PMS BS-17, DDO(R), Charsadda of the additional charge of the post.
4.	Mr. Iqrar Ali Shah	DDO(R), Karak	Retained on the same post
5.	Mr. Muhammad Yaqoob Barki	DDO(J), Tank	Retained on the same post
6.	Mr. Muhammad Kashif Nadeem	DDO(J), Paharpur D.I.Khan	Retained on the same post
7.	Mr. Ghazi Nawaz	Tehsildar, Bannu	DDO(J), Bannu against the vacant post
8.	Mr. Abdul Kabeer	DDO(R), Lahor, Swabi	Retained on the same post
9.	Mr. Muhammad Nasir Khan	APA, Bara, Khyber Agency	Retained on the same post.
10.	Mr. Hidayatullah Khan	DDO(J), Tangi, Charsadda	Retained on the same post.
11.	Syed Kazim Hussain Shah	Tehsildar, Housing Deptt: Peshawar	Section Officer, Finance Department against the vacant post.
12.	Mr. Fazal Hussain	ACO(Own Pay & Scale), Peshawar.	Retained on the same post.
13.	Mr. Muhammad Irshad	Tehsildar, Nowshera	DDO(R), Lal Qilla Dir Lower. He will also hold the additional charge of the post of DDO(J), Lal Qilla in addition to his own duties.
14.	Mr. Habibullah Arif	Tehsildar, (SIDB, Peshawar)	DDO(R), Peshawar against the vacant post.
15.	Mr. Naeem Akhtar	HRDO, Swat	Retained on the same post
16.	Mr. Niaz Muhammad	Tehsildar, Babuzai, Swat	DDO(J), Kabal, Swat against the vacant post.
17.	Mr. Daftar Khan	Political Tehsildar, Jamrud	Section Officer (L & O), FATA Secretariat against the vacant post.
18.	Mr. Abdul Mateen Qasuria	Tehsildar, LA, D.I. Khan	DDO(J), D.I.Khan relieving Mr. Loi Khan, PMS BS-17, DDO(R), D.I.Khan of the additional charge of the post.
19.	Mr. Shaukat Hussain	Tehsildar, LA, Abbottabad	DDO(J) Abbottabad relieving Mr. Faridoon Khan, PMS BS-17, DDO(R) Abbottabad of the additional charge of the post.
20.	Mr. Gul Nawaz All	DDO(R), Mansehra	Retained on the same post
21.	Qazi Atta-ur-Rehman	Tehsildar, Haripur	DDO(R), Kohistan, Dassu against the vacant post
22.	Mr. Shad Muhammad	Tehsildar, Batagram	DDO(J) Battagram relieving Mr. Muhammad Akbar Khan, PMS BS-17 DDO(R) Battagram of the additional charge of the post.

ATTESTED

13/4

CHIEF SECRETARY NWFP

7

ENDST: NO. SOE.II(ED)2(192)2009.Dated Pesh. the 25th March, 2010.

A copy is forwarded to:-

1. Senior Member, Board of Revenue, NWFP.
2. Secretary to Governor NWFP.
3. Secretary (Admn: & Coordination) FATA Secretariat.
4. Principal Secretary to Chief Minister, NWFP.
5. Secretary to Govt of NWFP, Finance Department, NWFP.
6. Secretary to Govt of NWFP, Housing Department, NWFP.
7. Accountant General, NWFP.
8. All Divisional Commissioners in NWFP.
9. All District Coordination Officers in NWFP.
10. Political Agent, Khyber Agency.
11. Agency Accounts Officer, Khyber Agency.
12. All District Accounts Officers in NWFP.
13. Managing Director, SIDB, Peshawar.
14. Director (Personnel), National Highway Authority, Islamabad.
15. S.O.(Secret)/(Admn)/Librarian, E&A Dept
16. Officers concerned.
17. P.S. to Chief Secretary NWFP.
18. P.S. to Secretary Establishment NWFP.
19. PAs to Addl: Secretary(Estt) /Dy: Secretary(Estt), E&A Department.
20. Personal files of the officers concerned.
21. Office Order file.



(KALIMEHLAH)
SECTION OFFICER (E-II)

ATTESTED


sehra aq


Post.

authority and where he was subsequently, found fit for the said promotion and was so promoted on regular basis then he was entitled not only the salary attracting to the said post but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis and we hold accordingly."

- 5. That I was promoted on acting charge basis on 25.3.2010 and I deserve the seniority from the date of my promotion i.e 25.3.2010 the Officer appointed after my promotion have been included in the seniority list and my name has not been included in the said list.

PRAYER:

Keeping in view the above facts, it is humbly prayed that the seniority of the applicant may graciously be considered from 25.3.2010 (date of promotion to the present post) and the impugned seniority list, may please be corrected/amended accordingly.



 (SHOUKAT HUSSAIN),
 Deputy District Officer (Judicial)
 Abbottabad

Copy forwarded for information to the:-

- 1. Senior Member Board of Revenue Khyber Pakhtun khwa Peshawar.
- 2. Secretary to government of Khyber Pakhtunkhwa Establishment Department Peshawar.

ATTESTED

Handwritten initials


 (SHOUKAT HUSSAIN),
 Deputy District Officer (Judicial)
 Abbottabad

20-7-2012

C - 8

**BEFORE THE HONOURABLE CHIEF SECRETARY GOVERNMENT
OF KHYBER PAKHTUNKHWA PESHAWAR**

Subject:- **REPRESENTATION AGAINST THE FINAL SENORITY
LIST OF PMS BPS-17 OFFICERS DATED 29.5.2012**

Respected Sir,

I have the honour to refer to the seniority list mentioned in the subject and to submit the following please.

GROUNDS:

1. I was promoted from the post of Tehsildar to PMS Officer BPS-17 on acting charge basis vide Notification bearing No. dated 25.3.2010 (copy attached as annexure "A").
2. That in compliance with the above mentioned Notification, I assumed the charge of the post of Deputy District Officer (Judicial) Abbottabad on 26.3.2010 (copy attached as annexure "B").
3. That inspite of my promotion as PMS Officer (BPS-17), my name has not been included in the seniority list mentioned in the subject. Copy of Seniority list is attached as annexure "C".
4. That the August Supreme Court of Pakistan in its Judgment in case titled Govt. of NWFP through Secretary Establishment & others Vs: Mohammad Iqbal Khattak dismissed the appeal of Provincial government against the Judgment passed by the NWFP Service Tribunal wherein a reference of another case titled Luqman Zareen and Others Vs: Secretary Education NWFP & others (2006 SCMR 1938) was given wherein the August supreme Court of Pakistan hold that "the petitioner could not be permitted to be punished for the faults and inaction of others. We are of the view that where a post was available against which a Civil servant qualified to be promoted to such a higher post; where he was put on the said higher post on officiating or acting charge basis only because the requisite exercise of allowing the regular promotion to the said post was being delayed by the competent

ATTESTED

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

D-10

Dated Peshawar the October, 04. 2012

NOTIFICATION

NO.SOE.II(ED) 2(192)2012-

Consequent upon the recommendations of the Provincial Selection Board, the competent authority is pleased to order the promotion of the following PMS BS-17 (A/C) / Tehsildars to the post of Provincial Management Service (BS-17), on regular basis with immediate effect:-

S.#	Name of Officer
1.	Syed Gul Jamal
2.	Mr. Naeem Akhtar
3.	Mr. Niaz Muhammad
4.	Mr. Abdul Mateen Qasuria
5.	Mr. Shaukat Hussain
6.	Mr. Gul Nawaz Ali
7.	Mr. Noserwan
8.	Qazi Atta-ur-Rehman
9.	Mr. Saleem Jan
10.	Mr. Irfan Ali
11.	Mr. Gohar Ali

2. On promotion the above officers will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act 1973, read with Rule-15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. Consequent upon above, the following postings/transfers are ordered with immediate effect:-

S.#	Name of Officer	From	To	Remarks
1.	Syed Gul Jamal	DDO(J), Peshawar	Retained on the same post and station	
2.	Mr. Naeem Akhtar	Asstt. to Commissioner (Dev), Malakand	Retained on the same post and station	
3.	Mr. Niaz Muhammad	DO(R), Swat	IIRDO, Swat against the vacant post.	Only for actualization of his promotion for one day whereafter he will continue as DO(R), Swat in his own pay & scale.

ATTESTED

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4.	Mr. Abdul Mateen Qasuria	DDO(J), D.I.Khan	Retained on the same post	
5.	Mr. Shaukat Hussain	DDO(J), Abbottabad	Retained on the same post	
6.	Mr. Gul Nawaz Ali	Settlement Officer, Mansehra	DDO(F), Mansehra against the vacant post	Only for actualization of his promotion for one day whereafter he will continue as Settlement Officer, Mansehra in his own pay & scale.
7.	Mr. Nowsherwan	Tehsildar, Palas Kohistan	DDO(R), Palas Kohistan against the vacant post.	
8.	Qazi Atta-ur-Rehman	DIDO(R), Haripur	Retained on the same post	
9.	Mr. Saleem Jan	Research Officer, FATA Sectt:	Retained on the same post.	
10.	Mr. Irfan Ali	APA, Mir Ali N.W. Agency	Retained on the same post	
11.	Mr. Gohar Ali	Tehsildar, Takhtbhai Mardan	DDO(J), Katlang Mardan against the vacant post.	

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN

A copy is forwarded to:-

1. Additional Chief Secretary, FATA.
2. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Divisional Commissioners in Khyber Pakhtunkhwa.
6. All District Coordination Officers in Khyber Pakhtunkhwa.
7. Secretary (Admn: & Coord), FATA Secretariat.
8. Accountant General, Khyber Pakhtunkhwa.
9. Accountant General (PR), Sub- Office, Peshawar.
10. All District Accounts Officers in Khyber Pakhtunkhwa.
11. General Manager, SNCPL, Peshawar.
12. Director (Land), NFIA, Khyber Pakhtunkhwa Region, Peshawar.
13. SO(Secret)/SO(Admn)/ EO/Librarian, F&A Department.
14. PS to Chief Secretary, Khyber Pakhtunkhwa.
15. PS to Secretary Establishment.
16. PS to Special Secretary (Estt), Establishment Department.
17. PAs to AS(E)/DS(E) Estab: Deptt.
18. Officers concerned.
19. Office order file.
20. Personal file of the officers concerned.

najam
(NAJIM-US-SAHAR)
SECTION OFFICER(E-II)

HUSAN AHRIQI

0072511A

E-11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1398/2010.

Date of Institution. 30.7.2010
Date of Decision 11.1.2012

Fazal Hussain, PMS Officer (BPS-17)
Posted as ACO, Peshawar. (APPELLANT)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Secretary, Establishment Department Khyber Pakhtunkhwa, Peshawar.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar. (RESPONDENTS)

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST NOTIFICATION NO.SOE.II(ED)2(192) 2009 DATED 25.3.2010 WHEREBY APPELLANT IS APPOINTED/ PROMOTED AS PMS OFFICER (BPS-17) ON ACTING CHARGE BASIS WITH IMMEDIATE EFFECT.

MR. BILAL AHMAD KAKAIZAI, &
MR. MUHAMMAD ASIF YOUSAFZAI,
Advocates For appellant.

MR. TAHIR IQBAL,
Addl. Government Pleader For respondents.

MR. NOOR ALI KHAN MEMBER
MR. SULTAN MAHMOOD KHATTAK MEMBER

ATTESTED
13/1

JUDGMENT

NOOR ALI KHAN, MEMBER. This appeal has been filed by Fazal Hussain, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against notification No.SOE.II(ED)2(192) 2009 dated 25.3.2010, whereby appellant has been appointed/promoted as PMS Officer (BPS-17) on Acting Charge basis with immediate effect. It has been prayed that on acceptance of the appeal, the impugned notification dated

25.3.2010 be modified to the extent that appellant be appointed/promoted as PMS Officer (BPS-17) on regular basis w.e.f. 7.11.2008 or 3.3.2009 when his batch mates were promoted.

2. Brief facts of the case as averred in the memo of appeal are that the appellant was promoted as Tehsildar (BPS-16) on regular basis vide notification dated 6.9.2008 along with others. Vide notification dated 3.3.2009, who are batch mates of the appellant were promoted as PMS Officer (BPS-17) on regular basis but appellant due to unknown reasons was deferred. On 25.3.2010, vide the impugned notification, although appellant on the recommendations of Provincial Selection Board has been promoted from Tehsildar to PMS Officer (BPS-17) but on acting charge basis and that too with immediate effect. The appellant is holding the post of ACO, Peshawar since long whereas he was posted as Deputy District Officer (Judicial) Nowshera vide notification dated 2.6.2009. On 3.4.2010, appellant submitted his departmental appeal/representation for his regular promotion w.e.f. 7.11.2008 or atleast from 3.3.2009 but no reply to the said representation has been received within the statutory period of 90 days, hence the present appeal.

3. After admission of the appeal, notices were issued to the respondents for submission of written reply. Respondents have filed their joint written reply and contested the appeal. Arguments heard and record perused.

4. The learned counsel for the appellant argued that according to Rule 9 of the Khyber Pakhtunkhwa Civil Servants Act (Appointment, Promotion and Transfer) Rules, 1989; acting charge appointment can only be made where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service. The learned counsel for the appellant further argued that the appellant was promoted as PMS Officer (BPS-17) on acting charge basis with immediate effect vide order dated 25.3.2010, despite the fact that there were clear vacancies of PMS Officer (BPS-17) lying vacant in the department in promotion quota. The appellant along with others should have been considered for regular promotion against the said posts from the date when clear vacancies were available for them. He stated that other batch mates of the appellant were promoted w.e.f. 3.3.2009 and 7.11.2008, on regular basis, therefore, the appellant has also the right to be considered for promotion w.e.f. the date when the post was lying vacant and the appellant was holding the same on acting charge basis. In December, 2009, two PSB meetings were held but the appellant had not been considered for promotion without any plausible reasons despite the fact that he was eligible for promotion, so he has been

ATTESTED

discriminated. Articles 25 and 27 of the Constitution of Islamic Republic of Pakistan that all citizens are equal before law and are entitled to equal protection of law. No citizen otherwise qualified for appointment in the service of Pakistan/province shall be discriminated whatsoever. He also stated that as per Rule 9(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 if a person is otherwise eligible for further promotion but his length of service is short, then he can be promoted/appointed on acting charge basis but in the appellant's case, his seniors have been given acting charge for the reason that they have not passed departmental examination and not completed their PERs, which is wrong and this wrong action/decision cannot be made a reason for not promoting those juniors who were eligible for regular promotion in all respect. Even sub-rule (2) of Rule 9 of the aforementioned rules has now been deleted. He further stated that during pendency of the appeal, the appellant has been promoted as PMS BPS-17 on regular basis with immediate effect vide notification dated 24.12.2011 instead of ante-dation of his promotion w.e.f the date when a vacancy was available for him as per judgments of the august Supreme Court of Pakistan in reported in 1997-SCMR-515, and 2010-SCMR-1466. He requested that the appeal may be accepted as prayed for.

5. The learned AGP, on the other hand argued that the appeal is bad for non-joinder and mis-joinder of necessary parties. In case, the appeal allowed some officers will be effected who have not been impleaded as private respondents. He further argued that there were some vacant posts of PMS (BPS-17), against promotion quota and Tehsildars, senior to the appellant were considered and promoted on regular basis w.e.f. 3.3.2009. The appellant being junior had not been considered. Even the appellant had not challenged order dated 3.3.2009 in time and the present appeal is time-barred. He stated that it is true that vacant posts of PMS (BPS-17) were available in the department but meant for direct recruits. He maintained that vide notification dated 25.3.2010, the appellant was not promoted as PMS (BPS-17) but appointed on acting charge basis as per provision of Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Appointments and promotions on acting charge basis are always made with immediate effect and under Rule 9 (6) confer no vested right for regular promotion. Moreover, claim of the appellant is not clear and has not specified the date to be considered for promotion as PMS (BPS-17) on regular basis.

ATTESTED

5. The Tribunal observes that the appellant was eligible for promotion as PMS (BPS-17) on regular basis w.e.f. 3.3.2009 but he was not considered. On 25.3.2010, on the recommendations of PSB, he was promoted as PMS (BPS-17) on acting charge basis. Vide notification dated 24.12.2011, he has been promoted on regular basis with immediate effect.

In the minutes of PSB meeting held on 29.12.2009, it has been clearly stated that the appellant was eligible for promotion on regular basis and 11 posts were available, in which 10 candidates were promoted as PMS Officer on regular basis. Due to deficiencies of service record, some candidates were not promoted and the appellant was 11th but was promoted on acting charge basis without any plausible reason. The Tribunal agrees with the arguments put forth by the learned counsel for the appellant.

6. In view of the above, the appeal is accepted, and the respondents are directed to ante-date promotion of the appellant as PMS (BPS-17) with effect from 25.3.2010, with all back/consequential benefits.

7. This order will also dispose off connected service appeals No. 1400/2010, Hidayatullah Khan, No. 1401/2010, Muhammad Nasir Khan, No. 1403/2010, Syed Kazim Hussain Shah, in the same manner.

8. So far as the appellant in Service Appeal No. 1404/2010, namely Habibullah Arif is concerned, his services have been regularized on 21.12.2011 but his appeal cannot be entertained for ante-dated promotion 25.3.2010 for the reason that only 11 posts were available and he comes at S.No.12 in eligible candidates in the minutes of PSB meeting held on 29.12.2009.

9. Since services of the appellants in Service Appeals No. 1372/2010, Abdul Mateen Qasuria, No. 1399/2010, Naeem Akhtar, and 1402/2010, Niaz Muhammad, have not been regularized so far, the respondents are directed to consider them for regular promotion as and when vacancies become available for them.

10. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
11.1.2012.

(SULTAN MAHMOOD KHATTAK)
MEMBER

(NOOR ALI KHAN)
MEMBER

ATTESTED

To

The Honorable Chief Secretary,
Khyber Pakhtunkhwa Peshawar.

**SUBJECT: DEPARTMENTAL APPEAL FOR THE GRANT OF ANTI
DATED PROMOTION TO PMS OFFICER (BPS-17)
FROM THE DATE WHEN APPELLANT WAS
PROMOTED ON ACTING CHARGE BASIS i.e.
25.3.2010.**

Respectfully Sheweth:

- 1- That appellant was promoted as Tehsildar (BPS-16) on regular basis vide Notification dated 06-09-2008 along with others.
- 2- That although vide dated 05-03-2010 the appellant was promoted from the post of Tehsildar (BPS-16) to Provincial Management Services Officer (BPS-17) on the recommendation of provincial selection Board but on acting charge basis and that too with immediate effect.
- 3- That on 20-07-2012 appellant submitted representation for his regular promotion w.e.f 25-03-2010, (date of promotion to the present post) but no reply to the said representation has been received.
- 4- That on 04-10-2012 vide the impugned Notification issued by your good self being the Chief Secretary Khyber Pakhtunkhwa, my services were regularized as PMS Officer (BPS-17) with immediate effect instead of retrospective effect i.e. 25-03-2010 when I was promoted on acting charge basis.
- 5- That recently my other colleague namely Fazal Hussain has challenged the Notification dated 25.3.2010 regarding acting charge promotion of PMS Officer BPS-17 before the honorable service Tribunal Peshawar. That the said appeal was allowed in favor of appellant colleague vide judgment dated 11.1.2012 and was allowed BPS-17 from the date when he was promoted on acting charge basis.
- 6- That under the principle of consistency reported in 2009 SCMR page No.1 appellant also prayed for the same relief which were given to his colleagues mentioned above.

ATTESTED



It is therefore humbly prayed that on review/representation the appellant may be allowed/granted promotion to PMS Officer (BPS-17) when appellant was promoted on acting charge 25.3.2010. Any other remedy which your good self deems may also be awarded in favor of the appellant.

Dated: 15-4-2013


APPELLANT

SHOUKAT HUSSAIN, PMS OFFICER (BPS-17),
POSTED AS ADDITIONAL ASSISTANT COMMISSIONER,
REVENUE ABBOTTABAD

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1194/2013

Mr. Shaukat Hussain, PMS Officer (BS-17).....Appellant

VERSUS

Senior Member Board of Revenue and othersRespondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 3 ARE AS UNDER:-

PRELIMINARY OBJECTIONS

1. That appellant has got no cause of action.
2. That appeal is bad due to mis-joinder of unnecessary/non-joinder of necessary parties.
3. That appellant is estopped by his own conduct.
4. That appellant has not come to the Tribunal with clean hands.
5. That appeal is time barred.
6. That this Hon'ble Tribunal has got no jurisdiction to entertain the appeal.

RESPECTFULLY SHEWETH.


ON FACTS.

1. Correct.
2. Pertains to record of the office of Establishment Department.
3. Pertains to respondent No.2.
4. Pertains to respondent No.2.
5. Pertains to respondent No.2. However acting charge basis creates no right of promotion.
6. Pertains to respondent No.2.
7. Pertains to respondent No.2.

ON GROUNDS

- A. Incorrect. The appellant has been treated according to law.
- B. Incorrect. The respondent department has not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C. Incorrect. According to promotion policy of 1996 any kind of promotion shall take with immediate effect and not from retrospective effect.
- D. Incorrect as in "C" above.
- E. Incorrect. No discrimination has been done with the appellant.
- F. The respondent will also seek permission to advance additional grounds during arguments.

It is therefore humbly requested that appeal may please be dismissed with costs .


Senior Member
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1194/2013

Mr. Shaukat Hussain, PMS Officer (BS-17).....Appellant

VERSUS

Senior Member Board of Revenue and othersRespondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 3 ARE AS UNDER:-

PRELIMINARY OBJECTIONS

1. That appellant has got no cause of action.
2. That appeal is bad due to mis-joinder of unnecessary/non-joinder of necessary parties.
3. That appellant is estopped by his own conduct.
4. That appellant has not come to the Tribunal with clean hands.
5. That appeal is time barred.
6. That this Hon'ble Tribunal has got no jurisdiction to entertain the appeal.

RESPECTFULLY SHEWETH.


ON FACTS.

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- 2 Pertains to record of the office of Establishment Department.
- 3 Pertains to respondent No.2.
- 4 Pertains to respondent No.2.
- 5 Pertains to respondent No.2. However acting charge basis creates no right of promotion.
- 6 Pertains to respondent No.2.
- 7 Pertains to respondent No.2.

ON GROUNDS

- A. Incorrect. The appellant has been treated according to law.
- B. Incorrect. The respondent department has not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C. Incorrect. According to promotion policy of 1996 any kind of promotion shall take with immediate effect and not from retrospective effect.
- D. Incorrect as in "C" above.
- E. Incorrect. No discrimination has been done with the appellant,
- F. The respondent will also seek permission to advance additional grounds during arguments.

It is therefore humbly requested that appeal may please be dismissed with costs.


Senior Member
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1194/ 2013

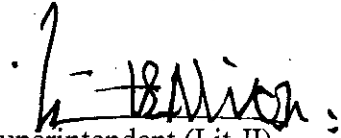
Mr. Shaukat Hussain, PMS Officer (BPS-17) Appellant

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa & Others Respondents

AFFIDAVIT

I Mukhtiar Ali, Superintendent (Lit-II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me and nothing has been deliberately concealed from this Hon'able Tribunal.


Superintendent (Lit-II)
Board of Revenue

Receipt


I have received Rs. 1000/- of fine
in appeal of Mr. Shaukat Hussain
vs Revenue Department in appeal
1194/2013 today dated 1/3/2016.

Dated: 1/3/2016.

Appellant

Through: 

Noor Mohammad Khattak
Advocate


~~01.03.16.~~

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____ /2013

SHAUKAT HUSSAIN

VS

GOVT: OF KPK

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

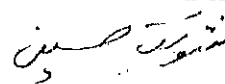
- 1- That the appeal of appellant is pending adjudication before this august Tribunal in which 25.2.2014 date is fixed for hearing.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that causes should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT



SHAUKAT HUSSAIN

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____ /2013

SHAUKAT HUSSAIN

VS

GOVT: OF KPK

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appeal of appellant is pending adjudication before this august Tribunal in which 25.2.2014 date is fixed for hearing.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that causes should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

Shaukat Hussain

SHAUKAT HUSSAIN

THROUGH:

NOOR MOHAMMAD KHATTAK

E

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED PAGE NO.1

IN APPEAL NO. _____/2013

Mr. Shaukat Hussain, PMS Officer (BPS-17),
Posted as Additional Assistant Commissioner Revenue,
District Abbottabad**Appellant**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department Khyber Pakhtunkhwa Peshawar
- 3- The Senior Member board of Revenue Khyber Pakhtunkhwa Peshawar..... **Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE NOTIFICATION DATED 4.10.2012 WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF PMS OFFICER (BPS-17) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT I.E. 25.3.2010 WHEN THE APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 4-10-2012 may very kindly be modify to the extent that the appellant be granted/allowing regular promotion to the post of PMS Officer (BPS-17) from the date when appellant was promoted on acting charge basis i.e 25-3-2010 with all consequential benefits and seniority. Any other remedy which this august tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was promoted as Tehsildar (BPS-16) on the recommendation of Departmental selection committee on regular basis vide Notification dated 06-09-2008 along with others. Copy of the promotion order is attached as annexure **A.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED PAGE NO.1

IN APPEAL NO. _____/2013

Mr. Shaukat Hussain, PMS Officer (BPS-17),
Postèd as Additional Assistant Commissioner Revenue,
District Abbottabad**Appellant**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment, Department Khyber Pakhtunkhwa Peshawar
- 3- The Senior Member board of Revenue Khyber Pakhtunkhwa Peshawar..... **Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE NOTIFICATION DATED 4.10.2012 WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF PMS OFFICER (BPS-17) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT I.E. 25.3.2010 WHEN THE APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 4-10-2012 may very kindly be modify to the extent that the appellant be granted/allowing regular promotion to the post of PMS Officer (BPS-17) from the date when appellant was promoted on acting charge basis i.e 25-3-2010 with all consequential benefits and seniority. Any other remedy which this august tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was promoted as Tehsildar (BPS-16) on the recommendation of Departmental selection committee on regular basis vide Notification dated 06-09-2008 along with others. Copy of the promotion order is attached as annexure **A.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED PAGE NO.1

IN APPEAL NO. _____/2013

Mr. Shaukat Hussain, PMS Officer (BPS-17),
Posted as Additional Assistant Commissioner Revenue,
District Abbottabad**Appellant**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department Khyber Pakhtunkhwa Peshawar
- 3- The Senior Member board of Revenue Khyber Pakhtunkhwa Peshawar..... **Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE NOTIFICATION DATED 4.10.2012 WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF PMS OFFICER (BPS-17) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT I.E. 25.3.2010 WHEN THE APPELLANT WAS PROMOTED ON ACTING CHARGE BASIS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 4-10-2012 may very kindly be modify to the extent that the appellant be granted/allowing regular promotion to the post of PMS Officer (BPS-17) from the date when appellant was promoted on acting charge basis i.e 25-3-2010 with all consequential benefits and seniority. Any other remedy which this august tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was promoted as Tehsildar (BPS-16) on the recommendation of Departmental selection committee on regular basis vide Notification dated 06-09-2008 along with others. Copy of the promotion order is attached as annexure

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 1194/2013

Shaukat Hussain, PMS BS-17, Finance Officer, Abbottabad. (Appellant)

Versus

1. The Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar. (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2 & 3.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
2. That the appeal is not maintainable.
3. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
4. That the appeal is barred by law/time.
5. That this Honourable Tribunal lacks jurisdiction in the matter.
6. That the appellant has suppressed material facts from the Tribunal.
7. That the appellant has not come to the Tribunal with clean hands.
8. That the appellant is estopped to file the instant appeal due to his own conduct.
9. That the appeal is bad for mis-joinder/non-joinder of necessary parties.
10. That the instant appeal is hit by Section 4 (b) (i) of the Khyber Pakhtunkhwa, Services Tribunal Act, 1974.
11. That the appeal is hit by laches.

ON FACTS:

1. Correct.
2. Correct to the extent that the appellant was appointed as PMS BS-17 on acting charge basis against the post falling in initial recruitment under rule-9(3) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
3. The representation of the officer being devoid of merit was regretted / filed as under rule-9(6) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.
4. Correct. Upon availability of vacancy in the share falling in promotion quota, the appellant was promoted to PMS BS-17 vide notification dated 04.10.2012. Moreover, as per rules, promotion is always notified with immediate effect.

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1194/2013

Shoukat Hussain

VS

SMBR & others

REJOINDER ON BEHALF OF THE APPELLANT IN
RESPONSE TO REPLY SUBMITTED BY THE
RESPONDENTS

PRELIMINARY OBJECTIONS:

1 TO 7:

All the preliminary objections raised by the respondents are incorrect, baseless and not accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the case.

ON FACTS:

- 1- Admitted correct hence need no comments.
- 2- Admitted correct hence need no comments.
- 3- Incorrect and not replied accordingly. That appellant being a senior most employee of the respondent Department was promoted to the post of PMS Officer on acting charge basis vide order dated 25.3.2010 though the appellant was entitled for promotion to that above mentioned post on regular basis but the respondents without assigning any reason promoted the appellant on acting charge basis. That later on through Notification dated 4.10.2012 the appellant was promoted to the post of PMS officer (BPS-17) on regular basis but with immediate effect rather than with retrospective effect i.e. w.e.f. 25.3.2010 when the appellant was promoted on acting charge basis.
- 4- Correct to the extent of the promotion of the appellant on regular basis while the rest of para is incorrect. That appellant is fully entitled for ante dated promotion to the post of PMS Officer (BPS-17) on regular with retrospective effect i.e. w.e.f. 25.3.2010 while the respondents regularized the appellant with immediate effect vide dated 4.10.2010.

- 5- Incorrect and not replied accordingly. That other colleague of the appellant namely Fazal Hussain has challenged the Notification dated 25.3.2010 regarding acting charge promotion which was accepted in favor of appellant's colleague vide dated 11.1.2012 and in light of the said judgment Fazal Hussain was promoted on regular basis to the post PMS Officer from the date of acting charge appointment/ promotion.
- 6- Incorrect and not replied accordingly. That other colleague of the appellant has regularly been promoted to the post PMS Officer (BPS-17) retrospectively but in the case of appellant the respondents acted in indifferent manner by promoting the appellant with immediate effect.
- 7- Incorrect and not replied accordingly hence denied.

GROUND:
(A TO F):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That the appellant has not been treated in accordance with law and rules and the respondents acted an arbitrary and malafide manner by not regularly promoting the appellant to the post of PMS Officer (BPS-17) w.e.f 25.3.2010. Moreover the appellant being a senior most employee eligible for the post of PMS Officer from retrospective effect and also has a right to treat like his other colleagues according to the principle of consistency reported in 2009 SCMR page No.1.

It is therefore most humbly prayed that on acceptance of this rejoinder of the appellant may be accepted as prayed.


APPELLANT

Shoukat Hussain

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1194/2013

Shoukat Hussain

VS

SMBR & others

REJOINDER ON BEHALF OF THE APPELLANT IN
RESPONSE TO REPLY SUBMITTED BY THE
RESPONDENTS

PRELIMINARY OBJECTIONS:

1 TO 7:

All the preliminary objections raised by the respondents are incorrect, baseless and not accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the case.

ON FACTS:

- 1- Admitted correct hence need no comments.
- 2- Admitted correct hence need no comments.
- 3- Incorrect and not replied accordingly. That appellant being a senior most employee of the respondent Department was promoted to the post of PMS Officer on acting charge basis vide order dated 25.3.2010 though the appellant was entitled for promotion to that above mentioned post on regular basis but the respondents without assigning any reason promoted the appellant on acting charge basis. That later on through Notification dated 4.10.2012 the appellant was promoted to the post of PMS officer (BPS-17) on regular basis but with immediate effect rather than with retrospective effect i.e. w.e.f. 25.3.2010 when the appellant was promoted on acting charge basis.
- 4- Correct to the extent of the promotion of the appellant on regular basis while the rest of para is incorrect. That appellant is fully entitled for ante dated promotion to the post of PMS Officer (BPS-17) on regular with retrospective effect i.e. w.e.f. 25.3.2010 while the respondents regularized the appellant with immediate effect vide dated 4.10.2010.

- 5- Incorrect and not replied accordingly. That other colleague of the appellant namely Fazal Hussain has challenged the Notification dated 25.3.2010 regarding acting charge promotion which was accepted in favor of appellant's colleague vide dated 11.1.2012 and in light of the said judgment Fazal Hussain was promoted on regular basis to the post PMS Officer from the date of acting charge appointment/ promotion.
- 6- Incorrect and not replied accordingly. That other colleague of the appellant has regularly been promoted to the post PMS Officer (BPS-17) retrospectively but in the case of appellant the respondents acted in indifferent manner by promoting the appellant with immediate effect.
- 7- Incorrect and not replied accordingly hence denied.

GROUND:
(A TO F):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That the appellant has not been treated in accordance with law and rules and the respondents acted in an arbitrary and mala fide manner by not regularly promoting the appellant to the post of PMS Officer (BPS-17) w.e.f 25.3.2010. Moreover the appellant being a senior most employee eligible for the post of PMS Officer from retrospective effect and also has a right to be treated like his other colleagues according to the principle of consistency reported in 2009 SCMR page No.1.

It is therefore most humbly prayed that on acceptance of this rejoinder of the appellant may be accepted as prayed.


APPELLANT

Shoukat Hussain


THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1194/2013

Shoukat Hussain

VS

SMBR & others

REJOINDER ON BEHALF OF THE APPELLANT IN
RESPONSE TO REPLY SUBMITTED BY THE
RESPONDENTS

PRELIMINARY OBJECTIONS:

1 TO 7:

All the preliminary objections raised by the respondents are incorrect, baseless and not accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the case.

ON FACTS:

- 1- Admitted correct hence need no comments.
- 2- Admitted correct hence need no comments.
- 3- Incorrect and not replied accordingly. That appellant being a senior most employee of the respondent Department was promoted to the post of PMS Officer on acting charge basis vide order dated 25.3.2010 though the appellant was entitled for promotion to that above mentioned post on regular basis but the respondents without assigning any reason promoted the appellant on acting charge basis. That later on through Notification dated 4.10.2012 the appellant was promoted to the post of PMS officer (BPS-17) on regular basis but with immediate effect rather than with retrospective effect i.e. w.e.f. 25.3.2010 when the appellant was promoted on acting charge basis.
- 4- Correct to the extent of the promotion of the appellant on regular basis while the rest of para is incorrect. That appellant is fully entitled for ante dated promotion to the post of PMS Officer (BPS-17) on regular with retrospective effect i.e. w.e.f. 25.3.2010 while the respondents regularized the appellant with immediate effect vide dated 4.10.2010.


- 5- Incorrect and not replied accordingly. That other colleague of the appellant namely Fazal Hussain has challenged the Notification dated 25.3.2010 regarding acting charge promotion which was accepted in favor of appellant's colleague vide dated 11.1.2012 and in light of the said judgment Fazal Hussain was promoted on regular basis to the post PMS Officer from the date of acting charge appointment/ promotion.
- 6- Incorrect and not replied accordingly. That other colleague of the appellant has regularly been promoted to the post PMS Officer (BPS-17) retrospectively but in the case of appellant the respondents acted in indifferent manner by promoting the appellant with immediate effect.
- 7- Incorrect and not replied accordingly hence denied.

**GROUNDS:
(A TO F):**

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That the appellant has not been treated in accordance with law and rules and the respondents acted an arbitrary and malafide manner by not regularly promoting the appellant to the post of PMS Officer (BPS-17) w.e.f 25.3.2010. Moreover the appellant being a senior most employee eligible for the post of PMS Officer from retrospective effect and also has a right to treat like his other colleagues according to the principle of consistency reported in 2009 SCMR page No.1.

It is therefore most humbly prayed that on acceptance of this rejoinder of the appellant may be accepted as prayed.


APPELLANT

Shoukat Hussain


THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

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IMMEDIATE

GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT

NO.SO(PSB)ED/1-1/2009/P-246
Dated Peshawar, the 01.01.2010

F/A

To

The Section Officer (E.II)
Government of NWFP,
Establishment Department

SUBJECT: - **MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD HELD ON 29.12.2009**

PROMOTION/ACTING CHARGE APPOINTMENT OF TEHSILDAR TO PMS BS-17

Kindly refer to your letter No.SO(E-II)(ED)2(192)2008 dated 26.12.2009 on the subject.

2. Enclosed please find herewith an extract of Item No.2 of the minutes/recommendation of the meeting of Provincial Selection Board held on **29.12.2009** for further necessary action/obtaining approval of the competent authority.

3. Working papers alongwith other connected documents received under your above quoted letter are returned herewith in original.

HARON 01/01/2010
(HAROON-UR-RASHID)
SECTION OFFICER (PSB)

Encl: As above:

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ITEM NO.2

ESTABLISHMENT DEPARTMENT
(Meeting of PSB held on 29.12.2009)

SUBJECT: - FILLING OF VACANT POSTS OF PMS BS-17 FALLING TO THE PROMOTION SHARE OF TEHSILDARS BS-16

Secretary Establishment apprised the Board that eleven (11) posts of PMS BS-17 falling to the quota of promotion of Tehsildars are lying vacant. Besides, twenty eight (28) temporary posts of DDO (R)/DDO (J) in the field meant for initial recruitment are also vacant. Filling of these posts will take considerable time. As per Section 9 (3) of NWFP Civil Servants (APT) Rules, 1989, in the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

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

"Twenty percent from amongst Tehsildars who are graduate, on the basis of seniority cum fitness having three years experience as Tehsildars/Naib Tehsildars who have passed the prescribed examination".

3. The Board was informed that Tehsildars mentioned at S.No.1,3,5 to 8 and 10 to 12 included in the panel have either not passed the departmental examination or their PERs were incomplete have been recommended by the PSB in its meeting held on 12.11.2009 for appointment to the post of PMS BS-17 on acting charge basis due to exigency of service subject to the condition that they shall appear in the departmental examination to be conducted by the Establishment Department, Govt. of NWFP during December 2009 and completion of missing PERs on top priority basis. It was also directed that the cases of officers, who were not interested in appearing in the departmental examination and completion of PERs would be referred to the Review Committee for disciplinary action against them/compulsory retirement. Most of the Tehsildars appeared in the departmental examination conducted by the Establishment Department during December 2009. The Secretary Board of Revenue certified that as per PMS Rules, 2007 passing of departmental examination in higher standard was not mandatory. He further informed that passing of Treasury paper was also not required. The officers at S.No.2 and 4 have already been appointed to BS-17 on acting charge basis on 01.03. 2000. However the officer at S.No.9 (Mr. Iftikhar Ahmed) was deferred due to pending enquiry.

4. The Establishment Department/Board of Revenue intimated the Board that Tehsildars at S.No.2 and 4 are eligible for promotion on regular basis but the officer at S.No.1 has been appointed to BS-17 on acting charge basis, therefore in view of

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Section 9 (2) of APT Rules 1989, they and many other officers junior to them who are otherwise eligible cannot be considered for promotion on regular basis but may be appointed on acting charge basis.

5. The Board was therefore requested that due to exigency of service the officers at S.No.9 and 13 to 39 may be considered for appointment to BS-17 on acting charge basis. In compliance with orders of the Chief Secretary, NWFP, the Board of Revenue making strenuous efforts to arrange missing PERs of the officers who blocked the way of eligible officers for promotion on regular basis. According to Secretary Board of Revenue/SO (Secret), most of Tehsildars have passed the departmental examination.

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

S.NO	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1	Mr. Muhammad Saddiq Anwar	<p>His date of birth is 29.06.1950. He joined government service on 09.09.1975. He was promoted as Tehsildar BS-16 on 26.03.1980. The Board in its meeting held on 20.10.2008 and 12.2.2009 recommended his supersession for regular promotion for not having passed the prescribed departmental examination. Position is still the same. His PERs for the year 1992 (p), 1996, 2003 to 2008 are also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition that he would appear in the departmental examination to be conducted during December 2009 by the Establishment Department otherwise his case will be referred to Review Committee for compulsory retirement. It was also desired to complete his missing PERs immediately. The Board was informed that he had appeared in the recently held departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision about his missing PERs.</p>
2	Mr. Gul Jamal	<p>His date of birth is 5.4.1954. He joined government service on 14.6.1979. He was promoted as Tehsildar BS-16 on 28.12.1988. He has already been appointed to BS-17 on acting charge basis with effect from 01.03.2009.</p>
	Tehsildar Manzoor	<p>His date of birth is 31.10.1950. He joined government service on 01.06.1971. He was appointed as Tehsildar BS-16 on 12.08.1991. The Board in its meeting held on 9.1.2008 and 8.5.2008 recommended his supersession due to not having passed the departmental examination. Subsequently he passed the prescribed departmental examination. The Board in its meeting held on 20.10.2008 and 12.2.2009 recommended to defer his promotion to PMS BS-17 due to non-availability of his PERs for the year 1998, 1999, 2001 to 2007. Position is still the same. His PER for the year 2008 is also not available.</p> <p>The Board in its meeting held on 12.11.2009 had</p>

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		<p>recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition about completion of his missing PERs within a period of six months otherwise his case will be referred to Review Committee for compulsory retirement.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>
4	Mr. Abdul Shakoor Daur	<p>His date of birth is 15.02.1956. He joined government service on 01.07.1980. He was promoted as Tehsildar BS-16 on 02.12.1992. He has passed the prescribed departmental examination. He has already appointed to BS-17 on acting charge basis with effect from 01.03.2000.</p>
5	Mr. Nazir Ahmad	<p>His date of birth is 01.03.1956. He joined government service on 01.07.1980. He was promoted as Tehsildar BS-16 on 02.12.1992. He has passed the prescribed departmental examination. No enquiry is pending against him and no punishment was awarded to him during the last five years. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.2.2009 recommended to defer his promotion due to non-availability of his PERs for the years 1994, 1995, 1996, 1999, 2000, 2001, 2002 (p), 2004, 2005, 2006 and 2007. Position is still the same. His PER for the year 2008 is also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition about completion of his missing PERs within a period of six months otherwise his case will be referred to Review Committee for compulsory retirement.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>
6	Mr. Muhammad Nihar	<p>His date of birth is 28.2.1952. He joined government service on 1.4.1976. He was promoted as Tehsildar BS-16 on 4.12.2001. The Board in its meetings held on 09.01.2008, 08.05.2008, 20.10.2008 and 12.2.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition that he would appear in the departmental examination to be conducted during December 2009 by the Establishment Department otherwise his case will be referred to Review Committee for compulsory retirement. The Board was informed that he had appeared in the recently held departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>

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7	Mr. Faridoon Khan	<p>His date of birth is 11.8.1956. He joined government service on 3.6.1977. He was appointed as Tehsildar BS-16 on 7.2.1996. The Board in its meetings held on 09.01.2008, 08.05.2008 recommended his supersession due to not having passed the prescribed departmental examination. Subsequently he passed the departmental examination. The Board in its meetings held on 20.10.2008 and 12.2.2009 recommended to defer his promotion due to non-availability of his PERs for the year 1996 to 1998, 2000,2001 and 2005 to 2007. Position is still the same. His PER for the year 2008 is also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition about completion of his missing PERs within a period of six months otherwise his case will be referred to Review Committee for compulsory retirement.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>
8	Mr. Shaukat Ali	<p>His date of birth is 1.12.1951. He joined government service on 20.2.1971. He was appointed as Tehsildar BS-16 on 30.12.1999. The Board in its meetings held on 08.05.2008 20.10.2008 and 12.2.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. Position is still the same. His PERs for the year 1997 and 2000 to 2008 are also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition that he would appear in the departmental examination to be conducted during December 2009 by the Establishment Department and about completion of his missing PERs otherwise his case will be referred to Review Committee for compulsory retirement. The Board was informed that he had appeared in the recently held departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>
9	Mr. Iftikhar Ahmed	<p>His date of birth is 04.06.1961. He joined government service on 19.07.1991. He was appointed as Tehsildar BS-16 on 18.07.2007. The Board in its meeting held on 12.11.2009 recommended to defer his appointment to BS-17 on acting charge basis due to a departmental enquiry pending against him. The Board was informed that he has been exonerated by the competent authority. According to Secretary Board of Revenue/SO(Secret), he had passed the departmental examination</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to earning of satisfactory PER for the year 2008. He will be on probation for a period of one year.</p>

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10	Mr. Nisar Hussain	<p>His date of birth is 15.3.1958. He joined government service on 22.3.1976. He was appointed as Tehsildar BS-16 w.e.f 20.7.2000 on acting charge basis and regularized on 20.3.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.2.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PERs for the year 2000, 2001(p),2002,2003 & 2008 are also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition that he would appear in the departmental examination to be conducted during December 2009 by the Establishment Department and about completion of his missing PERs otherwise his case will be referred to Review Committee for compulsory retirement. The Board was informed that he had appeared in the recently held departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>
11	Mr. Ali Muhammad	<p>His date of birth is 27.7.1953. He joined government service on 19.12.1983. He was appointed as Tehsildar BS-16 w.e.f 20.7.2000 on acting charge basis and regularized on 20.3.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.2.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PERs for the year 2000,2001(p) and 2008 are also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition that he would appear in the departmental examination to be conducted during December 2009 by the Establishment Department and about completion of his missing PERs otherwise his case will be referred to Review Committee for compulsory retirement. The Board was informed that he had appeared in the recently held departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to take immediate necessary action on the earlier decision of the Board.</p>
12	Syed Gulfam Abbas Shah	<p>His date of birth is 19.3.1968. He joined government service on 1.1.1992. He was appointed as Tehsildar BS-16 on acting charge basis on 4.12.2001 and regularized on 6.9.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.2.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PER for the year 2008 is also not available.</p> <p>The Board in its meeting held on 12.11.2009 had recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to the condition that he would appear in the departmental examination to be conducted during December 2009 by the Establishment Department otherwise his case will be referred to Review</p>

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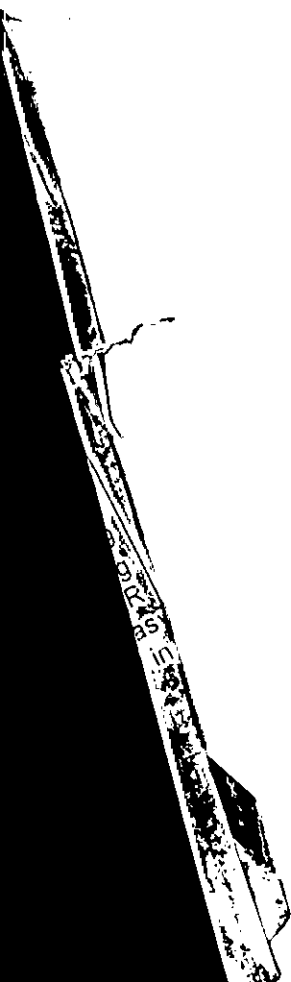
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		<p>Committee compulsory retirement.</p> <p>The Board directed Board of Revenue to take immediate necessary action on the earlier decision of the Board including completion of his PER for the year 2008.</p>
13	Mr. Mumtaz Ahmad	<p>His date of birth is 10.1.1956. He joined government service on 20.4.1976. He was promoted as Tehsildar BS-16 on 20.3.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. The Board in its meeting held on 08.05.2008 recommended his supercession due to not having passed the departmental examination. Subsequently he passed the departmental examination. The Board in its meetings held 20.10.2008 and 12.02.2009 recommended to defer his promotion due to non-availability of his PERs for the years 2005 to 2007. Now his service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
14	Syed Masood Shah	<p>His date of birth is 01.01.1963. He joined government service on 10.10.1986. He was promoted as Tehsildar BS-16 on 20.03.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.02.2009 recommended his supercession for promotion for not having passed the prescribed departmental examination. No enquiry is pending against him and no punishment was awarded to him during the last five years. The Board was informed that now he had passed the departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
15	Mr. Tariq Hassan	<p>His date of birth is 12.04.1958. He joined government service on 20.11.1986. He was appointed as Tehsildar BS-16 w.e.f 04.12.2001 on acting charge basis and regularized on 20.03.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.02.2009 recommended his supercession for promotion for not having passed the prescribed departmental examination. His PERs for the year 2003 and 2008 are not available. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority and earning satisfactory PERs for the year 2003 and 2008. He will be on probation for a period of one year.</p>
16	Mr. Navid Qadir	<p>His date of birth is 16.01.1967. He joined government service on 01.07.1995. He was appointed as Tehsildar BS-16 w.e.f 04.12.2001 on acting charge basis and regularized on</p>

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		<p>20.03.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. Secretary Board of Revenue/SO (Secret) informed the Board that he had passed the departmental examination. His PERs for the year 2003 to 2008 are not available. The Board was further informed that disciplinary proceedings are pending against him.</p> <p>The Board recommended to defer appointment to the post of PMS BS-17.</p>
17	Mr. Iqrar Ali Shah	<p>His date of birth is 05.01.1959. He joined government service on 1981. He was appointed as Tehsildar BS-16 w.e.f 04.12.2001 on acting charge basis and regularized on 20.03.2008. The Board in its meeting held on 20.10.2008 and 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. No enquiry is pending against him and no punishment was awarded to him during the last five years. The Board was informed that now he had passed the departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probationary period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
18	Mr. Muhammad Yaqoob Barki	<p>His date of birth is 02.02.1967. He joined government service on 01.07.1995. He was appointed as Tehsildar BS-16 w.e.f 09.03.2005 on acting charge basis and regularized on 20.03.2008. The Board in its meetings held on 08.05.2008, 20.10.2008 and 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PER for the year 2008 is not available. His service record upto 2007 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority and earning of satisfactory PER for the year 2008. He will be on probation for a period of one year.</p>
19	Mr. Muhammad Ikramullah	<p>His date of birth is 9.3.1965. He joined government service on 01.07.1995. He was appointed as Tehsildar BS-16 w.e.f 09.03.2005 on acting charge basis and regularized on 06.09.2008. The Board in its meeting held on 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PER for the year 2008 is also not available. The Board was informed by the Board of Revenue that he is not interested in passing of departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to refer his case to the Review Committee for disciplinary action/compulsory retirement.</p>
20	Mr. Muhammad Kashif Nadeem	<p>His date of birth is 11.9.1970. He joined government service on 1.7.1995. He was appointed as Tehsildar BS-16 w.e.f</p>

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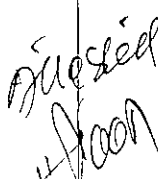
		<p>9.3.2005 on acting charge basis and regularized on 6.9.2008. The Board in its meeting held on 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His service record upto 2008 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
21	Mr. Bakhtiar Khan	<p>His date of birth is 12.3.1969. He joined government service on 20.08.1981. He was promoted as Tehsildar BS-16 on 06.09.2008. The Board in its meeting held on 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PER for the year 2008 is also not available. The Board was informed by the Board of Revenue that he is not interested in passing of departmental examination.</p> <p>The Board directed the Establishment Department/Board of Revenue to refer his case to the Review Committee for disciplinary action/compulsory retirement.</p>
22	Mr. Ghazi Nawaz	<p>His date of birth is 03.03.1967. He joined government service on 22.03.1985. He was promoted as Tehsildar BS-16 on acting charge basis on 18.3.2004 and regularized on 06.09.2008. The Board in its meeting held on 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His service record upto 2008 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
23	Mr. Kiramatullah	<p>His date of birth is 20.1.1961. He joined government service on 08.01.1981. He was promoted as Tehsildar BS-16 on acting charge basis on 9.3.2005 and regularized on 06.09.2008. The Board in its meeting held on 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His PER for the year 2008 is also not available. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority and earning of satisfactory PER for the year 2008. He will be on probation for a period of one year.</p>

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Section Officer (PSB)
Govt. of N.W.F.P.
Establishment Deptt.

24	Mr. Abdul Kabeer	<p>His date of birth is 25.4.1965. He joined government service on 29.04.1998. He was promoted as Tehsildar BS-16 on acting charge basis on 9.3.2005 and regularized on 06.09.2008. The Board in its meeting held on 12.02.2009 recommended his supersession for promotion for not having passed the prescribed departmental examination. His service record upto 2008 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
25	Mr. Muhammad Nasir Khan	<p>His date of birth is 20.03.1966. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
26	Mr. Hidayatullah Khan	<p>His date of birth is 15.04.1971. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year. He will actualize promotion in his own cadre.</p>
27	Syed Kazim Hussain Shah	<p>His date of birth is 20.03.1969. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year. He will actualize promotion in his own cadre.</p>
28	Mr. Fazal Hussain	<p>His date of birth is 18.2.1971. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He</p>

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		<p>has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
29	Mr.Muhammad Irshad	<p>His date of birth is 25.12.1968. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
30	Mr.Habibullah Arif	<p>His date of birth is 01.04.1967. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year. He will actualize promotion in his own cadre.</p>
31	Mr.Naeem Akhtar	<p>His date of birth is 11.06.1968. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
32	Mr.Niaz Muhammad	<p>His date of birth is 15.01.1970. He joined government service on 29.04.1998. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>


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33	Mr. Daftar Khan	<p>His date of birth is 12.09.1965. He joined government service on 09.04.1981. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. His PER for the year 2008 is not available. His service record upto 2007 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority and earning of satisfactory PER for the year 2008. He will be on probation for a period of one year.</p>
34	Mr. Abdul Mateen Qasuria	<p>His date of birth is 22.12.1966. He joined government service on 24.06.2000. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. His PER for the year 2008 is not available. His service record upto 2007 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority and earning of satisfactory PER for the year 2008. He will be on probation for a period of one year.</p>
35	Mr. Shaukat Hussain	<p>His date of birth is 15.02.1957. He joined government service on 07.11.1979. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has passed the prescribed departmental examination. His service record upto 2008 is generally good.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
36	Mr. Gul Nawaz Ali	<p>His date of birth is 24.04.1958. He joined government service on 07.11.1979. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. His service record upto 2008 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>
37	Mr. Nowsherwan	<p>His date of birth is 20.06.1960. He joined government service on 07.02.1979. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. His service record upto 2008 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p>

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		<p>acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. He has not passed the prescribed departmental examination. His PER for the year 2008 is also not available. His service record upto 2007 is generally good. The Board was informed that he had appeared in the recently held departmental examination conducted by the Establishment Department in December 2009. Result is awaited.</p> <p>The Board did not consider him for appointment to PMS BS-17.</p>
38	Mr. Qazi Attaur Rehman	<p>His date of birth is 20.04.1957. He joined government service on 11.08.1985. He was appointed as Tehsildar BS-16 on acting charge basis on 30.06.2006 and regularized on 06.09.2008. No enquiry is pending against him and no punishment was awarded to him during the last five years. His PER for the year 2008 is not available. His service record upto 2007 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority and earning of satisfactory PER for the year 2008. He will be on probation for a period of one year.</p>
39	Mr. Shad Muhammad	<p>His date of birth is 28.06.1951. He joined government service on 01.07.1972. He was promoted as Tehsildar BS-16 on 06.09.2008 on regular basis. No enquiry is pending against him and no punishment was awarded to him during the last five years. His service record upto 2008 is generally good. The Secretary Board of Revenue/SO(Secret) informed the Board that he had passed the departmental examination.</p> <p>The Board recommended the officer for appointment to the post of PMS BS-17 on acting charge basis subject to termination of his probation period in the lower grade by the competent authority. He will be on probation for a period of one year.</p>

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Establishment Deptt.

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GOVERNMENT OF N.W.F.P
ESTABLISHMENT DEPARTMENT
NO.SO (PSB) ED/1-1/2009/P-246

Dated Peshawar, the 19.12.2009

To

The Section Officer (E-II)
Government of NWFP,
Establishment Department.

SUBJECT: PROMOTION OF TEHSILDARS TO PMS BS-17

Reference your letter No.SOE.II(ED) 2(192)09, dated 19.12.2009.

2. Minutes of the meeting has been submitted to the Chief Secretary, NWFP which will be sent after its approval. However, the Board directed the Establishment Department to expedite amendments in the service rules regarding curtailment of length of service of Tehsildars for promotion to PMS BS-17, detail with regard to appearance of Tehsildars in the departmental examination being conducted by the Establishment Department touching the higher standard aspect, position regarding completion of missing PERs and implementation report of directions given to the Establishment Department/Board of Revenue for completion of missing PERs. It was further directed that the case be placed before the PSB in its next meeting which is now fixed on 29.12.2009 at 1100 hours. The Deputy Secretary (Estt.) and the Section Officer (E.II) have also attended the meeting and noted observations of the Board.

3. It is requested that further necessary action be taken at the earliest and seven sets of working paper alongwith information/details asked for by the Board be furnished to this Section immediately for further necessary action/placement the case before the PSB in its special meeting to be held on 29.12.2009.

(HAROON-UR-RASHID)
SECTION OFFICER (PSB)

Endst. Even No. & date

A copy is forwarded to the:-

1. PS to Special Secretary (Regulation) Establishment Department.
2. PA to Dy Secretary (Estt.) Establishment Department.
3. PA to Dy Secretary (R.II) Establishment Department.
4. The Section Officer (Secret), Establishment Department.

S.O.II

19.12.09

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SECTION OFFICER (PSB)

19/12/09

WORKING PAPER FOR PROVINCIAL SELECTION BOARDDepartment:- ESTABLISHMENT DEPARTMENT.Subject:- FILLING OF 11 VACANT POSTS OF PMS BS-17 FALLING TO THE PROMOTION SHARE OF TEHSILDARS BS-16 ON REGULAR BASIS AND 28 (TOTAL AVAILABLE PANEL OF TEHSILDARS IS 39) OUT OF 49 VACANT POSTS OF PMS BS-17(DDOR & DDOJ) FALLING TO THE INITIAL RECRUITMENT SHARE THROUGH PROMOTION OF TEHSILDARS BS-16 ON ACTING CHARGE BASIS.

1.		Nomenclature of the post / Basic Scale.	Provincial Management Service BS-17		
2.		Service/Group/Cadre.	PMS		
3.		Sanctioned strength of the cadre.	658 (548 schedule posts + 20% DTL) subtracting 40 posts in the share of APUG, the number of cadre post comes to 618.		
			Direct	Promotion	Transfer
4.	(i)	Percentage of share.	50% by initial recruitment through PSC & 10% by selection on merit from amongst post graduate Ministerial Staff through PSC.	40%(20% each for Superintendents /Private Secretaries and Tehsildars.	
	(ii)	No. of posts allocated to each category.	309 + 61 for selection through PSC.	(124 each for Supd/PS and Tehsildars)	
	(iii)	Present occupancy position	24+nil	113 Tehsildars (promoted to PMS/BS-17)	
	(iv)	No. of vacancies.	285+61	11	
	(v)	How did the vacancy(ies) under promotion quota accrue and since when?	11 posts falling to the promotion share of Tehsildars became available due to retirement of promotee PMS officers and new creations (Annex-I). Besides these 11 posts, 49 posts of DDO(R) & DDO(J) in Districts meant for initial recruitment (50% + 10% for ministerial staff) out of 346 are lying vacant. (Annex-II) According to Rule-09(3) & (4) of Appointment, Promotion and Transfer(APT) Rules 1989, the following provision has been made for filling of BS-17 posts meant for initial recruitment (Annex-III):- In the case of a post-in BS-17 and above, reserved under the rules to be filled in by Initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is		

expedient to fill the post, it may appoint to that post on acting charge basis, the senior most officer otherwise eligible for promotion in the Organization, Cadre or Service, as the case may be, in excess of the promotion quota.

Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

Appointment on acting charge basis shall be made on the recommendations of the DPC or PSB as the case may be.

Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

~~Hence, senior most Tehsildars can be appointed as PMS BS-17 on acting charge basis against the vacant posts meant for initial recruitment in Districts against the vacant posts of DDO(R) & DDO(J)~~

(vi) Recruitment Rules.

According to Provincial Management Service Rules 2007, the following method has been prescribed for recruitment to the posts of PMS BS-17(Annex-IV).

1) Fifty percent by initial recruitment on the recommendations of the NWFP Public Service Commission based on the result of competitive examination to be conducted by it in accordance with the provisions contained in schedule-IV:

2) Subject to rule 7, by promotion in the following manner:

(c) twenty per cent from amongst Tehsildars, who are graduates, on the basis of seniority-cum-fitness, having five years service as Tehsildar and have passed the prescribed Departmental Examination; and

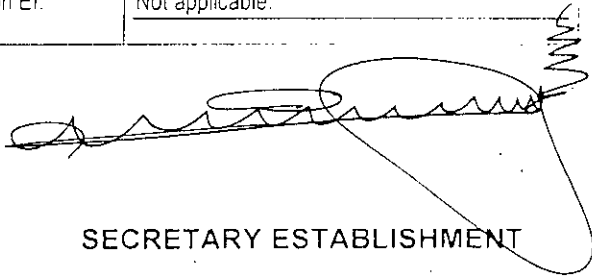
(d) twenty per cent from amongst Superintendents /Private Secretaries on seniority-cum-fitness basis, who are graduate and have undergone a training course of 9-weeks at the Provincial Management Academy/Provincial Staff Training Institute. A joint seniority list of the Superintendents and Private Secretaries shall be maintained for the purpose of promotion on the basis of their continuous regular appointment to the respective posts.

3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-IV.

Other

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		from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have atleast five years service under Government Note:- On the direction of PSB, the matter regarding substitution of condition of five years service of Tehsildar as three years service as Tehsildar/Naib Tehsildar and insertion of three years service as PS/PA and Supdt/Assistant in PMS Rules, 2007, is under process. Approved/signed minutes of the SSRC alongwith draft Amendment Notification has been sent to Law Department for vetting
(vii)	Required length of service.	5 years as Tehsildars
(viii)	Whether to be promoted on regular basis or appointed on acting charge basis?	11 on Regular basis 28 on acting charge basis.
(ix)	Mandatory training, if any.	Prescribed departmental examination for Tehsildars.
(x)	Minimum required score on EI.	Not applicable.



SECRETARY ESTABLISHMENT

PANEL OF OFFICERS FOR CONSIDERATION

S.No.	Name of officers/ present posting	Whet- her pass- ed depart- mental exam	Date of appoint- ment as Tehsildar on Acting Charge	Date of appointm- ent as Tehsildar on Regular basis	Remarks*
1.	Mr. Muhammad Saddiq Anwar, DDO(R), Draban DIK, 15.03.2009	No	--	26.3.1980	The PSB in its meetings held on 9.1.2008, 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination and incomplete PER record. Position is still the same. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject to condition that he will appear in the departmental examination to be conducted during December 2009, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The officer appeared in the departmental examination held in December 2009. His PERs for the year 1992(Part), 1996, 2003, 2004, 2005, 2006, 2007 & 2008 are not available.
2.	Syed Gul Jamal, APA FR, Kohat 01.12.2009	Yes	--	28.12.1988	The PSB in its meeting held on 12.2.2009 recommended to defer his promotion to the post of PMS BS-17 on the ground that the officer was involved in a mutation scam case. The officer was released on bail by Peshawar High Court on 16.5.2007. He has been reinstated in service through a decision of NWFP, Service Tribunal on 4.6.2008. Now, the officer has submitted certified copies of the judgment of NAB Court dated 19.11.2009 regarding his acquittal (Annex-V). The officer has also completed his missing PERs. The officer is otherwise eligible for regular promotion. The Officer is already working on acting charge basis w.e.f. 01.03.2000
3.	Sardar Manzoor Ahmad, DDO(R), Abbottabad 01.09.2008	Yes	--	12.8.1991	The PSB in its meetings held on 9.1.2008 & 8.5.2008 superseded him for regular promotion for not having passed prescribed Departmental examination, & non availability of service record also, PSB in its meeting held on 20.10.2008 & 12.2.2009 deferred his promotion due to the reason that PERs for the year 1998, 1999, 2001, 2002, 2003, 2004, 2005, 2006, 2007 & 2008 were not available. Position is still the same. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will complete his missing PERs within a period of six months, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The position is still the same. The officer is otherwise eligible for regular promotion.
4.	Mr. Abdul Shakoor Daur, DDO(R), Bannu 05.09.2007	Yes	--	2.12.1992	The PSB in its meetings held on 9.1.2008 & 8.5.2008 deferred his case for regular promotion for having earned 1 adverse report for the year 1983 and 1 average report for the year 1993. The PSB in its meeting held on 20.10.2008 & 12.2.2009 deferred his case for regular promotion due to the reason that his PERs for the years 2004 and 2005(part) are not available. The officer has completed his missing PERs. The Officer is already working on acting charge basis w.e.f. 01.03.2000. The officer is eligible

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5.	Mr. Nazir Ahmad, DDO(R), Kulachi, DIK 20.03.2009	Yes	--	2.12.1992	for regular promotion The PSB in its meeting held on 9.1.2008 did not consider and deferred him in its meetings held on 8.5.2008, 20.10.2008 & 12.2.2009 respectively, for promotion to the post of PMS BS-17 due to non availability of PERs for the year 1994, 1995, 1996, 1999, 2000, 2001, 2002(part) 2004, 2005, 2006, 2007 & 2008. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis, subject condition that he will complete his missing PERs within a period of six months otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The position is still the same. The officer is otherwise eligible for regular promotion.
6.	Mr. Muhammad Nihar, DDO(J), Takht Bhai, Mardan 15.12.2009	No	--	4.12.2001	The PSB in its meetings held on 9.1.2008, 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination and non availability of his service record. Position is still the same. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will appear in the departmental examination to be conducted during December 2009, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The officer appeared in the departmental examination held in December 2009. The officer has completed his missing PERs.
7.	Mr. Faridoon Khan, DDO(R), Balakot 16.12.2009	Yes	--	7.2.1996	The PSB in its meetings held on 9.1.2008 & 8.5.2008 superseded him for regular promotion for not having passed prescribed Departmental examination and non availability of service record. The PSB in its meeting held on 20.10.2008 & 12.2.2009 deferred his promotion due to reason that his PERs for the year 1996, 1997, 1998, 2000, 2001, 2005, 2006, 2007 & 2008 are missing. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will complete his missing PERs within a period of six months, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The position is still the same. The officer is otherwise eligible for regular promotion.
8.	Mr. Shoukat Ali, DDO(J), Hangu 07.12.2009	No	--	30.12.1999	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination and non availability of service record. Position is still the same. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will appear in departmental examination to be conducted during December 2009, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The officer appeared in the departmental examination held in December 2009. His PERs for the year 1997, 2000 to 2008 are not available.
9.	Mr. Iftikhar Ahmad, Tehsildar BOR 01.12.2009	No	--	18.7.2007	Neither has passed departmental examination nor completed the required length of 5 years service. The PSB in its meeting held on 12.11.2009 recommended him to defer his appointment to the post of PMS BS-17 on account of pending departmental enquiry against him. The officer appeared in the departmental examination held in December 2009. His PER for the year 2008 are not

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					available.
10.	Mr. Nisar Hussain DDO(J), Kohat 10.02.2009	No	20.7.2000	20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will appear in departmental examination to be conducted during December 2009, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The officer appeared in the departmental examination held in December 2009. His PERs for the year 2000, 2001(Part), 2002, 2003 and 2008 are not available.
11.	Mr. Ali Muhammad DDO(J), Karak 13.09.2008	No	20.7.2000	20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will appear in departmental examination to be conducted during December 2009, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The officer appeared in the departmental examination held in December 2009. His PERs for the year 2000, 2001(part) & 2008 are not available.
12.	Syed Gulfam Abbas Shah Asstt. to Commissioner(P/D), DIK 07.12.2009	No	4.12.2001	6.9.2008	The PSB in its meeting held on 12.2.2009 superseded him for regular promotion to the post of PMS BS-17 for not having passed prescribed departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The PSB in its meeting held on 12.11.2009 recommended him for his promotion to PMS BS-17 on acting charge basis subject condition that he will appear in departmental examination to be conducted during December 2009, otherwise his case will be referred to Review Committee for disciplinary action/compulsory retirement. The officer did not appear in the departmental examination held in December 2009. His PERs for the year 2008 are not available.
13.	Mr. Mumtaz Ahmad DDO(J), Peshawar 20.05.2009	Yes	--	20.3.2008	The PSB in its meeting held on 8.5.2008 superseded him for regular promotion for not having passed prescribed Departmental examination. The PSB in its meeting held on 20.10.2008 & 12.2.2009 deferred him for regular promotion due to the reason that his PERs for the year 2005, 2006 & 2007 are not available. Now the officer has completed his PERs. The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.

14.	Syed Masood Shah Tehsildar BOR(on Hajj leave)	Yes		20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. Now he has passed the same. The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
15.	Mr. Tariq Hassan Tehsildar, Pabbi 20.03.2009	No	4.12.2001	20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009. His PERs for the year 2003 & 2008 are not available.
16.	Mr. Naveed Qadir APA Central Kurram 13.11.2009	No	4.12.2001	20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009. His PERs for the year 2003 to 2008 are not available.
17.	Mr. Iqbal Ali Shah Tehsildar Karak 24.07.2008	Yes	4.12.2001	20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. Now he has passed the same. The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
18.	Mr. Muhammad Yaqoob Barki DDO(J), Tank 28.02.2009	No	9.3.2005	20.3.2008	The PSB in its meeting held on 8.5.2008, 20.10.2008 & 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 20.03.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009. His PERs for the year 2008 are not available.
19.	Mr. Muhammad Ikramullah Tehsildar, DIK 26.11.2009	No	9.3.2005	6.9.2008	The PSB in its meeting held on 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009. His PERs for the year 2008 are not available.
20.	Mr. Muhammad Kashif Nadeem DDO(J), Paharpur, DIK 20.09.2008	No	9.3.2005	6.9.2008	The PSB in its meeting held on 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar. Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the

21.	Mr. Bakhtiar Khan LAC NHA(PNBP) 20.11.2009	No		6.9.2008	remaining probation period. The officer appeared in the departmental examination held in December 2009. The PSB in its meeting held on 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. His PERs for the year 2008 are not available. The officer appeared in the departmental examination held in December 2009. The officer is on deputation to NHA.
22.	Mr. Ghazi Nawaz Tehsildar, Bannu 24.10.2008	No	18.3.2004	6.9.2008	The PSB in its meeting held on 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009.
23.	Mr. Kiramatullah Tehsildar, BOR 04.12.2009	No	9.3.2005	6.9.2008	The PSB in its meeting held on 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. His PERs for the year 2008 are not available. The officer did not appear in the departmental examination held in December 2009.
24.	Mr. Abdul Kabeer DDO(R), Lahor, Swabi 15.11.2008	No	9.3.2005	6.9.2008	The PSB in its meeting held on 12.2.2009 superseded him for regular promotion for not having passed prescribed Departmental examination. The officer does not possess the required length of 5 year service as Tehsildar Position is still the same. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009.
25.	Mr. Muhammad Nasir Khan PT, Landikotal 20.11.2008	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
26.	Mr. Hidayatullah Khan NHA, CNACP, Nowshera 02.02.2009	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion. The officer is on deputation to NHA CNACP, Nowshera.
27.	Syed Kazim Hussain Shah Tehsildar, Housing Deptt: Peshawar 20.10.2008	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion. The officer is on deputation to Housing Department.
28.	Mr. Fazal Hussain ACO, Peshawar 03.12.2009	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
29.	Mr. Muhammad Irshad Tehsildar, Nowshera	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate


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30.	Mr. Habibullah Tehsildar, SIDB, Peshawar 04.01.2006	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion. The officer is on deputation to SIDB, Peshawar.
31.	Mr. Naeem Akhtar Tehsildar/HRDO, Swat 13.01.2009	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
32.	Mr. Niaz Muhammad Tehsildar Babozai 16.10.2008	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
33.	Mr. Dallar Khan PT, Jamrud 30.04.2009	No	30.6.2006	6.9.2008	Neither has passed departmental examination nor completed the required length of 5 years service. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. His PERs for the year 2008 are not available. The officer appeared in the departmental examination held in December 2009.
34.	Mr. Abdul Mateen Qasuria Tehsildar L.A. DIK 11.11.2008	No	30.6.2006	6.9.2008	Neither has passed departmental examination nor completed the required length of 5 years service. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. His PERs for the year 2008 are not available. The officer appeared in the departmental examination held in December 2009.
35.	Mr. Shoukat Hussain Tehsildar, L.A. Abbottabad 19.07.2006	Yes	30.6.2006	6.9.2008	The officer does not possess the required length of 5 year service as Tehsildar. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer is otherwise eligible for regular promotion.
36.	Mr. Gul Nawaz Ali Tehsildar, Manselra 15.06.2009	No	30.6.2006	6.9.2008	Neither has passed departmental examination nor completed the required length of 5 years service. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental examination held in December 2009.
37.	Mr. Nowsherwan Tehsildar Pattan 24.06.2006	No	30.6.2006	6.9.2008	Neither has passed departmental examination nor completed the required length of 5 years service. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. His PERs for the year 2008 are not available. The officer appeared in the departmental examination held in December 2009.
38.	Qazi Alta-ur- Rehman Tehsildar, Haripur 02.10.2009	No	30.6.2006	6.9.2008	Neither has passed departmental examination nor completed the required length of 5 years service. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. His PERs for the year 2008 are not available. The officer appeared in the departmental examination held in December 2009.
39.	Mr. Muhammad Tehsildar, Battagram 04.06.2008	No	--	6.9.2008	Neither has passed departmental examination nor completed the required length of 5 years service. Moreover, his probation period will expire on 06.09.2010. SMBR is competent to terminate the remaining probation period. The officer appeared in the departmental

examination held in December 2009

Certificate

- (1) Certified that the officers included in the panel are eligible (except S.No. 1, 6, 8, 9, 10, 11,12, 15, 16, 18, 19, 20, 21, 22, 23, 24, 33, 34, 36,37,38, & 39 as they have not passed the prescribed departmental examination). It is also certified that the officers included in the panel possess the requisite length of service required for promotion. (except at S. No. 09 to 39). However, on the recommendation of PSB the elimination of condition of 05 years service as Tehsildar is under process.
- (2) Also certified that no disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officers included in the panel. (except at S. No. 9) against whom a departmental enquiry/proceedings is pending.
- (3) Certified that no officer is on long leave/deputation except at S.No 21, 26, 27 & 30.


SECRETARY ESTABLISHMENT