

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 820/2020

BEFORE: SALAH UD DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

Muhammad Bilal Khan S/o Haji Muhammad Shafi R/o Street
No. 06 Saeed Abad Pajaggi Road Peshawar..... (*Appellant*)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Government of Khyber Pakhtunkhwa through Secretary Law Parliamentary Affairs and Human Rights Department Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Establishment Department Khyber Pakhtunkhwa Peshawar.
4. Advocate General Khyber Pakhtunkhwa Peshawar.
5. Ahmad Khan Computer Programmer (BPS-17) Advocate General office Khyber Pakhtunkhwa Peshawar.
6. Zia Ullah Khan Web Administrator (BPS-17) Advocate General office Khyber Pakhtunkhwa Peshawar..... (*Respondents*)

Present:

MUHAMMAD IRSHAD MOHMAND,
Advocate --- For Appellant.

MUHAMMAD ADEEL BUTT,
Additional Advocate General --- For official respondents No. 1 to 4

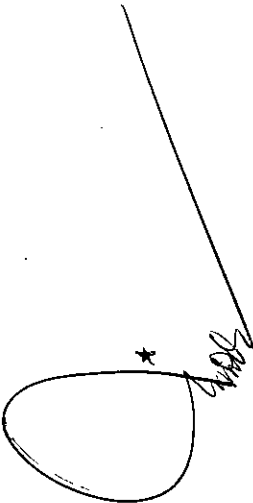
NOOR MUHAMMAD KHATTAK &
SYED NOMAN ALI BUKHARI,
Advocates --- For private respondent No. 5 & 6

Date of Institution.....04.02.2020
Date of Hearing.....23.11.2022
Date of Decision.....23.11.2022

JUDGEMENT

MIAN MUHAMMAD, MEMBER(E):- The appellant has
instituted the instant service appeal under Section 4 of the

Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that "on acceptance of this appeal the impugned Notification No. E&A/Ld/2-12/2019/18688-93 dated 08.10.2019 & Notification No. E&A/Ld/2-12/2019/18682-87 dated 08.10.2019 of promotion of respondents No. 5 & 6 be declared illegal against the service recruitment & promotion rules and be set aside and the appellant be promoted to the post of Computer Programmer with all back benefits being on the top of seniority list of the department. Any other remedy which this august Tribunal deems fit and appropriate may also be granted to the appellant".

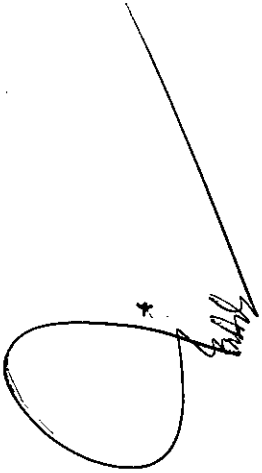


02. Brief facts, as per memorandum of the service appeal, are that the appellant has been working as Computer Operator in the office of respondent No. 4 since 2007. On creation of 02 new posts of Computer Programmer (BS-17) and Web Administrator (BS-17) the respondent department convened meeting of the Departmental Promotion Committee and based on its recommendations, private respondent No. 5 and 6 were promoted as Computer Programmer and Web Administrator respectively vide two separate Notifications on 08.10.2019. Both the Notifications have been impugned and are under scrutiny before us for adjudication.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard learned counsel for the appellant as well as learned counsel for private respondents No. 5

& 6 and Additional Advocate General for official respondents and have gone through the record with their valuable assistance.

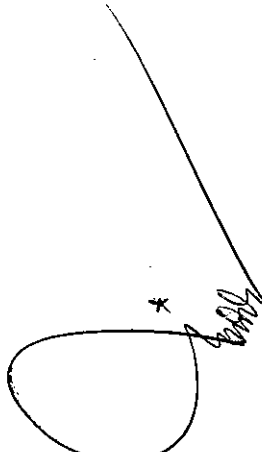
04. Learned counsel for the appellant contended that the appellant who joined the respondent department as Computer Operator in 2007 and being the senior most appearing at serial No. 1 of the seniority list, was deprived of his legal right of promotion to the post of Computer Programmer (BS-17) in the meeting of Departmental Promotion Committee convened on 09.08.2019. The Departmental Promotion Committee recommended private respondent No. 5 & 6 for promotion to the post of Computer Programmer (BS-17) and Web Administrator (BS-17) respectively despite the fact that both of them were junior to the appellant as reflected at serial No. 2 and 5 of the seniority list of Computer Operator (BS-16). In pursuance of the recommendations of Departmental Promotion Committee, their promotion Notifications were issued on 08.10.2019 separately. Feeling aggrieved, the appellant submitted departmental appeal to the appellate authority on 16.10.2019 which was not decided within the stipulated statutory period. It was vehemently contended that the appellant being qualified, eligible and senior most in his cadre, was entitled to be promoted to the post of Computer Programmer (BS-17). The denial of official respondents to promote the appellant is not only illegal but also unwarranted, unjustified and is the result of their malafide and illegal exercise of power and authority. Learned counsel for the

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appellant while referring to the Service Rules of the department argued that for promotion to the post of Computer Programmer, a Computer Operator with five (05) years service is the prescribed criteria which makes the appellant eligible and entitled for promotion. In support of his arguments, learned counsel for the appellant referred to the Service Rules of various departments i.e. Home & Tribal Affairs department, Forest, Environment & Wildlife department, Planning & Development department and Agriculture, Live Stock, Fisheries & Co-Operative department.

05. Learned counsel for private respondent No. 5 & 6 raised preliminary objection and argued that the instant appeal is not maintainable and hit by the principle of estoppel because the appellant has not challenged the Service Rules under which private respondents have been promoted, rather he has challenged their promotion Notifications. On this score alone, the service appeal is liable to be dismissed. Moreover, the appellant has no locus standi to file the service appeal within the meaning of Section 4 (b) (i) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 because he does not qualify to be promoted to the post of Computer Programmer as he is lacking the mandatory qualification required for the post. The appellant has tried to mislead the Tribunal by quoting and mentioning the irrelevant rules as the Rules referred to in Para 4 of the appeal, are not the Rules for the posts of Computer Programmer (BS-17) and Web Administrator (BS-17) of the office of respondent No. 4. The

prevalent and in vogue Service Rules of the respondent department applicable for promotion, lay down the prescribed criteria and qualification for elevation to the next grade and the appellant did not fulfill the prescribed criteria and qualification therefore, private respondents were promoted irrespective of his seniority which is not the only and sole criteria for promotion against the technical/professional posts. The appellant has therefore, rightly been overlooked and private respondent No. 5 & 6 promoted in accordance with the Service Rules of the department. To strengthen his arguments, learned counsel for private respondents No. 5 & 6 relied on 2009 PLC (C.S) 215 and 2017 PLC (C.S) 1283.



06. Learned Additional Advocate General, on the other hand, controverted the assertions made in the service appeal and arguments of the learned counsel for appellant; mainly on the ground that though the appellant was senior to private respondent No. 5 and 6 on the seniority list of Computer Operator (BS-16) but his qualification is B.com/DIT whereas for promotion to the post of Computer Programmer (BS-17) the required qualification is Master's degree or equivalent qualification in Computer Science. Moreover, the appellant having not the requisite qualification, himself opted to forgo promotion vide his formal intimation on 29.05.2019. The respondent department has therefore, followed the Service Rules, prescribed criteria and fulfilled all codal formalities before issuance of the impugned

Notifications of promotion of private respondent No. 5 and 6. The service appeal being devoid of merits, may graciously be dismissed with costs, he concluded.

07. Perusal of the record reveals that the appellant joined the department as Computer Operator in the year 2007. He had the requisite qualification for the post of Computer Operator at that time. It is an admitted fact that the appellant is on top of the Computer Operator in the office of official respondent No. 4 and his seniority is not disputed before us rather admitted by both the sides. The question of contention before the Bench is the prescribed qualification for the post of Computer Programmer and Web Administrator. It is therefore, appropriate to reproduce the relevant portion of the recruitment and appointment Rules, 1981

Computer Programmer (BPS-17)

- (a) *Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant programmer and Computer Operator, having qualification prescribed for initial recruitment with five years service as such; and*
- (b) *Fifty percent (50%) by initial recruitment*

Note: A joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion.

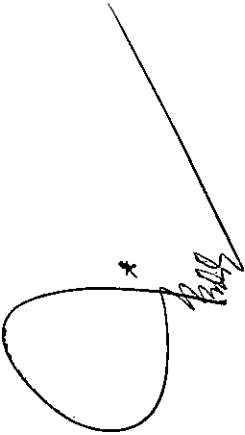
Initial Recruitment: *At least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.*

Web Administrator (BPS-17)

(a) *Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant programmers and Computer Operator, having qualification prescribed for initial recruitment with five years service as such; and*
Provided that if no suitable candidate is available for promotion then by initial recruitment.

Initial Recruitment:

At least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.

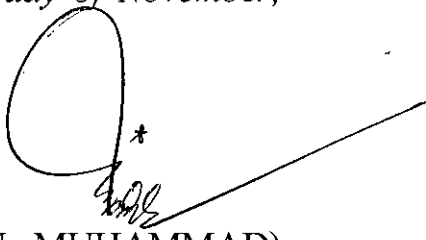


08. It is evident from the above that prescribed qualification for these posts is master or equivalent qualification in Computer Science from a recognized university for initial recruitment and the same has been prescribed for promotion to these posts from amongst the Computer Operators with 05 years service as such. The appellant was therefore, formally asked to provide copy of the Master's degree alongwith Detailed Marks Certificate (DMC) but the appellant having no Master degree in Computer Science even opted to forego promotion to the post of Computer Programmer (BS-17).

09. As a sequel to the above it is crystal clear that the appellant was not in possession of the requisite prescribed qualification at the relevant time, therefore, the departmental promotion committee did not recommend him for promotion. The instant service appeal being devoid of merits is therefore, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

10. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 23rd day of November, 2022.*


(SALAH UD-DIN)
MEMBER (J)


(MAIN MUHAMMAD)
MEMBER (E)

ORDER

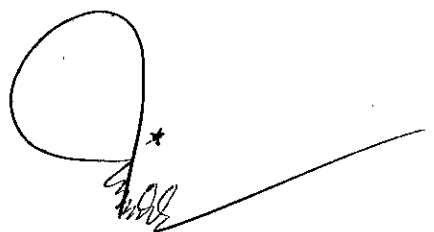
23.11.2022

Mr. Muhammad Irshad Mohmand, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 4 present. Mr. Noor Muhammad Khattak, and Syed Nomal Ali Bukhari, Advocates for private respondents No. 5 & 6 present. Arguments and record perused.

02. Vide our detailed judgement of today separately placed on file containing (08) pages, it is crystal clear that the appellant was not in possession of the requisite prescribed qualification at the relevant time, therefore, the departmental promotion committee did not recommend him for promotion. The instant service appeal being devoid of merits is therefore, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 23rd day of November, 2022.*


(SALAH UD'DIN)
MEMBER (J)


(MIAN MUHAMMAD)
MEMBER (E)

06.09.2022

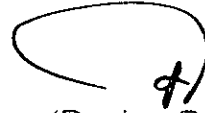
Junior to counsel for appellant present.

Naseer Ud Din Shah, learned Assistant Advocate General for official respondents No.1 to 4 present. Private respondent No.5 present through counsel.

Former made a request for adjournment as senior counsel for appellant is busy before Hon'ble Peshawar High Court, Bannu Bench. Adjourned. To come up for arguments on 23.11.2022 before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member(J)



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 7543-45 /AG

Dated Peshawar, the 20⁰³ /2019

Address: High Court Building, Peshawar.
Tel. No. 091-9212681

Exchange No 9213833
Fax No. 091-9210270

To

1. Mr. Muhammad Bilal Khan, Computer Operator,
Advocate General office, Khyber Pakhtunkhwa,
Peshawar.
2. Mr. Ahmad Khan, Computer Operator,
Advocate General office, Khyber Pakhtunkhwa,
Peshawar.

Subject: **OPTION / WILLINGNESS**

I am directed to refer to the subject note above and to state that the following two (02) posts are vacant in this office.

1. Computer Programmer (BPS-17)
2. Web Administrator (BPS-17)

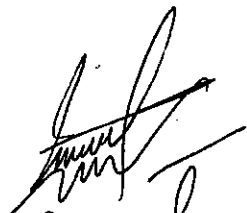
You are, therefore, advised to exercise your option for promotion against any one of the above posts. The option, in writing, must reach the undersigned within three (03) days positively for further necessary action.

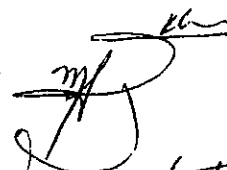

(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

Endst. No. & date even

Copy to PS to the Ld. Advocate General, Khyber Pakhtunkhwa, Peshawar.

ADMINISTRATIVE OFFICER

2) 
Received
21/03/19.

① 
20/03/2019

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To

The Administrative Officer,
Advocate General's Office,
Khyber Pakhtunkhwa, Peshawar.

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27-319

27/03

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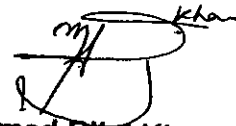
Subject: WILLINGNESS / OPTION

Dear Sir,

Reference your letter No. 7543-45, dated 20/03/2019.

I hereby undertake that I give my option for promotion to the post of
Computer Programmer (BPS-17), available in office of the Advocate General,
Khyber Pakhtunkhwa, Peshawar.

Yours Obediently,



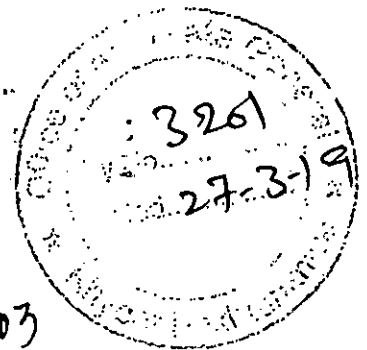
(Muhammad Bilal Khan)
Computer Operator

Dated 27/03/2019

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The Administrative Officer,
Advocate General's Office,
Khyber Pakhtunkhwa, Peshawar.



27/03

Put up

Subject:

WILLINGNESS / OPTION

Dear Sir,

Reference your letter No. 7543-45, dated 20/03/2019.

I hereby undertake that I give my option for promotion to the post of Web Administrator (BPS-17), available in office of the Advocate General, Khyber Pakhtunkhwa, Peshawar.

Yours Obediently,

(Ahmad Khan)
Computer Operator

Dated 27/03/2019



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 12209-10 /AG

Dated Peshawar, the 13-May-2019

Address: High Court Building, Peshawar.
Tel. No. 091-9212681

Exchange No 9213833
Fax No. 091-9210270

To

1. ✓ Mr. Muhammad Bilal Khan,
Computer Operator of this office.
2. Mr. Ahmad Khan,
Computer Operator of this office.

Handwritten signature
14/5/19

Received.
Handwritten signature
14/5/19

Subject: **PROVISION OF MASTER DEGREES**

I am directed to refer to the subject noted above and to state that working papers for promotion to the posts of Computer Programmer (BPS-17) and Web Administrator (BPS-17) are under process and expected to be sent to the Law Department, Khyber Pakhtunkhwa shortly. Therefore, you, being senior most of the Computer Operators, are directed to provide original degrees of Master alongwith Detailed Marks Certificate (DMC) within a week positively for further necessary action.

Handwritten signature
(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER



REMINDER



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 13089 /AG

Dated Peshawar, the 27-May-2019

Address: High Court Building, Peshawar.
Tel. No. 091-9212681

Exchange No 9213833
Fax No. 091-9210270

To

Mr. Muhammad Bilal Khan,
Computer Operator.

Subject: **PROVISION OF MASTER DEGREE**

Reference this office letter bearing No. 12209-10/AG, dated 13/05/2019 on the subject noted above.

It is to inform you that you had been asked to provide degree of master in Information Technology, as it was required in the case for promotion as Computer Programmer (BPS-17) / Web Administrator (BPS-17). However, no response has been received from your side in this regard.

You are, therefore, once again informed to provide your degree of Master in Information Technology (MIT) by 15/06/2019 positively so as to process the promotion case without any further delay. In case you again failed in doing the needful, the matter shall be brought to the notice of the Competent Authority and the case would be processed in your default.

(Signature)
(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

(Signature)
27/05/2019

6

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 111 / IAG

Dated, Peshawar, the 20-May-2019

Address: High Court Building, Peshawar
Tel No. 091 9217681

Exchange: 091-9213833
Fax No. 091-9210270

To

The Controller of Examination,
University of Peshawar.

Subject: **VERIFICATION OF BACHELOR OF COMPUTER SCIENCE DEGREE**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith photocopy of Bachelor of Computer Science Degree, issued by the University of Peshawar in favour of Mr. Ahmad Khan s/o Naushad Khan for verification. The verification may kindly be sent to this office as early as possible.

Yours faithfully,

(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

Endst. No. & date even

Copy to PS to the Id. Advocate General, Khyber Pakhtunkhwa, Peshawar.

ADMINISTRATIVE OFFICER

ANNEXURE

ANNEXURE

ASSEMBLY CHAMBER,
PESHAWAR



To
The Honourable Speaker,
National Assembly of Pakistan,
Islamabad, Pakistan.

Subject: TAX EXEMPTION FOR THE AREAS OF PROVINCIALY
ADMINISTRATED TRIBAL AREA (PATA).

Reference is made to our telephone conversation of today i.e. 26-05-2018 on the subject cited above. A preparatory meeting was held today for discussing the passing of 25th Amendment Bill from the Provincial Assembly of Khyber Pakhtunkhwa as required Under Article 239 (1) of the Constitution of Pakistan 1973. The meeting was attended by Members of Provincial Assembly of Khyber Pakhtunkhwa besides Leaders of Political Parties in Provincial Assembly. All the Members of Provincial Assembly from PATA region showed grave concern on the proposed withdrawal of the benefits of tax exemptions from their area which the people have been enjoying historically. Due to said concerns of Members of Provincial Assembly we may face problems in getting the support of 2/3rd of the majority of Members of Provincial Assembly required for passing the 25th Amendment bill of the Constitution.

The least demand of Members of Provincial Assembly of Khyber Pakhtunkhwa is a tax exemption of ten years for the above mentioned area which may further be extended on its expiry. We find the said demand justified for the reasons that both the areas of PATA & PATA have been having exemptions from taxes historically, the areas are badly effected by insurgencies and mass internal displacement of people due to Military operations and natural calamities. The exemptions sought may be provided through appropriate legal instruments under various taxation laws on urgent basis before voting of the Amendment bill in the Provincial Assembly.

M. Anwar
ATTESTED

It is therefore, suggested that in the best national interest tax exemptions for ten years may be notified by the Federal Government for the existing areas of PATA & PATA, which may further be extended on expiry of said period.

ATTESTED

(ASAD QAJSTER)
Speaker,
Khyber Pakhtunkhwa Assembly
Dated 26-05-2018

ATTESTED

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**CONTROLLER OF EXAMINATIONS
UNIVERSITY OF PESHAWAR
KHYBER PAKHTUNKHWA
PESHAWAR-PAKISTAN**

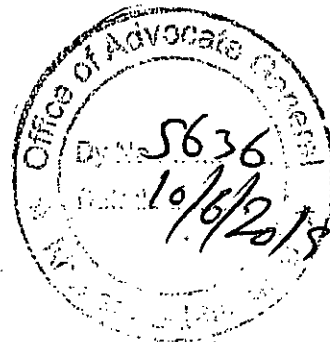
Phone No. 091-9216721-22 (3013/3017)
Phone 091-9222030
E-mail: controller@uop.edu.pk
Website: www.uop.edu.pk

No.818/Degrees/Exams

Dated 28.05.2019

To

Muhammad Arshad Khan
Administrative Officer
Office of the Advocate General
Khyber Pakhtunkhwa
High Court Building, Peshawar.



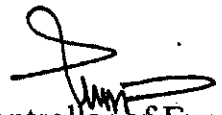
Subject: VERIFICATION OF DOCUMENT(S)

Dear Sir,

I am to refer to your letter No. 12632 dated 20.05.2019 and to enclose herewith the respective document(s) sent for verification. The same is duly checked with the record and returned with its status delineated hereunder:

S.No.	Roll No	Name/Father's Name	Exam/Session	Status
1	24/E	Ahmad Khan S/O Naushad Khan	BCS. 2002-05	Verified and Found Correct

Encl: 01 Copy of Degree


Additional Controller of Examinations
University of Peshawar

131/A
Better Copy

Qaiser informed the media that he has discussed the issue with Ayaz Sadiq, who assured that the exemption will be maintained. KP chief minister's spokesperson Shaukat Yousafzai also said that the Prime Minister has also agreed to the exemption and has assured that it will be granted.

The Pata lawmakers maintain that the inclusion of Pata in Fata-KP merger is unjustified and if the government wants to change the status of Pata, it should announce a monetary package for the area. Meanwhile, KP minister Shaukat Yousafzai held a meeting with Federal Law Minister Zafarullah Khan and apprised him about the issues the provincial government is facing in getting the bill passed from the assembly.

Yousufzai told media that the federal government has promised to resolve the concerns raised by Pata lawmakers. Lawmakers of Jamiat Ulema-e-Islam Fazl and Provincially Administered Tribal Areas (Pata) have expressed their reservations over the Fata-KP merger bill. Before start of the KP Assembly session, a clash between JUI-F workers and police was witnessed outside the building of Khyber Pakhtunkhwa Assembly, injuring several. While as many as 20 were arrested by police.

ATTESTED

To

The Advocate General,
Khyber Pakhtunkhwa, Peshawar.

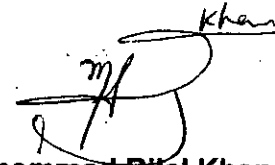
Subject: **OPTION TO FOREGO / GET PROMOTION AS COMPUTER
PROGRAMMER (BPS-17)**

Dear Sir,

This is with reference to your letter bearing No. 13089/AG dated 27/05/2019 on the subject noted above.

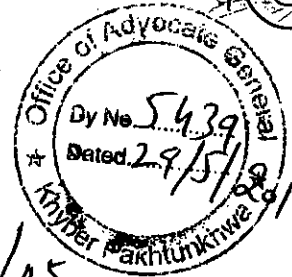
It is respectfully stated that I have been asked to provide degree of MIT. In this regards, it is submitted that if the required qualification for promotion is Master, I opt to forego promotion. However, if otherwise, I hereby give option to be promoted to the post of Computer Programmer (BPS-17) or Web Administrator (BPS-17) in office of the Advocate General, Khyber Pakhtunkhwa, Peshawar.

Yours Obediently,



(Muhammad Bilal Khan)
Computer Operator

Dated 29/05/2019





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

NOTIFICATION

Dated Peshawar, the 21st December, 2016

NO.SOE-V(E&AD)/5-16/2016.- In exercise of powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa (Provincial Information Technology Group) Service Rules, 2006, the following further amendments shall be made, namely:

AMENDMENTS

1. In rule 5, in sub-rule (1), for clause (a), the following shall be substituted, namely:

"(a) In case of post of Director, Deputy Director, System Analyst and Database Administrator by promotion."

2. In the Appendix,-

(i) against serial No. 3, in column 5, for clause (b), the following shall be substituted, namely:

"(b) fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five year service as such,";

(ii) Serial No. 5 shall be deleted; and

(iii) Against serial No. 6, in column 2, the abbreviation, hyphen, figures and brackets "(BPS-12)" shall be deleted.

Secretary to Govt: of Khyber Pakhtunkhwa
Establishment Department.

NO.SOE-V(E&AD)/5-16/2016.-

Dated Peshawar, the 21st December, 2016

Copy forwarded for information and necessary action to:-

1. The Additional Chief Secretary, Planning & Development Department.
2. The Additional Chief Secretary, FATA, Khyber Pakhtunkhwa.
3. The Additional Chief Secretary, Finance Department.
4. The Chairman, Khyber Pakhtunkhwa Public Service Commission.
5. The Senior Member of Board of Revenue, Khyber Pakhtunkhwa.

(P.T.O)

6. All Administrative Secretaries in Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
9. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
10. All Heads of Attached Departments, Khyber Pakhtunkhwa.
11. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
12. The PS to Chief Secretary, Khyber Pakhtunkhwa.
13. The PS to Secretary, Law, Parliamentary Affairs & Human Rights Department.
14. The Deputy Director (IT), Establishment & Administration Department with the request to upload the same on the official website.
15. The Registrar, Khyber Pakhtunkhwa Services Tribunal.
16. PS to Special Secretary (Estt), Establishment Department.
17. PS to Special Secretary (Reg), Establishment Department.
18. PA to Additional Secretary (Estt), Establishment Department.
19. PA to Deputy Secretary (Estt), Establishment Department.
20. The Manager, Govt. Printing Press for publication in the Extra Ordinary Gazette.


(S. A. Durrani)
Section Officer (E-V)

30
33

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT**

NOTIFICATION

Peshawar, dated the, 09/12/2015.

Put up =
10/2015
10/12/15
10/12

No.E&A/LD/2-12/2015: _____ -In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department hereby directs that in the Khyber Pakhtunkhwa Office of the Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(a) against serial No. 7, in column No. 3,4 and 5, for the existing entries, the following shall respectively be substituted, namely:

	DPS	By promotion on the basis of seniority cum-fitness, from amongst Computer Operators (PBS-12), with at least five (5) years service/experience as such.; and
--	-----	-------------------------------------------------------------------------------------------------------------------------------------------------------------

(b) against serial No. 7a, in column Nos. 3 and 4, for the existing entries, the following shall respectively be substituted, namely:

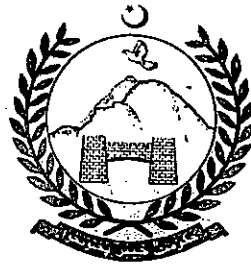
<p>" (i). At least Second Class Bachelor's Degree in Computer Science/Information Technology (BSC/BIT four years), from a recognized University; or</p> <p>(ii). at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology, from a recognized Board of Technical Education.</p>	20 to 32 years."
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------

Seen
Aujai
11/12/2015

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

42

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 26th APRIL, 2018

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

NOTIFICATION

Peshawar dated the, 29.05.2017.

NO.E&A/L.D/2-12/2017:- In exercise of the powers conferred by sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in Consultation with the Establishment Department and the Finance Department hereby directs that in the Khyber Pakhtunkhwa Office of Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix, against serial No. 3(a), in column No. 5, for the existing entries, the following shall be substituted, namely:

5
(a) Fifty percent (50%) by promotion, on the basis of Seniority-cum fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years in service as such; and
(b) fifty percent (50%) by initial recruitment.
Note: A joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the for the purpose of promotion.

Secretary to, Government of the Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights
Department.

1556

Printed and published by the Manager,
Staty. Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 26th APRIL, 2018

GOVERNMENT OF KHYBER PAKHTUNKHWA LAW, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS DEPARTMENT

NOTIFICATION

Peshawar, dated the, 09/12/2015.

No. E&A/LD/2-12/2015: - In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department hereby directs that in the Khyber Pakhtunkhwa Office of the Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(a) against serial No. 7, in column No. 3,4 and 5, for the existing entries, the following shall respectively be substituted, namely:

“ ----	----	By promotion on the basis of seniority cum-fitness, from amongst Computer Operators (BPS-12), with at least five (5) years service/experience as such.”; and
--------	------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------

(b) against serial No. 7a, in column Nos. 3 and 4, for the existing entries, the following shall respectively be substituted, namely:

55

REGISTERED NO. P/11

SECRETARY

1550 KHYBER PAKHTUNKHWA GOVT. GAZETTE, EXTRAORDINARY, 26th APRIL, 2018

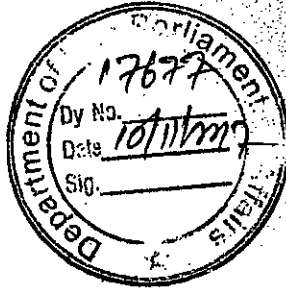
SECRETARY

“(i). At least Second Class Bachelor’s Degree in Computer Science/Information Technology (BSC/BIT four years), from a recognized University; or	20 to 32 years.”.
“(ii). at least Second Class Bachelor’s Degree from a recognized University with one year Diploma in Information Technology, from a recognized Board of Technical Education.	

**SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT**

Printed and published by the Manager,
Staty. Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

Telephone No. 091-9210441



KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-FORT ROAD, PESHAWAR CANTT
(NEAR GOVERNOR HOUSE)

NO: KP/PSC/Lit/Reg/F-68/2017
Date: 10/11/17

164458

45

To,

The Secretary to Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights Department.

D

Subject:

MINUTES OF THE STANDING SERVICE RULES COMMITTEE (SSRC)
MEETING HELD ON 05/10/2017 AT 10:00 AM.

Dear Sir,

P2 197/c

I am directed to refer to your letter no. E&A/LD/2-12/2017/29879 dated November 1, 2017 on the subject noted above and to state that the Commission is pleased to accord concurrence to the Service Rules for the post of Superintendent (BPS-17) and Web Administrator (BPS-17) subject to the condition that for the post of Web Administrator words "at least" may be added before qualification. Moreover, Age limit should be 21-32 years otherwise qualified candidates will have to wait for one year to become eligible for the said post.

2. The draft notification may be examined minutely and to ensure that it is in order and serves the purpose. Six printed copies of the Notification, preferably Gazette copies, when published may be furnished to this office for official record.

As (S)

Yours faithfully,

N.

(Muhammad Saeed)
Assistant Director
Litigation

10/11/17

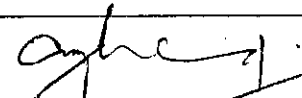
DS (Admin)
SOK/MZ

IK
15/11/17
SAD



KHYBER PAKHTUNKHWA OFFICE OF THE ADVOCATE GENERAL (RECRUITMENT & APPOINTMENT)
RULES, 1981

S. No	NOMENCLATURE OF THE POST	MINIMUM QUALIFICATION PRESCRIBED FOR APPOINTMENT BY INITIAL RECRUITMENT OR BY TRANSFER.	MINIMUM QUALIFICATION FOR APPOINTMENT BY PROMOTION	AGE LIMIT FOR INITIAL RECRUITMENT	METHOD OF RECRUITMENT
01	02	03	04	05	06
1	Administrative Officer / Budget & Accounts Officer	---	---	---	"By promotion, on the basis of seniority-cum-fitness from amongst the Superintendents (BS-17), with at least three (03) years service as such".
1(a)	Superintendent	---	---	---	"By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants with at least five (05) years service, as such".
2	Librarian	Degree with Diploma in Library Science from a recognized University	---	22 to 30 years	By initial recruitment
3	Private Secretary	---	---	---	"By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers (B-15) with at least five years service as such".


ADMINISTRATIVE OFFICER
Advocate General's Office
Khyber Pakhtunkhwa
Feshawa

57



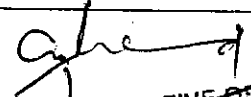
3(a)	Computer Programmer (B-17)	At least Second Class Master's Degree in Computer Science or its equivalent qualification from a recognized University;	---	25 to 35 years	<p>a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such; and</p> <p>b) Fifty percent (50%) by initial recruitment.</p> <p>Note: A Joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion.</p>
3(b)	Web Administrator (BPS-17)	At least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized university.	---	21 to 32 years	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such:</p> <p>Provided that if no suitable person is available for promotion then by initial recruitment."</p>
4	Assistant	Degree from a recognized University	---	18 to 30 years	<p>(a) Fifty (50) percent by initial recruitment and</p> <p>(b) Fifty (50) percent by promotion from amongst the holders of posts of Senior Clerk with at least three (03) years service, as such; or</p> <p>(c) If no suitable Senior Clerk is available for promotion, then by initial recruitment.</p>

aghey
 ADMINISTRATIVE OFFICER
 Advocate General's Office
 Khyber Pkshikhan
 Peshawar


48



5	Senior Scale Stenographer	(i) 2 nd Class Bachelor's Degree from a recognized University; (ii) A speed of 70 words per minute in shorthand in English and 45 words per minute in typing; and (iii) Knowledge of Computer in using MS Word and MS Excel.	---	20 to 30 years	(a) By promotion, on the basis of seniority-cum-fitness, from amongst the Stenographer with at least five (05) years service, as such; (b) Provided that If no suitable candidate is available for promotion, then by initial recruitment; and
6	Stenographer	(i) Intermediate or equivalent qualification from a recognized Board; (ii) A speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and (iii) Knowledge of Computer in using MS Word and MS Excel.	---	18 to 30 years	By initial recruitment
7	Computer Operator	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology (BSC/BIT four years), from a recognized University; or (ii) At least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology, from a recognized Board of Technical Education.	---	20 to 32 years	By initial recruitment


ADMINISTRATIVE OFFICER
Advocate General's Office
Khyber Pakhtunkhwa
Peshawar

7(a)	Library Assistant	2 nd Class Bachelor degree in Library Science from any recognized University / Institution	----	18 to 30 years	By initial recruitment
8	Senior Clerk	----	----	----	By promotion from amongst the holders of posts of Junior Clerks with at least two (02) years service, as such;
9	Junior Clerk	(i) Matriculation or equivalent from a recognized Board; and (ii) A speed of 25 words per minute in typing	----	18 to 30 years	By initial recruitment
10	Driver	(i) Literate; and (ii) In possession of a valid driving license.	----	18 to 32 years	By initial recruitment
11	Daftari	Middle Standard	----	18 to 32 years	(a) By promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasids. (b) If no suitable Naib Qasid is available for promotion then by initial recruitment.
12	Naib Qasid/ Chowkidar/ Mali	Preferably Literate	----	18 to 32 years	By initial recruitment


ADMINISTRATIVE OFFICER
ADVOCATE GENERAL'S OFFICE
KHYBER PAKHTUNKHWA, PESHAWAR.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT.**

Dated Peshawar, the 02nd October, 2019.

C./copy

NOTIFICATION

No.SO(Prosecution)/HD/1-5/2019: In exercise of the powers conferred by sub-Rule-2 of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Home & Tribal Affairs Department, in consultation with the Establishment and the Finance Departments, hereby direct that in this Department's Notification No. SO(Prosecution/HD/1-5/2005/Vol-II, dated 06-08-2010, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix: -

- a) after Serial No.5, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
*5A.	Assistant Director (IT) -- (BS-17)	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with five-year service as such, having the following qualification: (i) Second Class Bachelor's Degree in Computer Science/Information Technology (BCS /BIT four years) or its equivalent qualification from a recognized university; or (ii) Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.

- b) after Serial No.7, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
*7A.	Assistant Accountant (BPS-16)	--	--	By promotion, on the basis of seniority cum fitness, from amongst Senior Clerks with five (05) years service as Junior Clerk and Senior Clerk having Bachelor's of Commerce Degree (B.Com) from a recognized University.

- c) against S.No.13,

- (i) in column No. 4, for the existing entry, the following shall be substituted, namely:

4.
"10 to 30 years."; and

- (ii) in column No.5, for clause (h), the following shall be substituted, namely:

"(h) thirty-three per cent by promotion, on the basis of seniority-cum-fitness, from amongst Niab Qasids, Chowkidars and other employees in equivalent scales in the Department with at least two (02) years service as such having passed Secondary School Certificate."; and

2

(d) against Serial No. 14, in column No. 5, for the existing entry, the following shall be substituted, namely:

5.
"(a) Fifty (50) per cent by initial recruitment; and
(b) Fifty (50) per cent by transfer from other eligible Class IV i.e. Chowkidars and Sweepers."

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department.

Endst. No. and date even

Copy forwarded to:

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt: of Khyber Pakhtunkhwa, Law, Parliamentary Affairs & Human Rights Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
4. The Director General Prosecution, Khyber Pakhtunkhwa.
5. The Manager, Government Printing & Stationery Department Khyber Pakhtunkhwa, for publication in the Government Gazette with the request to supply 10 gazette copies to this department.
6. P.S to the Secretary to Govt: of Khyber Pakhtunkhwa, Home Department.

311
Section Officer (Prosecution)
Ph# 091-9210541



3

THE GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NOTIFICATION

Peshawar Dated the 2nd June, 2020

No.SO(Estt)/FE&WD/I-465/2k19: In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Forestry, Environment & Wildlife Department, in consultation with the Establishment Department and the Finance Department hereby directs that in this department's Notification No.SO(Estt)/PE&D/051/6-9/98, dated 9/06/1999, the following further amendment shall be made, namely:

AMENDMENTS

In the Appendix,-

(a) after serial No.3 (A), the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
"3B	Deputy Director (Legal) (BPS-18)			a) By promotion on the basis of seniority-cum-fitness from amongst the Assistant Directors (Litigation) with five years service as such; or b) If no suitable officer is available for promotion then by transfer of suitable officers from other Department."; and

(b) after serial No.5 (D), the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
"5E	Assistant Director (IT) (BPS-17)			a) By promotion on the basis of seniority-cum-fitness from amongst the Computer Operators (BPS-16) with five years service as such; or b) If no suitable officer is available for promotion then by transfer of officials from other Department.

Secretary
Govt: of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife Department

Endst: NO: SO (Estt)/FE&WD/I-465/2k19: Dated Peshawar the, 2nd June, 2020

Copy is forwarded for information to: -

- 1) All Administrative Secretaries, Govt: of Khyber Pakhtunkhwa.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 4) Director General, Environmental Protection Agency, Khyber Pakhtunkhwa.
- 5) Registrar Peshawar High Court/Service Tribunal, Khyber Pakhtunkhwa.

4

- 6) Registrar Khyber Pakhtunkhwa Environmental Protection Tribunal.
- 7) Secretary, Khyber Pakhtunkhwa Public Service Commission.
- 7) Director Budget & Accounts Cell, FE&W Department.
- 8) Librarian, Government of Khyber Pakhtunkhwa, Establishment Department.
- 9) Manager Government Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the Official Gazette with the request that twenty printed copies of the notification, when published may be furnished to this department.
- 10) PS to Secretary, FE&W Department Khyber Pakhtunkhwa.
- 11) Master file.
- 12) Concerned file.



(Zia-ur-Rahman)
SECTION OFFICER (ESTT)

5



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT**

Dated Peshawar, December 15, 2020.

NOTIFICATION:

SOI/En/PP/D/15/SP/Pool/2020. In pursuance of the provisions contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all previous notifications issued in this behalf, the Planning & Development Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in Column No. 3 to 5 of the Appendix to this Notification, which shall be applicable to the posts borne on the pool of ministerial staff of Planning Cells of Administrative Departments in Civil Secretariat as well as Planning and Development Department under the administrative control of Planning and Development Department, specified in Column No. 2 of the said Appendix.

APPENDIX

S.No.	Nomenclature of posts	Minimum qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	2	3	4	5
1	Superintendent/ Accounts Officer/ Admn & Accounts Officer (BPS-17)	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants, Office Assistants, Research Assistants, Progress Officers, Economic Investigators, Accounts Officers, Accountants, Assistant Research Officers and Caretakers (BPS-16) with at least five years service as such Note For the purpose of promotion, a joint seniority list of Assistants, Office Assistants, Research Assistants, Progress Officers, Economic Investigators, Accounts Officers, Accountants, Assistant Research Officers and Caretakers (BPS-16) shall be maintained.
	Assistant Director (IT) or Assistant IT Manager/ Computer Programmer Officer (BPS-17)	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators and Assistant Programmers (BPS-16) with at least five years service as such. Note For the purpose of promotion, a joint seniority list of Computer Operators and Assistant Programmers (BPS-16) shall be maintained.

6

	Najib Qasid (BPS-03)		18-40 Years	Note: For the purpose of promotion, a joint seniority list of Najib Qasids, Chowkidars, Mails, Farash and Sweepers shall be maintained. (a) Fifty per cent (50%) by transfer from the other Class-IV employees, i.e. Chowkidars, Mails, Farash and Sweepers etc; and, (b) fifty percent (50%) by initial recruitment.
15	Farash (BPS-03)	Preferably literate	18-40 Years	By initial recruitment.
16	Mali (BPS-03)	Literate and two years working experience as Mali	18-40 Years	By initial recruitment.
17	Sweepers (BPS-03)	Preferably literate	18-40 Years	By initial recruitment.
18	Chowkidar, (BPS-3)	Preferably literate with sound physique	18-40 Years	By initial recruitment.

SECRETARY TO,
GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING AND DEVELOPMENT DEPARTMENT.

Dated Peshawar, December 15, 2020.

No. SO/Estt/P&D/158/P/2020

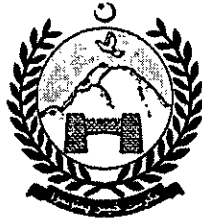
Copy forwarded for information and necessary action to the:

1. Senior Member Board of Revenue, Peshawar
2. All Administrative Secretaries in Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar
4. Secretary, Provincial Assembly, Khyber Pakhtunkhwa, Peshawar
5. Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
6. Accountant General, Khyber Pakhtunkhwa
7. The Executive Director, UPU, P&D Department
8. The Director General, SOU/M&E, P&D Department
9. The Incharge Resource Centre, P&D Department with the request to upload the service rules on official website.
10. PS to Additional Chief Secretary, P&D Department
11. PS to Secretary, P&D Department
12. PAs to Additional Secretary-I&II/Chief Economist, P&D Department
13. PA to Deputy Secretary-II, P&D Department
14. The Manager, Government Printing Press for publication in the extra ordinary gazette with the request to provide 50 copies of gazette

(SANA KHAN)
Section Officer (Estt.)

7

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 23rd DECEMBER 2021.

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATION
DEPARTMENT**

NOTIFICATION

Dated Peshawar, the 23rd December, 2021.

No. SO(LFC)/AD/3-10/2020.--- In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Agriculture, Livestock, Fisheries and Cooperation Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO(LFC)AD-EI(236)/2017, dated 20th December, 2017, the following further amendments shall be made, namely:

AMENDMENTS

In the APPENDIX,

(a) in PART-I, under the heading (PROFESSIONAL AND PARA PROFESSIONAL STAFF),-

(i) after Serial No. 13, the following shall be inserted in the respective Columns, namely:

"13A.	Biomedical Engineer (BPS-17).	At least Second Class BS/BE Engineering (four years) Degree in Biomedical and Mechatronics or its equivalent qualification from a recognized University with valid registration from Pakistan Engineering Council.	21-35 years.	By initial recruitment."
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*Post Mention
at 24(9)
Page 3*



8

(ii) after Serial No. 14, the following shall be inserted in the respective Columns, namely:

14A.	Freeze Drying Technician (BPS-13).	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Cold Storage Mechanic having at least one month Refresher Course in Freeze Drying Technology from Trade Testing Board, Khyber Pakhtunkhwa with five years service as such.
14B.	Sub Engineer (Civil) (BPS-12).	At least Second Division Diploma in Associate Engineering in (Civil) Technology or its equivalent qualification from a recognized Board of Technical Education.	18-32 years.	By initial recruitment.”;

(iii) after Serial No. 22, the following shall be inserted in the respective Columns, namely:

22A.	Auto Mechanic (BPS-05).	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with valid driving license and one year Certificate of Automechanic from Trade Testing Board Khyber Pakhtunkhwa with one year experience in the leading auto mechanic workshop.	18-40 years.	By initial recruitment.
22B.	Assistant Lineman (BPS-05).	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with one year Electrician Course from Trade Testing Board Khyber Pakhtunkhwa having sound physical and medical fitness and weight lifting capability.	18-40 years.	By initial recruitment.”;

(iv) after Serial No. 23, the following shall be inserted in the respective Columns, namely:

"23A.	Mason (BPS-05).	Literate, having one year Masonry Course from Trade Testing Board, Khyber Pakhtunkhwa with at least two years practical masonry work experience.	18-40 years.	By initial recruitment."
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(b) in PART-II, under the heading (MINISTERIAL AND OTHER SUPPORTING STAFF),-

(i) after Serial No. 24, the following shall be inserted in the respective Columns, namely:

"24A.	Assistant Director (IT)/ Web Administrator/Programmer (BPS-17).	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Computer Operator with five years service as such."
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(ii) after Serial No. 33, the following shall be inserted in the respective Columns, namely:

"33A.	Khadim For Mosque (BPS-07).	Darse Sania Almia Certificate or its equivalent qualification with Tajweed Quran from a recognized Madaris registered with Wafaqul Madaris Pakistan.	18-40 years.	By initial recruitment."; and
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(iii) after Serial No. 44, the following shall be inserted in the respective Columns, namely:

"44A.	Library Attendant (BPS-03).	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board.	18-40 years.	By initial recruitment."
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**SD/XXX
SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES AND
COOPERATION DEPARTMENT.**

28.01.2022

Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents No. 1 to 4 present. Private respondent No. 6 alongwith his counsel namely Mr. Noor Muhammad Khattak, Advocate, present. Private respondent 5 in person present and requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 03.03.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

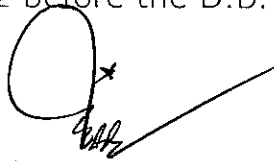
3-3-22

*Due to Retirement of the Hon,ble
Chairman the case is adjourned to come
up for the same as before on 17-6-22.*

*Salah-ud-Din
Rehman*

17.06.2022

Appellant alongwith his counsel present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for official respondents No. 1 to 4 present. Junior of learned counsel for private respondent No. 5 present and sought adjournment on the ground that learned counsel for private respondent No. 5 is busy in the august Peshawar High Court, Peshawar and is unable to attend the Tribunal today. Adjourned. To come up for arguments on 06.09.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

16.09.2021

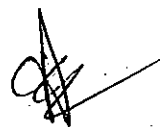
Appellant in person present.

Muhammad Adeel Butt learned Additional A.G for respondents present. Counsel for private respondent No.6 present.

Former submitted rejoinder with a request for adjournment as his counsel is not available today. Request is accorded. To come up for arguments on 22.11.2021 before D.B.



(Rozina Rehman)
Member (J)



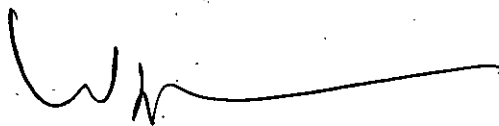
Chairman

22.11.2021

Learned counsel for the appellant present.

Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 4 present. Mr. Asif Yousaf Zai, Advocate for private respondent No. 5 present. Mr. Noor Muhammad Khattak, Advocate for private respondent No. 6 present.

Request for adjournment was made on behalf of both the parties. Adjourned. To come up for arguments on 16.12.2021 before D.B.



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

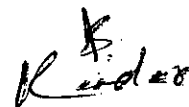


(Rozina Rehman)
Member (J)

16.12.21

DB is on Tony case to come up?

For the same on Dated. 28-1-22


Reader

28.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for official respondent and counsel for private respondent No. 6, are also present.

Written replies on behalf of official respondents as well as private respondent No. 5 have already been submitted while counsel for private respondent No. 6 submitted written reply today, which is placed on file. Adjourned to 15.04.2021 on which date file to come up for rejoinder and arguments before D.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

15.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 09.07.2021 for the same as before.


Reader

09.07.2021

Appellant with counsel present.

Muhammad Adeel Butt learned Additional A.G for official respondents present. Counsel for private respondent No.6 present.

Counsel for appellant requested for adjournment in order to submit rejoinder. Adjournment is accorded with direction to submit of rejoinder in office within 10 days and if the appellant failed to submit rejoinder within stipulated time, then he will have to seek extension of time through written application citing sufficient reasons. Otherwise, his right for submission of rejoinder shall be deemed struck off. File to come up for arguments on 16.09.2021 before D.B.

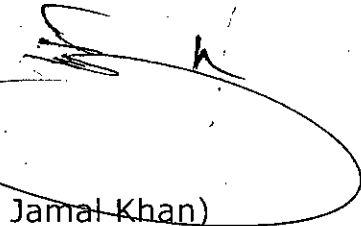

(Rozina Rehman)
Member (J)


Chairman

20.10.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 4 is also present.

Representative of official respondents No. 1 to 4 as well as private respondents No. 5 & 6 are not present, therefore, notices be issued to them for submission of written reply/comments for 08.12.2020 before S.B.

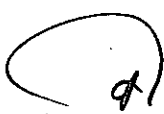

(Muhammad Jamal Khan)
Member (Judicial)

08.12.2020

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Abdul Bais Senior Clerk for official respondents No.1 to 4 present. Counsel for private respondents No. 5 & 6 present.


Written reply on behalf of respondents No.1 to 5 submitted. Counsel for private respondent No.6 requests for time to furnish reply/comments; granted by way of last chance. To come up for written reply/comments on behalf of respondent No.6, on 28.01.2021 before S.B.


(Rozina Rehman)
Member (J)

30.07.2020

Junior to counsel for the appellant, Addl. AG on behalf of respondent No. 1 to 4 present. Mr. Muhammad Asif Yousafzai, Advocate on behalf of respondent No. 5 present and furnished Wakalatnama in his favour. Nemo on behalf of respondent No.6.

Request for further time is made on behalf of respondents No. 1 to 5. Fresh notice be issued to respondent No. 6. To come up for written reply/comments on 22.09.2020 before S.B.

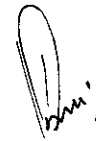


Chairman

22.09.2020

Appellant in person and Addl. AG for official respondents present. Mr. Noor Muhammad Khattak Advocate appeared on behalf of private respondents No. 5 & 6 and furnished Wakalatnama on their behalf.

Respondents seek further time to furnish reply/comments. Adjourned to 20.10.2020 on which date the respondents shall furnish requisite reply/comments without fail.



Chairman

25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 16.06.2020 before S.B:


Reader

16.06.2020

Learned counsel for the appellant present.

There is an application for placing on record certain documents/service rules. The documents appear to be relevant for the purpose of matter in hand, therefore, the application is allowed and documents annexed therewith are made part of the record.

Learned counsel for the appellant referred to the seniority list of Computer Operator (BPS-16) in the office of Additional Advocate General Khyber Pakhtunkhwa, circulated on 08.04.2019 and argued that the appellant was at serial No. 1 of the list while the private respondents were at serial No. 2 & 5, respectively. Despite, the appellant was not considered for promotion on the flimsy ground that he was not in possession of Master's degree while the officials juniors to the appellant/private respondents were holding the same. It was added that the Master's degree was not a requirement under the rules.

The appeal in hand is admitted for regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 30.07.2020 before S.B.




Appellant Deposited
Security & Process Fee
18/6/20


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 820/2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.02.2020	<p>The appeal of Mr.Muhammad Bilal Khan presented today by Mr. Muhammad Irshad Mohmand Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11/03/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2	11.03.2020	<p>Appellant with counsel present.</p> <p>Learned counsel for the appellant remained unable to show that as per promotion criteria, the appellant is also having the prescribed qualification for promotion to the post of Computer Programmer.</p> <p>Learned counsel for the appellant seeks adjournment to further prepare the brief. Adjourn. To come up for preliminary hearing on 25.03.2020 before S.B.</p> <p style="text-align: right;"> Member</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No: **820** /2020

Muhammad Bilal Khan

(Appellant)

VERSUS

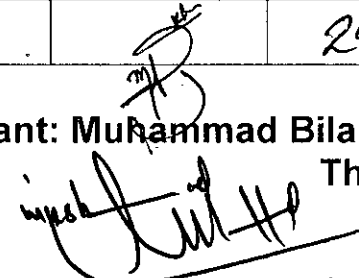
Govt of KPK through Chief Secretary & Others

(Respondents)

INDEX

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Address of parties		9
4.	Copy of Academic qualification & Appointment Order	"A"	10-13
5.	Copy of Regularization & up gradation	"B"	14-16
6.	Copy of Relevant Rule	"C"	17-19
7.	Copy of Seniority list	"D"	20-21
8.	Copy of Working Paper for promotion	"E"	22-23
9.	Copy of impugned Notification No E & A/ LD/2-12/2019 / 18688-93 dated 8-10-2019 & Notification No E & A/ LD/2-12/2019 / 18682-87 dated 8-10-2019	"F"	24-25
10.	Copy of Departmental Appeal	"G"	26-28
11.	Wakalat Nama		29

Appellant: **Muhammad Bilal Khan**
Through


Muhammad Irshad Mohmand
Advocate High Court
Off: 15-D, Haroon Mension
Peshawar

Dated: -31/01/2020

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No:

820 /2020

Muhammad Bilal Khan S/o Haji Muhammad Shafi R/o Street no
06, Saeed Abad Pajaggi Road Peshawar

(Appellant) Khyber Pakhtunkhwa
Service Tribunal

Case No. 982

VERSUS

Dated 04/02/2020

1. Government of Khyber Pakhtunkhwa through Chief Secretary
KPK Peshawar.
- ✓2. Govt of KPK through Secretary, Law Parliamentary Affairs and
Human Rights Department Peshawar.
- ✓3. Govt of KPK through Secretary Establishment Department
KPK Peshawar
- ✓4. Advocate General Khyber Pakhtunkhwa Peshawar.
5. Ahmad Khan Computer Programmer (BPS-17) Advocate
General office KPK Peshawar.
6. Zia Ullah Khan Web Administrator (BPS-17) Advocate General
office KPK Peshawar.

(Respondents)

Service Appeal Under Section 4 Of Khyber Pakhtunkhwa
Service Tribunal Act 1974 against the office Notification No
E & A/ Ld/2-12/2019 / 18688-93 Dated 08-10-2019 &
Notification No E & A/ Ld/2-12/2019 / 18682-87 Dated 8-10-
2019, Whereby Respondent No 5 & 6 were illegally
promoted to the Post of Computer Programmer and Web
Administrator And the Appellant has been illegally
deprived from his promotion in disregard of Recruitment &
Promotion Rules

Filed to day

Registrar

4/2/2020

PRAYER

2

✓ On acceptance of this Service Appeal on behalf of Appellant, the impugned Notification No E & A/ Ld/2-12/2019 / 18688-93 Dated 08-10-2019 & Notification No E & A/ Ld/2-12/2019 / 18682-87 Dated 8-10-2019 of promotion of Respondent no 5 & 6 be declared illegal against the service recruitment & promotion rules and be set-aside and the appellant be promoted to the post of computer programmer with all back benefits being on the top of seniority list of the department

Any other remedy which this August Tribunal deems fit and appropriate may also be granted to the appellant. ✓

=====

Respectfully Sheweth:-

The brief facts leading up to the filing of this Service Appeal are as under:-

1. That the Appellant was initially appointed in BPS-11 in the office of Advocate General / Respondent No 4 on 24-03-2007 with qualification of B.com / DIT (Diploma in Information Technology) required for initial recruitment of Computer Operator and still working as such. **(Copy of Appointment Order is Attach as Annex "A")**
2. That after joining of his service the appellant was performing his duty regularly and remained punctual up to the entire

satisfaction of his superior and no complaint, what so ever has been made against the appellant by his superior.

3. That thereafter the appellant was regularized in his service by the Respondent No 4 vide office order no 68-71/ AG dated 2-1-2009 w-e-f 01-07-2009 and the post of appellant was upgraded from BPS-11 to BPS-12 and later on upgraded to BPS-16 and since then the appellant is performing his duty with great zeal and zest. **(Copy of Regularization & up gradation is Attach as Annex "B")**

4. That two Post of BPS-17 of computer programmer and web administrator were created in the Appellant Department, where for working paper were prepared for filling up of these two post by promotion through Departmental Selection Committee and the qualification for promotion to the impugned post prescribed in the rule, which is reproduce for ready reference here under, and the criteria for filling up of the impugned post are:-

A. Computer Programmer (BPS-17)

50 % by promotion on the basis of Seniority Cum-fitness from amongst the Assistant Programmer And Computer Operator with at least five years experience while

50% by initial recruitment with Qualification of BCS/MCS with age of 20-32. (Copy of Relevant Rule is Attach as "C")

5. That according to the Seniority list, the appellant was on the top of Seniority list at Serial No 1 while the Respondent no 5 & 6 were at Serial No 2 & 5 respectively. **(Copy of Seniority list is Attach as Annex "D")**

6. That the case for promotion of filing up of the above mention two post in the office was processed wherein the name of the appellant was placed at serial no 1 while the name of Respondent no 5 & 6 were placed at Serial No 2 & 5 respectively in the working paper prepared for Departmental Promotion Committee. **(Copy of Working Paper for promotion is Attach as Annex "E")**

7. That the Departmental Promotion Committee meeting was held on 23-10-2019 under the Chairmanship of Respondent no 2 and thereafter they recommended the Respondent no 5 & 6 for promotion to the post of computer programmer and web administrator and the above impugned Notification No E & A/ Ld/2-12/2019 / 18688-93 Dated 08-10-2019 & Notification No E & A/ Ld/2-12/2019 / 18682-87 Dated 8-10-2019 were issued for their promotion. **(Copy of Impugned Notification is Attach as Annex "F")**

8. That the appellant despite of fact & rules was entitle for promotion to the post of computer programmer but was illegally deprived, therefore the appellant preferred a departmental

5

appeal on 16-10-2019 through proper channel, which was processed but till expiry of stipulated period has not been decided.(Copy of Departmental Appeal is Attach as Annex "G")

9. That the appellant being aggrieved from the impugned Promotion Notification No E & A/ Ld/2-12/2019 / 18688-93 Dated 08-10-2019 & Notification No E & A/ Ld/2-12/2019 / 18682-87 Dated 8-10-2019 of Respondent No 5 & 6 and not deciding the Departmental Appeal within the stipulated period preferred Service Appeal before this Honorable Tribunal on the following grounds:-

GROUNDS

- A. That the refusal of promotion to the appellant is illegal, against the service law and recruitment & promotion rules, therefore liable to be set-aside.
- B. That the appellant is eligible & qualified being most senior in his cadre and having unblemished service record and is entitle to be promoted to the post of computer programmer, therefore the denial of Respondent no 1 to 4 regarding the promotion is not only illegal but also unwarranted, unjustified and is the result of mala fide and illegal exercise of power & authority.

- ✓ C. That the criteria laid down for promotion of the Respondent no 5 & 6 by the official respondents are not in consonance with the relevant recruitment and promotion rules and the appellant qualification and eligibility is fully covered and is entitle to be promoted to the impugned post being most senior than the Respondents no 5 & 6.

- D. That both the private Respondent, who have been promoted to the posts are junior to the appellants, therefore their promotion to the impugned post are illegal and against the recruitment & promotion rules.

- ✓ E. That the recruitment & promotion rules of the cadre has been violated , misinterpreted and miss applied by the Departmental Selection Committee by giving benefits to their blued eyes employees and illegal deprived the appellant from his due & guaranteed of Constitutional rights, therefore the impugned notifications are liable to be set-aside and the appellant be awarded his due right of promotion.

- F. That the appellant has almost of 13 years Service on his credit and waiting with the hope for promotion to higher grade, but the Respondent illegally & malafidely ignored on miss interpretation & miss application of recruitment & promotion rules by depriving the appellant from his due right of promotion being eligible and qualified.

7

Prayer

It is therefore humbly prayed that on acceptance of this Service Appeal the impugned Notification No E & A/ LD/2-12/2019 / 18688-93 dated 08-10-2019 & Notification No E & A/ LD/2-12/2019 / 18682-87 dated 08-10-2019 of promotion of Respondent No 5 & 6 may graciously be declared illegal, against the recruitment & promotion rules based on mala fide and ulterior motive having no backing of law rather miss interpreted and miss application of rules and liable to be set-aside and the Respondents be directed to promote the appellant on the post of computer programmer being entitle, eligible and qualified with all back benefits.

Any other remedy which this August Tribunal deems fit and appropriate may also be granted to the appellant.

Appellant:-Muhammad Bilal Khan
Through



Muhammad Irshad Mohmand
Advocate High Court



& Atta Ullah Mashwani
Advocate

Off: 15-D Haroon Mension
Peshawar

Dated:-31/01/2020

⑧

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No:

/2020

Muhammad Bilal Khan

-

(Appellant)

VERSUS

Govt of KPK through Chief Secretary & Others

(Respondents)

AFFIDAVIT

I Muhammad Bilal Khan S/o Haji Muhammad Shafi R/o Street no 06, Saeed Abad Pajaggi Road Peshawar do hereby solemnly affirm and declare that all the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honorable Tribunal

DEPONENT

Identified by

Irshad Mohmand

**Muhammad Irshad Mohmand
Advocate High Court
Peshawar**



9

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No: /2020

Muhammad Bilal Khan - **(Appellant)**

VERSUS

Govt of KPK through Chief Secretary & Others
(Respondents)

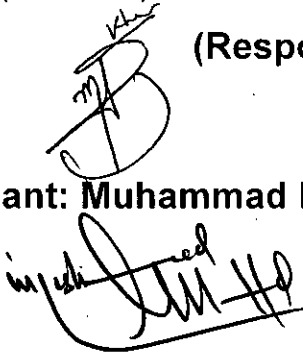
ADDRESSES OF PARTIES

Muhammad Bilal Khan S/o Haji Muhammad Shafi R/o Street no
06, Saeed Abad Pajaggi Road Peshawar
(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary at Secretariat KPK Peshawar.
 2. Govt of KPK through Secretary, Law Parliamentary Affiar and Human Rights Department at Secretariat Peshawar.
 3. Govt of KPK through Secretary Establishment Department at Secretariat Kpk Peshawar
 4. Advocate General Khyber Pakhtunkhwa Peshawar at Peshawar High Court Building.
 5. Ahmad Khan Computer Programmer (BPS-17) Advocate General office KPK Peshawar.
 6. Zia Ullah Khan Web Administrator (BPS-17) Advocate General office KPK Peshawar.
- (Respondents)**

Appellant: Muhammad Bilal Khan
Through


Muhammad Irshad Mohmand
Advocate High Court
Off: 15-D, Haroon Mension
Peshawar

Dated:-31/01/2020

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

University of Peshawar (Pakistan)

Session ANNUAL 2002

MUHAMMAD BILAL KHAN SON OF HAJI MUHAMMAD SHAFI and-a student

of PROFESSIONAL COLLEGE OF COMMERCE & MANAGEMENT, PESHAWAR having passed the
prescribed Examination held in JULY 2002 is this day admitted by the

University of Peshawar to the Degree of
Bachelor of Commerce

in the SECOND Division

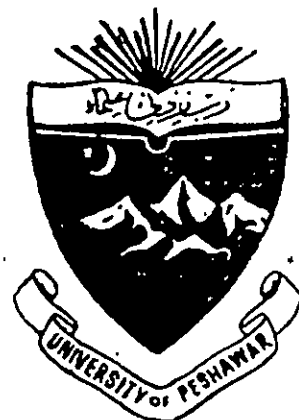
The Examination was taken as a whole /in parts

Serial No. 004449

Registered No. 2000-FCCM-3

Roll No. 2646

Result Declared on NOVEMBER 15, 2003



M. I. Malik
Registrar

[Signature]
Countersigned
Vice-Chancellor

REGISTERED

10

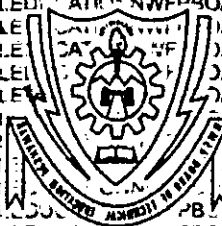
A

Annex

000291

1808

N.W.F.P. BOARD OF TECHNICAL EDUCATION



Diploma in Information Technology

Session 2001-02

This is to certify that

MUHAMMAD BILAL KHAN

HAJI MUHAMMAD SHAIKH

Mr. / Miss

Son / Daughter of Mr.

PR-15/DAT/2-01/56-2092

Registration No.

TECOS DATA INSTITUTE, PESHAWAR

satisfactorily completed the one year duration Information Technology

course titled "Diploma in Information Technology" and passed its

Examination held by the N.W.F.P. Board of Technical Education

Peshawar in the month of MARCH, 2002

He / She secured 3043 marks out of 3760

Grade B

In recognition thereof, this Diploma in Information Technology is

awarded to him / her at Peshawar.

On the 10th day of August 2002

Assistant Secretary

ATTESTED

Secretary

OFFICE OF THE ADVOCATE-GENERAL, NWFP, PESHAWAR.

OFFICE ORDER

(12)

On the basis of the recommendation of the Selection Committee the followings are appointed as Computer Operators, NPS-11 for period of three years.

1. Mr. Manzoor Hussain s/o Said Hussain
r/o Village & P.O. Mashukhel, District
Peshawar.
2. Mr. Fawad Alam s/o Akhtar Mohd r/o MM-133
University Campus, Peshawar University,
Peshawar.
3. Mr. Mohd Bilal Khan, s/o Haji Mohd Shafi
r/o Street No.6, Saeedabad, Pajaggi Road,
Peshawar.

are
The appointments/temperary in nature and can be terminated by the Competent Authority at any without any notice. The appointees will produce medical/ health certificate from the Medical Superintendent, Police Hospital, Peshawar. They are required to report for duty within 10 days failing which the appointment order shall be deem to have been withdrawn. They would be subject to all rules applicable to Government servants. These appointments are made in the public interest.

-sd-
ADVOCATE-GENERAL, NWFP.,
Peshawar.

No. 2593 /A.G., dated Peshawar the 24/3/2007.

A copy is forwarded for information and necessary action to the:-

1. Accountant-General, NWFP, Peshawar.
2. Mr. Manzoor Hussain s/o Said Hussain r/o
Village & P.O. Mashukhel, District Peshawar.
3. Mr. Fawad Alam s/o Akhtar Mohd r/o MM-133,
University Campus, Peshawar University,
Peshawar.
4. Mr. Mohd Bilal Khan s/o Haji Mohd Shafi r/o
Street No.6, Saeedabad, Pajaggi Road, Peshawar
5. Relevant File.
6. Accounts Branch, office of the Advocate-General
NWFP, Peshawar.

ADVOCATE-GENERAL, NWFP.

ATTESTED

13

To

The Advocate-General, N.W.F.P.,
Peshawar.

Office of Advocate-General
No. 1874
29-3-2007
[Signature]

Subject: - ARRIVAL REPORT.

Sir,

In compliance of office order No.2596/
dated 24.3.2007. I beg to submit my arrival report
for duty on 29.3.2007(F.N).

Yours Obediently,

[Signature]
(Muhammad Ali Khan)
Computer Operator

Encl: Medical Certificate.

Shahine
Should work with A. Shk Khan till
further orders.

Leqman

29/3

ATTESTED

(14)

Annex "B"

43

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

NO. BOII/FD/3-5/2008/SNL/AG
Dated Peshawar the 30.12.2008

To

The Secretary to Govt of NWFP,
Law, Parliamentary Affairs & Human Rights
Department, Peshawar.

SUBJECT: REGULARIZATION "STRENGTHENING OF ADVOCATE GENERAL'S
OFFICE UNDER ACCESS TO JUSTICE PROGRAMME"

Dear Sir,

I am directed to refer to your letter No.SO(G)LD/AJP/14-8/200-07/992-22 dated 18.10.2008 on the subject noted above and to say that Finance Department agrees to the creation of the following posts in the office of Advocate General, NWFP. w.e.f 01.07.2009:-

S.No.	Name of posts.	Number of post.
1.	Assistant (BPS-14)	01
2.	Computer Operator (BPS-11)	03
3.	Naib Qasid (BPS-1)	01
Total:		05

4650
3.4/12/08

It is requested that the financial implications involved may be worked out and submit Audit Copy for authentication by the Finance Department.

Yours faithfully

(MOHAMMAD NAFEE) BUDGET OFFICER-II

Copy forwarded to:

1. The Accountant General, NWFP.
2. The Advocate General, NWFP.
3. Director-FMIU, Finance Department.
4. The Budget Officer-I, Finance Department.

No. 12186 /SO(G)LD/AJP/14-8/2007-8 dt: 31/12/08

BUDGET OFFICER-II

Copy forwarded to the Advocate General, NWFP, Peshawar for information & necessary action Please.

ATTACHED

SECTION OFFICER
Department.

(15)

OFFICE OF THE ADVOCATE GENERAL, NWFP PESHAWAR

No. _____ /AG

dated Peshawar _____ /09

OFFICE ORDER

In pursuance of decision taken during the meeting held on 24/07/2008 by the Chairmanship Secretary, Govt of NWFP Law, Parliamentary Affairs and Human Rights Department regarding regularization of "Strengthening of Advocate General's Office under Access to Justice Programme", and Finance Department letter No. BO-II/FD/3-5/2008/SNE/AG dated 30/12/2008, services of the following officials of this office is hereby regularized w.e.f 01/07/2009:

S.NO.	NAME OF OFFICIALS	DESIGNATION
1	Manzoor Hussain	Computer Operator BPS-11
2	Muhammad Bilal Khan	do
3	Ahmed Khan	do


Advocate General, NWFP,
Peshawar

No. 68-71 /AG

dated 2/1/20/09

Copy to: -

1. The Accountant General, NWFP
2. The Officials Concerned
3. The Accountant of this office.
4. P/File.


Advocate General, NWFP,
Peshawar

ATTESTED

(16) 41

OFFICE OF THE ADVOCATE GENERAL KHYBER PAKHTUNKHWA PESHAWAR

OFFICE ORDER

In pursuance to the Notification bearing No. KC/FD/SO(FR)/7-3/2001 dated 12/07/2010, the posts of the following Computer Operators of this office are hereby upgraded to BPS-12 with effect from 12/07/2010.

1. Mr. Manzoor Hussain
2. Muhammad Bilal Khan
3. Ahmad Khan

Advocate General,
Khyber Pakhtunkhwa
Peshawar

Endst. No 1047-55 /AG

dated 31/07 /2010.

Copy to:-

1. The Secretary Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3-5 The Officials concerned.
- 6-8 P/Files.
9. Order files.

Asst. Secy
Advocate General,
Khyber Pakhtunkhwa
Peshawar

ATTESTED

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT**

NOTIFICATION

Peshawar, dated the, 09/12/2015.

Put up =

No. E&A/LD/2-12/2015: -In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department hereby directs that in the Khyber Pakhtunkhwa Office of the Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(a) against serial No. 7, in column No. 3, 4 and 5, for the existing entries, the following shall respectively be substituted, namely:

	21	By promotion on the basis of seniority cum-fitness, from amongst Computer Operators (PBS-12), with at least five (5) years service/experience as such, and
--	----	------------------------------------------------------------------------------------------------------------------------------------------------------------

(b) against serial No. 7a, in column Nos. 3 and 4, for the existing entries, the following shall respectively be substituted, namely:

* (i). At least Second Class Bachelor's Degree in Computer Science/Information Technology (BSC/BIT four years), from a recognized University; or (ii). at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology, from a recognized Board of Technical Education.	20 to 32 years.*
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------

ATTESTED

*Seen
Aulai
11/12/2015*


SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

Annex C
(17)

Endst: Of Even No & Date. / 27308-17

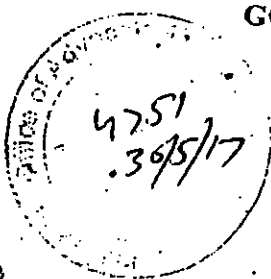
Copy is forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
3. The Registrar, Peshawar High Court, Peshawar.
4. The Advocate General, Khyber Pakhtunkhwa, Peshawar
5. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
6. The Section Officer (R-IV), Establishment Department, Govt of Khyber Pakhtunkhwa Peshawar
7. The Manager, Government Printing Press, Khyber Pakhtunkhwa for publication in Government Gazette. He is requested to send ten (10) copies of the same to this Department.
8. The Director of Archives and Libraries, Khyber Pakhtunkhwa, Peshawar.
9. ~~The Librarian, Establishment/Administration Department, Khyber Pakhtunkhwa.~~
10. The PS to Secretary, Law Department.


(AKBAR KHAN)
Section Officer (General)

RECEIVED
12/12/2008

8/20



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

NOTIFICATION

Peshawar dated the, 29.05.2017.

No. E&A/LD/2-12/2017:-

In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department hereby directs that in the Khyber Pakhtunkhwa office of Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix, against serial No. 3(a), in column No. 5, for the existing entries, the following shall be substituted, namely:

5
(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with <u>five years service</u> as such; and
(b) fifty percent (50%) by initial recruitment.
Note: A joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion."

Secretary to, Government of the Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights
Department.

Endst: No E&A/LD/2-12/2017/17165-75

Copy is forwarded to the:-

- All the Administrative Secretaries Govt: of Khyber Pakhtunkhwa.
- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Director of Archives and Libraries, Khyber Pakhtunkhwa Peshawar.
- Registrar, Peshawar High Court, Peshawar.
- Advocate General, Khyber Pakhtunkhwa, Peshawar.
- PSO to Chief Minister, Khyber Pakhtunkhwa.
- Secretary Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- Manager, Printing Press, Khyber Pakhtunkhwa for publication in Government Gazette. He is requested to send ten (10) copies of the same to this Department.
- Librarian, Establishment/Administration Department Khyber Pakhtunkhwa.
- Reference & Research Officer Law Department with the request to kindly upload the same in the official website.
- Section Officer (R-IV), Establishment Department.
- PS to Chief Secretary Khyber Pakhtunkhwa.
- PS to Secretary Law Department.

A.O.
Jaan
Amu
31/05/2017

ATTESTED

(Rizwan Ullah Khan)
Section Officer (General)

19

6

8/20



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

NOTIFICATION

Peshawar dated the 05.06.2018.

g
21/06

No.E&A/LD/2-12/2018.-

In exercise of powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in the Khyber Pakhtunkhwa Office of Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENT

In the Appendix, the existing serial No. 3(b) shall be re-numbered as "3(c)" and before serial No. 3(c), as so renumbered, the following new entries shall be inserted in the respective columns, namely:

"3(b)	Web Administrator (BPS-17).	At least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.	21 to 32 years.	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such: Provided that if no suitable person is available for promotion then by initial recruitment."
-------	-----------------------------	---------------------------------------------------------------------------------------------------------------------	-----------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Service Rules file
g

Secretary to,
Government of the Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and
Human Rights Department.

Endst: No & Date Even

Copy is forwarded to:

1. Advocate General, Khyber Pakhtunkhwa, Peshawar.
2. The Director of Archives and Libraries, Khyber Pakhtunkhwa Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission.
4. The Manager, Government Printing Press, Khyber Pakhtunkhwa for publication in Government Gazette. He is requested to send ten (10) copies of the same to this Department.
5. The Librarian, Establishment/Administration Department, Khyber Pakhtunkhwa.
6. The Senior Librarian, Law Department with the request to kindly upload the same in the official website.
7. The P.S. to Chief Secretary, Khyber Pakhtunkhwa.
8. The P.S. to Minister for Law, Khyber Pakhtunkhwa.
9. PS to Secretary Establishment Department.
10. PS to Secretary Finance Department.
11. PS to Secretary, Law Department.

ATTESTED

5/6/2018
(MITHAMMAD VASINI)



OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 9327-28 /AG,

dated Peshawar the 08/04 /2019

Address: High Court Building, Peshawar
Tel No. 091-9210119

Exchange: 091-9213833
Fax No. 091-9210270

OFFICE ORDER

In pursuance to Section 8(5) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) rules, 1989, Final and Undisputed Seniority List of the Computer Operators (BPS-16), as it stood on 31/12/2018, is hereby issued / notified / circulated for general information.

Sl. No.	Name of Official	Academic Qualification	Date of Birth	Date of retirement	Domicile	Date of first entry into Govt. Service	Regular appointment /Promotion in present scale/post	Method of Recruitment	Remarks / Station
1	Muhammad Bilal Khan	B.Com/DIT	01.07.1978	30.06.2038	Peshawar	24.03.2007	01.07.2009	By Selection	Peshawar
2	Ahmad Khan	BCS(Hons). (4 years)	10.01.1983	09.01.2043	Nowshera	30.01.2008	01.07.2009	By Selection	Peshawar
3	Shafiq Ahmad	MA/DIT	01.04.1981	31.03.2041	Swat	08.02.2011	08.02.2011	By Selection	Dar-ul-Qaza, Swat
4	Yasir Muhammad	MLIS	17.06.1983	16.06.2043	Mardan	18.07.2012	18.07.2012	By Selection	Peshawar
5	Zia Ullah	MCS	22.04.1987	21.04.2047	Khyber	18.07.2012	18.07.2012	By Selection	Services Tribunal, Peshawar

ATTESTED

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D
Annex

6	Muhammad Arif	B.Sc. / DIT	26.01.1990	25.01.2050	Malakand	22.02.2014	22.02.2014	By Selection	Supreme Court, Islamabad
7	Ejaz Ullah	Bachelor of Studies (Hons) in Comp. Sc.	02.01.1989	01.01.2049	Peshawar	01.02.2016	01.02.2016	By Selection/ Deceased son Quota	Peshawar

(2)

Endst. No. & date even

Copy to the:

1. PS to the Ld. Advocate General, Khyber Pakhtunkhwa, Peshawar.
2. All officials concerned.

Sd/-
ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR.


(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

ATTESTED

(22)

Annex "E"

(1)

OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

WORKING PAPERS

Subject: PROMOTION OF COMPUTER OPERATORS (BPS-16) AS COMPUTER PROGRAMMER (BPS-17) AND WEB ADMINISTRATOR (BPS-17) ON REGULAR BASIS IN OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA

In pursuance to the Khyber Pakhtunkhwa Office of the Advocate General (Recruitment & Appointment) Rules, 1981 flagged as "A", the following method of appointment has been prescribed for the posts of Computer Programmer (BPS-17) and Web Administrator (BPS-17).

COMPUTER PROGRAMMER (BPS-17):-

- a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such; and
- b) Fifty percent (50%) by initial recruitment.

Note: A Joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion.

WEB ADMINISTRATOR (BPS-17):-

By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such:

Provided that if no suitable person is available for promotion, then by initial recruitment.

2. There are two (02) sanctioned posts, one (1) each of Computer programmer (BPS-17) and Web Administrator (BPS-17) in Main Office, Peshawar. Both posts are, at the moment, lying vacant.

3. These posts are required to be filled in by way of regular promotion under provision of Rule-7 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 flagged as "B".

ATTESTED

23

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4. A panel of seven (07) Computer Operators (BPS-16) in order of seniority as it stood on 31/12/2018 is given below which is flagged as "C".

S.No	Name	Qualification	Seniority Position	Date of appointment as Computer Operator on regular basis	Whether 05 year service as Computer Operator completed?	Present place of posting
1.	Muhammad Bilal Khan	B.Com/DIT	1 st	01.07.2009	Yes	Main office, Peshawar
2.	Ahmad Khan	BCS(Hons)	2 nd	01.07.2009	Yes	Main office, Peshawar
3.	Shafiq Ahmad	MA/DIT	3 rd	08.02.2011	Yes	Addl: AG Office, Dar-ul-Qaza (Swat)
4.	Yasir Muhammad	MLIS/DIT	4 th	18.07.2012	Yes	Main Office, Peshawar
5.	Zia Ullah	MCS	5 th	18.07.2012	Yes	Main office, Peshawar
6.	Muhammad Arif	B.Sc with Computer Science as subject /DIT	6 th	22.02.2014	Yes	Addl: AG Office, Islamabad
7.	Ejaz Ullah	Bachelor of Studies (Hons) in Comp.Sc	7 th	01.02.2016	No	Main Office, Peshawar

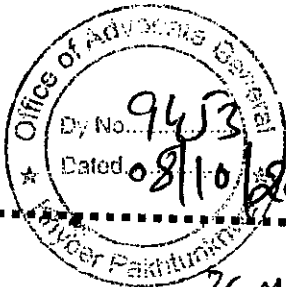
5. It is certified that all the officials, included in the panel:-

- Hold the posts of Computer Operators (BPS-16) on regular basis.
- Are not involved in any disciplinary/departmental proceedings / Anti-Corruption case / Judicial Enquiry.
- No penalty has been imposed on any of them.
- Their seniority position is final, undisputed and duly notified.
- No official is on long leave.

6. Synopsis of ACRs in respect of the above officials are also added, duly flagged and original ACRs will be produced during the DPC meeting.

7. The Departmental Promotion Committee (DPC) is therefore to determine suitability of two (02) out of the above seven (07) Computer Operators (BPS-16) for promotion as Computer Programmer (BPS-17) and Web Administrator (BPS-17) on regular basis in this office.


ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.



(24) Annex "F"
GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

Peshawar dated the 08/10/2019.

NOTIFICATION

No: E & A/LD/2-12/2019:

On the recommendation of the Departmental Promotion Committee, the Competent Authority is pleased to promote Mr. Ahmad Khan, Computer Operator (BPS-16) office of the Advocate General Khyber Pakhtunkhwa to the post of Computer Programmer (BPS-17) on regular basis with immediate effect.

2. The Officer on promotion will remain 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 Government Servants (Appointment, Promotion and Transfer) Rules, 1989.

**CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

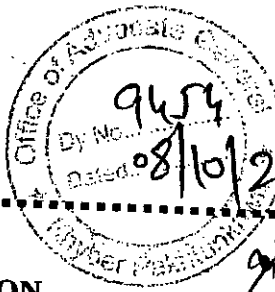
ENDST. OF EVEN NO. & DATE / 18088-93

Copy is forwarded to:-

1. The Advocate General, Khyber Pakhtunkhwa, Peshawar.
2. The Accountant General Khyber Pakhtunkhwa.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
4. The PS to Minister for Law, Parliamentary Affairs and Human Rights.
5. The PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
6. The Officer concerned.

M. Khan
SECTION OFFICER (GENERAL)

ATTESTED



(25)

GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

Peshawar dated the 08/10/2019.

NOTIFICATION

No: E & A/LD/2-12/2019:

On the recommendation of the Departmental Promotion Committee, the Competent Authority is pleased to promote Mr. Zia Ullah, Computer Operator (BPS-16) office of the Advocate General Khyber Pakhtunkhwa to the post of Web Administrator (BPS-17) on regular basis with immediate effect.

2. The Officer on promotion will remain 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 Government Servants (Appointment, Promotion and Transfer) Rules, 1989.

**CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

ENDST. OF EVEN & DATE.

Copy is forwarded to:-

18682-87

1. The Advocate General, Khyber Pakhtunkhwa, Peshawar.
2. The Accountant General Khyber Pakhtunkhwa.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
4. The PS to Minister for Law, Parliamentary Affairs and Human Rights.
5. The PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
6. The Officer concerned.

Murphy
SECTION OFFICER (GENERAL)

ATTESTED

To

The Advocate General,
Khyber Pakhtunkhwa, Peshawar.

9/16/19



Muhammad Bilal Khan, Computer Operator office of Advocate General,
Khyber Pakhtunkhwa, Peshawar.

VS

1. Ahmad Khan Promoted to Computer Programmer
2. Zia Ullah promoted to Web Administrator.

A.O.

Pl submit a
background report.

[Signature]
18/10

DEPARTMENTAL APPEAL / REPRESENTATION
AGAINST THE NOTIFICATION NO. E&A/LD/2-
12/2019/18688-93 DATED 08/10/2019 and
NOTIFICATION NO. E&A/LD/2-12/2019/18682-87
DATED 08/10/2019 WHEREBY THE MOST
JUNIOR OF THE PETITIONER WERE
PROMOTED AND THE PETITIONER HAS BEEN
DEPRIVED FROM PROMOTION.

PRAYER:-

ON ACCEPTANCE OF THE REPRESENTATION
ON BEHALF OF PETITIONER THE IMPUGNED
NOTIFICATION OF PROMOTION OF
RESPONDENTS BE SET ASIDE AND THE
PETITIONER BE PROMOTED BEING SENIOR
AND QUALIFIED TO THE POST OF COMPUTER
PROGRAMMER / WEB ADMINISTRATOR.

Respected Sir

The petitioner submitted as under:-

1. That the petitioner was initially inducted in the office of Advocate General on 24/03/2007 with qualification of B.Com/DIT as Computer Operator and since then working as such.

ATTESTED

[Signature]
16/10/2019

2. That according to the seniority the petitioner is on the top at serial No. 1 of the seniority list.
3. That recently two posts of Computer Programmer and Web Administrator BPS-17 were created in the office of the Advocate General which were each to be filled up 50% by promotion and 50% by initial recruitment and the qualification prescribed for the same as mentioned in the recruitment rules as

“Computer programmer BPS-17 50% by promotion on the basis of Seniority Cum Fitness from among the Assistant Programmer & Computer Operators, having qualification prescribed form initial recruitment with five years’ service as such and 50% by initial recruitment.”
4. That according to the rule, seniority and qualification the petitioner is entitled to be promoted to the above mentioned posts but unfortunately the petitioner has been deprived from his due and guaranteed right of promotion illegally and with malafide intention.
5. That it is also pertinent to mentioned here that while processing the case for promotion by the officer the date of appointment of petitioner and respondent No. 1 was shown the same as 01/07/2009 despite the fact that petitioner was inducted in service on 24/03/2007 which also shows the malafide of office with petitioner.
6. That the recruitment & Promotion Rules was misinterpreted and mis-applied in the matter of petitioner promotion by depriving the petitioner from his due and guaranteed right of promotion.
7. That the petitioner had served in the department for more than 12 years and having unblemished service record and no adverse entry has ever been recorded against the petitioner in the entire service.

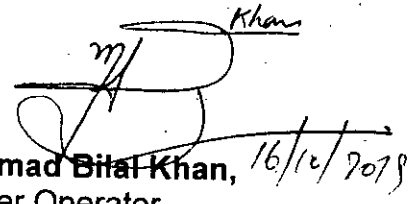
ATTESTED

[Signature]
16/6/20

It is therefore, requested that on acceptance of this departmental representation on behalf of the petitioner against Notification No. E&A/LD/2-12/2019/18688-93 dated 08/10/2019 and Notification No. E&A/LD/2-12/2019/18682-87 dated 08/10/2019 the petitioner be consider sympathetically and the petitioner be awarded his due & guaranteed right of promotion to the post of Computer Programmer BPS-17 being most senior & fit official of the department.

Thanks

PETITIONER


 ^{Khan}

Muhammad Bilal Khan, 16/10/2019
Computer Operator,
Advocate General,
Khyber Pakhtunkhwa,
Peshawar

Dated: 16/10/2019

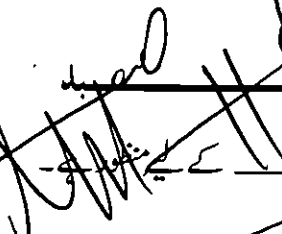
ATTESTED

قیمت 50 روپے	11394			
ایڈوکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: BL-12-3483		بعدالت جناب: 		
رابطہ نمبر: 0300-5917744				

مخانب: 	دعویٰ:
محمد بلال خان بنام حکومت و غیرہ	علت نمبر:
	موضوع:
	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جو صاحب دی کاروائی متعلقہ آن مقام لکھنؤ کیلئے محمد ارشد محمد اظہار علی کو مقرر کیا گیا ہے کہ اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: _____
 العبد - محمد ارشد - واہ شد
 مقام: _____
 کے لیے 

محمد بلال خان

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. **820/2020**

Muhammad Bilal Khan s/o Haji Muhammad Sharif,
r/o Street#6, Syed Abad Pajagi Road, Peshawar

.....Appellant


Versus

Govt. of Khyber Pakhtunkhwa & others

..... Respondents

Index

S.NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1	Parawise Comments on behalf of Respondent No 1-4		1-4
2	Affidavit		5
3	Option to Forego/ Promotion as Computer Programmer By Appellant	"A"	6
4	Rules of Computer Programmer (BPS-17) dated 29/05/2017.	"B"	7
5	Rules of Web Administrator (BPS-17) dated 05/06/2018.	"C"	8
6	Representation of Appellant dated 16/08/2019	"D"	9
7	Letter of Advocate General's Office to Law Department forwarding Representation of Appellant to Seek views of Establishment Department Dated 29/08/2019	"E"	10
8	Law Department Letter to Establishment department for views/Comments dated 11/09/2019	"F&G"	11-12
9	Law Department letter to Advocate General Office dated 24/09/2019 with Reply of Establishment Department to Law Department dated 18/09/2019	"H&I"	13-14
10	Amendments In The North West Frontier Province (Provincial Information Technology Group) Service Rules, 2006 Dated 21/12/2016	"J&K"	15-16


Deponent
ADMINISTRATIVE OFFICER
Advocate General's Office
Khyber Pakhtunkhwa
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. **820/2020**

Muhammad Bilal Khan s/o Haji Muhammad Sharif,
r/o Street#6, Syed Abad Pajagi Road, Peshawar

...Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar.
2. Govt. of Khyber Pakhtunkhwa through
Secretary, Law & Human Rights Department, Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary,
Establishment Department, Civil Secretariat, Peshawar.
4. Advocate General, Khyber Pakhtunkhwa, Peshawar.
5. Mr. Ahmad Khan, Computer Programmer (BPS-17)
Advocate General Office, Khyber Pakhtunkhwa, Peshawar.
6. Mr. Zia Ullah Khan, Web Administrator (BPS-17),
AG Office, Khyber Pakhtunkhwa, Peshawar. Respondents

COMMENTS ON BEHALF OF RESPONDENT No. 1-4

RESPECTFULLY SHEWETH:

It is submitted as under;

PRELIMINARY OBJECTIONS:

1. That the Appeal in hand is hopelessly time barred and liable to be dismissed on this score alone.
2. That the Appellant has no "Locus Standi" and cause of action to institute the instant Appeal.
3. That the Appellant is estopped and is not entitled to file the instant Appeal because of his own conduct as he himself submitted an application before the Competent Authority while **exercising the option to forego his promotion** vide application Diary No: 5439/AG, dated 29/05/2019 in office of the Advocate General (copy of application is annexed as annexure "A").
4. That the Appeal is not maintainable in its present form, as such, liable to be strucked down.
5. That the Appeal is bad due to non-joinder and mis-joinder of necessary parties.

6. That this Hon'ble Tribunal has got no jurisdiction in Fitness/Promotion cases.
7. That the subject Appeal is also liable to be dismissed as the Appellant has concealed the material facts from this Hon'ble Tribunal and thus have not approached the same with clean hands. However, it is important to know that the rules mentioned therein by the Appellant in Para-4 is totally irrelevant, baseless and just to mislead this Hon'ble Tribunal as the same are neither the Rules for the Posts of Computer Programmer (BPS-17) and Web Administrator (BPS-17) nor any other post of Office of the Advocate-General, Khyber Pakhtunkhwa. Advocate General office has its own rules which is still in vogue and still hold the field through which the Respondent was promoted after fulfilling proper codal and legal formalities. (Notified Service Rules for the said posts are annexed as annexure "B & C")

Facts

1. Para one of the fact pertains to record.
2. Para two of the facts pertains to record.
3. Para three of the facts pertains to record.
4. Para four of the facts is misconceived hence denied. Detailed reply has been given in para no: 7 of the Preliminary Objections.
5. The criteria for promotion to the post of Computer Programmer (BPS-17) as per rules notified on 29/05/2017 vide Notification No. E&A/LD/2-12/2017/17165-75 are reproduced as below. (Annexure "B" *ibid*)

(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such; and

(b) Fifty percent (50%) by initial recruitment.

Note: A joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion.

Initial Recruitment:

At Least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.

Similarly, the criteria for promotion to the post of Web Administrator (BPS-17) as per rules notified on 05/06/2018 vide Notification No. E&A/LD/2-12/2018 are reproduced as below. (Annexure "C" ibid)

By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years' service as such:

Provided that if no suitable person is available for promotion then by initial recruitment".

Initial Recruitment:

At Least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.

6. This Para pertains to record, however, in this respect it is pertinent to highlight here that the Appellant does not possess Second Class Master Degree or equivalent qualification in Computer Science from a recognized university; as required by the rules for promotion to Computer Programmer (BPS-17) and Web Administrator (BPS-17). Furthermore, in the given situation the appellant had already forgone his promotion. (Copies of the Rules are appended as "B & C" whereas the option forgo by the appellant as "A") pertains to record the reply to para No.5 above may kindly be treated as part of this reply as well.
7. This para is correct as promotion of the respondents No.5 & 6 were covered under the rules and were accordingly promoted.
8. Incorrect hence denied. The comprehensive reply to this para has already been given in response to the reply at para 5 above.
9. That the appeal of the appellant was found devoid of force and was filed however, the appellant filed the appeal in hand with considerable delay and without any plausible explanation.
 - (i) It is further submitted that conduct of the appellant is exposed from the fact that he concealed certain material aspects of the case/appeal from this Hon'ble Tribunal. After meeting of the Departmental Promotion Committee (DPC) held on 09/08/2019 and considering the case of promotion of the appellant and the Respondent No.5 & 6; and before issuing of promotion Notification impugned herein, the appellant moved an application on 16/08/2019 (Annexed as annexure "D") wherein, he raised the plea of considering him for promotion with an argument that higher education is necessary for the initial recruitment and not for promotion. The matter was sent to the Law Department vide letter dated

29/08/2019 (Annexed as annexure "E") by respondent No.4, seeking views/comments from the Establishment Department which was further sent by Law Department to the Establishment Department on 11/09/2019 (Annexed as annexure "F & G") and finally it was examined by the Establishment Department and advise/views of the Establishment Department dated 18/09/2019 was communicated to the Advocate General Office, dated 24/09/2019. (Annexure "H" & "I")

Reply/views of Establishment Department is reproduced as below:

"to advise that Provincial Information Technology Group Service Rules, 2006 is framed for IT Staff working under Administration control of Establishment Department while Advocate General Office have their own Service Rules. Therefore Provincial Information Technology Group Service Rules, 2006 are not applicable to the Office of Advocate General Khyber Pakhtunkhwa."

That after getting expert advices and fulfilling of codal formalities the impugned notification of promotion was issued by the competent Authority.

(iii) It is further mentioned here that the rules framed by the Advocate General Office are the same rules which have been notified by the Establishment Department dated 21/12/2016 for the same set of post which is appended as **Annexure "J"&"K"**. Which were subsequently adopted by this office through Standing Service Rules Committee (SSRC), regarding amendments for the post of Computer Programmer (BPS-17) held on 28/03/2017 and Standing Service Rules Committee (SSRC), regarding the post of Web Administrator (BPS-17) held on 05/10/2017.

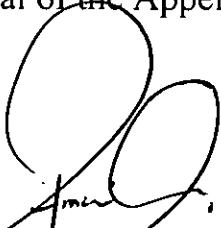
Grounds


- A. That ground "A" of the Appeal is mis-reading, misconceived and illegal, hence denied.
- B. That para "B" of the ground is incorrect hence denied. Comprehensive reply of this para has already been given in response to para 5 of the facts and explanatory note at the bottom of para 9 of the facts.
- C. That para "C" of the ground is incorrect hence denied. Comprehensive reply to this para has been given in preceding para above.


- D. That para "D" of the grounds is incorrect hence denied. Comprehensive reply has been given in the preceding para above.
- E. That para "E" of the ground is incorrect. No violation was made in the recruitment and promotion. Everything has been done in accordance with the rules and regulations of the Advocate General Office. It is very important to mention here that Office of Advocate-General has its own rules for the subject posts. The matter was thoroughly scrutinized after taking expert view/advice from Establishment Department and opting all codal legal formalities to the impugned notification was issued.
- F. That para "F" of the ground is misconceived hence denied. The issue of promotion and the repeated objection raised by the Appellant even after the Departmental Promotion Committee (DPC) was met in different meetings and expert view/advice which were obtained from all quarters concerned.

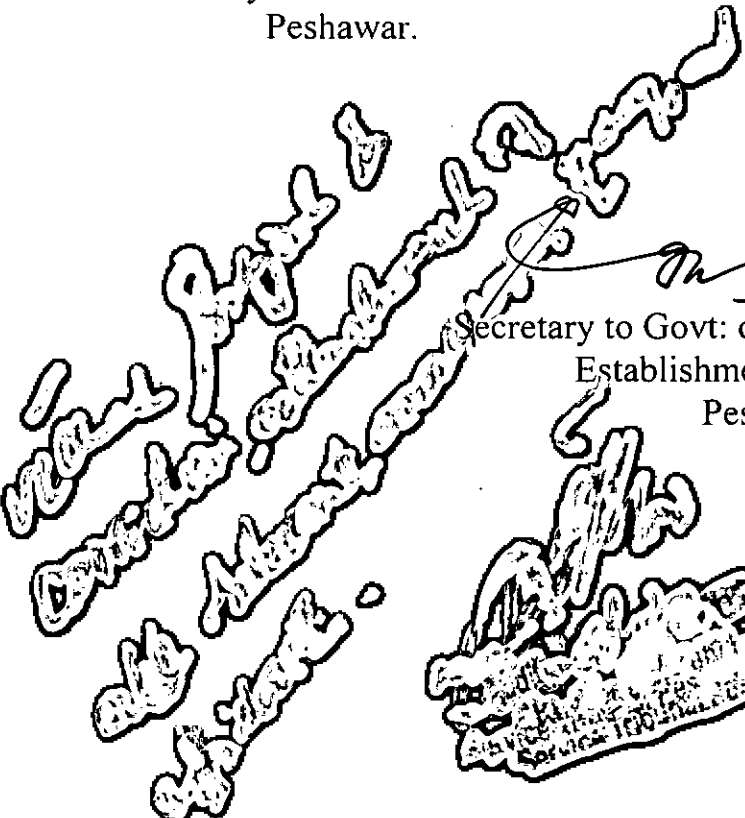

Admittedly the Appellant lacks the required qualification which is mandatory for promotion as provided in rules of the Advocate General office. Instead of challenging the service rules which provides for higher qualification, he has challenged the impugned notification. Knowingly, that his case of promotion is not covered by the same. The rules are specific upon the subject that it is not only the Seniority or length of service alone but the qualification speaks a lot which the Appellant is admittedly lacking.

Keeping in view the given scenario, it is most humbly requested that the appeal of the Appellant may kindly be dismissed with costs.


Advocate General,
Khyber Pakhtunkhwa
Peshawar.


Secretary to Govt. of Khyber Pakhtunkhwa
Law, P.As & Human Rights Department,
Peshawar.


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

**BEFORE THE HON'BLE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. 820/2020

Muhammad Bilal Khan

Appellant


VERSUS

Govt. of Khyber Pakhtunkhwa & others

Respondents

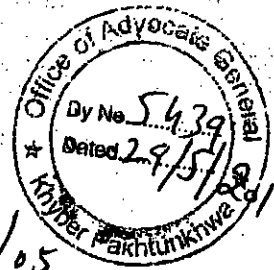
AFFIDAVIT

I, Muhammad Arshad Khan, Administrative Officer, Advocate General Office, Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the **parawise comments** on behalf of **Respondents No. 1 to 4** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent
CNIC # 17101-0252231-1
ADMINISTRATIVE OFFICER
Advocate General's Office
Khyber Pakhtunkhwa
Peshawar

To

The Advocate General,
Khyber Pakhtunkhwa, Peshawar.



Subject: OPTION TO FOREGO / GET PROMOTION AS COMPUTER PROGRAMMER (BPS-17)

Dear Sir,

This is with reference to your letter bearing No. 13089/AG dated 27/05/2019 on the subject noted above.

It is respectfully stated that I have been asked to provide degree of MIT. In this regards, it is submitted that if the required qualification for promotion is Master, I opt to forego promotion. However, if otherwise, I hereby give option to be promoted to the post of Computer Programmer (BPS-17) or Web Administrator (BPS-17) in office of the Advocate General, Khyber Pakhtunkhwa, Peshawar.

Yours Obediently,

Dated 29/05/2019


(Muhammad Bilal Khan)
Computer Operator

(7)
"B"

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

Office of Advocate
4751
30/5/17

NOTIFICATION

Peshawar dated the, 29.05.2017.

No. E&A/LD/2-12/2017:-

In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department hereby directs that in the Khyber Pakhtunkhwa office of Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix, against serial No. 3(a), in column No. 5, for the existing entries, the following shall be substituted, namely:

5

(a)	Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such; and
(b)	fifty percent (50%) by initial recruitment.

Note: A joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion."

Secretary to, Government of the Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights
Department.

Endst: No E&A/LD/2-12/2017/17165-75

Copy is forwarded to the:-

1. All the Administrative Secretaries Govt: of Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director of Archives and Libraries, Khyber Pakhtunkhwa Peshawar.
4. Registrar, Peshawar High Court, Peshawar.
5. Advocate General, Khyber Pakhtunkhwa, Peshawar.
6. PSO to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Khyber Pakhtunkhwa Public Service Commission, Peshawar.
8. Manager, Printing Press, Khyber Pakhtunkhwa for publication in Government Gazette. He is requested to send ten (10) copies of the same to this Department.
9. Librarian, Establishment/Administration Department Khyber Pakhtunkhwa.
10. Reference & Research Officer Law Department with the request to kindly upload the same in the official website.
11. Section Officer (R-IV), Establishment Department.
12. PS to Chief Secretary Khyber Pakhtunkhwa.
13. PS to Secretary Law Department.

A.O.
Seen
A.O.
31/05/2017

ATTESTED

(Rizwan Ullah Khau)
Section Officer (General)

8
C



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

NOTIFICATION

Peshawar dated the 05.06.2018.

g/ 21/06
No.E&A/LD/2-12/2018.- In exercise of powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in the Khyber Pakhtunkhwa Office of Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:

AMENDMENT

In the Appendix, the existing serial No. 3(b) shall be re-numbered as "3(c)" and before serial No. 3(c), as so renumbered, the following new entries shall be inserted in the respective columns, namely:

"3(b)	Web Administrator (BPS-17).	At least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.	21 to 32 years.	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five years service as such: Provided that if no suitable person is available for promotion then by initial recruitment."
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Service Rules file g/

Secretary to,
Government of the Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and
Human Rights Department.

Endst: No & Date Even

Copy is forwarded to:

1. Advocate General, Khyber Pakhtunkhwa, Peshawar.
2. The Director of Archives and Libraries, Khyber Pakhtunkhwa Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission.
4. The Manager, Government Printing Press, Khyber Pakhtunkhwa for publication in Government Gazette. He is requested to send ten (10) copies of the same to this Department.
5. The Librarian, Establishment/Administration Department, Khyber Pakhtunkhwa.
6. The Senior Librarian, Law Department with the request to kindly upload the same in the official website.
7. The P.S. to Chief Secretary, Khyber Pakhtunkhwa.
8. The P.S. to Minister for Law, Khyber Pakhtunkhwa.
9. PS to Secretary Establishment Department.
10. PS to Secretary Finance Department.
11. PS to Secretary, Law Department.

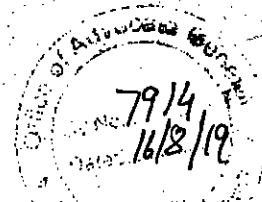
ATTESTED

7/5/18
(MITHAMMAD VASANI)

To

The Advocate General,
Khyber Pakhtunkhwa, Peshawar.

Subject: PROMOTION TO THE POST OF PROGRAMMER / WEB ADMINISTRATOR



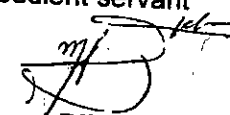
Respected Sir,

With profound respect, I am to state that:-

1. I am serving in the Office of Advocate-General, Khyber Pakhtunkhwa, Peshawar, as a Computer Operator (BPS-16).
2. I was the senior most Computer Operator since my appointment.
3. Two posts (**Computer programmer and web Administrator**) were created in the Office of Advocate General, Khyber Pakhtunkhwa, Peshawar.
4. I came to know through reliable sources that a meeting for the filling of said posts was held in the Office of Secretary Law and Parliamentary Affairs Department. But I was ignored / not considered because of lack of educational qualification. The rules for the said post showed that the for the promotion quota there is no need for higher qualification.
5. As I was senior most in the Computer Operator, so I had a right to be promoted against one of said post.
6. No educational qualifications were required for the promotion of said posts.
7. But I was ignore due to lack of Higher qualification in the field of computer.
8. It is, very important to mention here that higher qualification is necessary for the **initial recruitment and not for promotion**.
9. All the proceeding held in the meeting was disregard of the said rules.

It is, therefore, most respectfully prayed that on acceptance of this application, the proceeding held in meeting for the filling of Computer programmer and web Administrator may kindly be set aside and any recommendations tendered by said meeting be not considered and the applicant be promoted against one of the said post.

Yours obedient servant


Muhammad Bilal Khan,
Computer operator,
Office of Advocate General,
Khyber Pakhtunkhwa,
Peshawar.



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKH WA, PESHAWAR

No. ~~1774~~ 17435 /AG

Dated Peshawar, the 29-Aug-2019

Address: High Court Building, Peshawar.
Tel. No. 091-9212681

Exchange No 9213833
Fax No. 091-9210270

10
E

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department,
Peshawar.

Subject: **REPRESENTATION REGARDING PROMOTION TO THE POST OF
COMPUTER PROGRAMMER / WEB ADMINISTRATOR**

Dear Sir,

I am directed to refer to the subject noted above and to state that Mr. Muhammad Bilal Khan, senior most of the Computer Operators has submitted a representation, dated 16/08/2019 alongwith photocopy of a Notification dated 06.04.2018 regarding amendments in the Khyber Pakhtunkhwa (Provincial Information Technology Group) Service Rules, 2006, issued by the Govt: of Khyber Pakhtunkhwa, Establishment Department. This Notification is neither addressed to this office nor received in this office.

The Competent Authority has further desired to seek views of Establishment Department via Law Department on the applicability of amendment so made in rules to this office and re-consideration of the case of Mr. Muhammad Bilal Khan, Computer Operator in light thereof.

I am therefore, directed to forward herewith the representation as well as the above Notification for perusal and further necessary action.

Yours faithfully,


(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

Endst. No. & date even

Copy to PS to the Ld. Advocate General, Khyber Pakhtunkhwa, Peshawar.


ADMINISTRATIVE OFFICER



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

11
F

No. E&A/LD/2-12/2019
Dated, Peshawar, the 11.09.2019

Office of ALLIANCE
By No. 86/18 To
Date: 12/9/19
Khyber Pakhtunkhwa

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

**Subject: REPRESENTATION REGARDING PROMOTION TO THE POST OF
COMPUTER PROGRAMMER / WEB ADMINISTRATOR**

92/
12/09
Recd up

Dear Sir,

I am directed to refer to the subject noted above and to state that according to Service Rules of Advocate General Office Notified by the Law Department vide Notification dated 05-06-2018 (copy enclosed), the following method of recruitment/ promotion has been prescribed for promotion to the post of Computer Programmer (BPS-17) and Web administrator (BPS-17):-

Computer Programmer (BPS-17)

- a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, **having qualification prescribed for initial recruitment** with five years service as such; and
- b) Fifty percent (50%) by initial recruitment

P/holder of
Bilal Khan.
Comp. Operator

Web Administrator (BPS-17)

By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, **having qualification prescribed for initial recruitment** with five years service as such:

Provided that if no suitable person is available for promotion, then by initial recruitment.

2. Meeting of the Departmental Promotion Committee was held on 09-08-2019. The Committee after thorough examination and analysis i.e. the requisite qualification, seniority position, length of service and synopsis of ACR, recommended those Computer Operators (BPS-16) for promotion to the post of Computer Programmer (BPS-17) and Web Administrator (BPS-17) who possess the prescribed qualification for **initial recruitment** with five year service.

3. Now Mr. Bilal Ahmad Computer Operator of Advocate General Office furnished a copy of Notification issued by Establishment Department in respect of (Provincial Information Technology Group) Service, Rules 2006 which provide that:

"Fifty percent by promotion, on the basis of Seniority-cum-fitness, from amongst the Assistant Programmers and Compute Operators, having qualification prescribed for initial recruitment for the post Computer Operator with five year service as much"



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

120
10/12

4. In view of the above, this Department may be advised as to whether Provincial Information Technology Group Service Rules 2006 are applicable to the Computer Operator of Advocate General Office for promotion to the post of Computer Programmer (BPS-17) and Web Administrator (BPS-17) OR the Service Rules of Advocate General Office notified by Law Department vide Notification dated 05-06-2018 are applicable.

Yours faithfully

Section Officer (General)

Endst: Even No. & Date.

Copy is forwarded to the: -

1. Administrative Officer, O/O Advocate General Khyber Pakhtunkhwa w/r to his letter No. 17435/AG dated 29-08-2019.
2. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.

Mumtaz
Section Officer (General)
11/9/19

R/Sw

for perusal & further orders, pl.

cd. AG: KP

13/09

A.O

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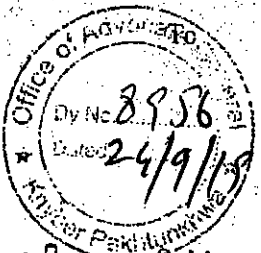
[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

13

No. E&A/LD/2-12/2019
Dated, Peshawar, the 24/09/2019



✓ The Administrative Officer,
O/O Advocate General,
Khyber Pakhtunkhwa, Peshawar.

Subject:

REPRESENTATION REGARDING PROMOTION TO THE POST OF
COMPUTER PROGRAMMER/ WEB ADMINISTRATOR.

9/1 24/09

Page 4/5

I am directed to refer your letter No. 17435/AG dated 29-08-2019 on the subject noted above and to forward herewith a copy of letter No. SOR-IV (ED)/7-1/2019 dated 18/09/2019 received from Establishment Department, Khyber Pakhtunkhwa containing views/comments for information and necessary action, please.

w/r

Mumtaz
Section Officer (General)

Endst: Even No. & Date.

1797881

Copy is forwarded to the: -

1. Section Officer (R-IV), Establishment Department w/r to his letter referred to above.
2. PS to Minister for Law, Parliamentary Affairs and Human Rights
3. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.

Bilal Khan, Comp: Operation file
9/1 11/10

Section Officer (General)



Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

1/203
12/8/2018

No.SOR.IV(ED)/7-1/2019
Dated, Peshawar, the 18th Sept, 2019

M
"I"

To

The Secretary to Government Khyber Pakhtunkhwa
Law Department.

SUBJECT: REPRESENTATION REGARDING PROMOTION TO THE POST
OF PROGRAMMER/WEB ADMINISTRATOR.

Dear Sir,

I am directed to refer to your letter No. E&A/LD/2-12/2019/17451-53 dated 11.09.2019 on the subject noted above and to advise that Provincial Information Technology Group Service Rules, 2006 is framed for IT Staff working under Administrative control of Establishment Department while the Advocate General Office have their own Service Rules.

Therefore, Provincial Information Technology Group Service Rules, 2006 are not applicable to the office of Advocate General Khyber Pakhtunkhwa.

Yours faithfully,

[Signature]
Section Officer (R-IV)

Endst: No. & Date as above

Copy to PS to Secretary, Establishment Department.

(Admin.)

Section Officer (R-IV)

For printing the
same on the following
[Signature]

Section Officer (R-IV)

19th Sep 2019

1-2019



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

NOTIFICATION

Dated Peshawar, the 21st December, 2016

NO.SOE-V(E&AD)/5-16/2016. In exercise of powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa (Provincial Information Technology Group) Service Rules, 2006, the following further amendments shall be made, namely:

AMENDMENTS

1. In rule 5, in sub-rule (1), for clause (a), the following shall be substituted, namely:

"(a) In case of post of Director, Deputy Director, System Analyst and Database Administrator by promotion."

2. In the Appendix,-

(i) against serial No. 3, in column 5, for clause (b), the following shall be substituted, namely:

"(b) fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators, having qualification prescribed for initial recruitment with five year service as such,";

(ii) Serial No. 5 shall be deleted; and

(iii) Against serial No. 6, in column 2, the abbreviation, hyphen, figures and brackets "(BPS-12)" shall be deleted.

Secretary to Govt: of Khyber Pakhtunkhwa
Establishment Department.

NO.SOE-V(E&AD)/5-16/2016.-

Dated Peshawar, the 21st December, 2016


Copy forwarded for information and necessary action to:-

1. The Additional Chief Secretary, Planning & Development Department.
2. The Additional Chief Secretary, FATA, Khyber Pakhtunkhwa.
3. The Additional Chief Secretary, Finance Department.
4. The Chairman, Khyber Pakhtunkhwa Public Service Commission.
5. The Senior Member of Board of Revenue, Khyber Pakhtunkhwa.

(P.T.O)

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"K"

6. All Administrative Secretaries in Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
9. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
10. All Heads of Attached Departments, Khyber Pakhtunkhwa.
11. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
12. The PS to Chief Secretary, Khyber Pakhtunkhwa.
13. The PS to Secretary, Law, Parliamentary Affairs & Human Rights Department.
14. The Deputy Director (IT), Establishment & Administration Department with the request to upload the same on the official website.
15. The Registrar, Khyber Pakhtunkhwa Services Tribunal.
16. PS to Special Secretary (Estt), Establishment Department.
17. PS to Special Secretary (Reg), Establishment Department.
18. PA to Additional Secretary (Estt), Establishment Department.
19. PA to Deputy Secretary (Estt), Establishment Department.
20. The Manager, Govt. Printing Press for publication in the Extra Ordinary Gazette.


(S. A. Khan)
Section Officer (E-V)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 820/2020

Muhammad Bilal Khan s/o Haji Muhammad Sharif,
r/o Street#6, Syed Abad Pajagi Road, Peshawar

.....Appellant

Versus


1. Govt. of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar.
Etc....
Respondents

.....

Index

S.NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1	Parawise Comments on behalf of Respondent No:5		1-8
2	Affidavit		9
3	Option to Forego/ Promotion as Computer Programmer By Muhammad Bilal	"A"	10
4	Rules of Computer Programmer (BPS-17) dated 29/05/2017.	"B"	11
5	Rules of Web Administrator (BPS-17) dated 05/06/2018.	"C"	12
6	Letter of Provision Of Master Degrees by Advocate General Office dated 13/05/2019	"D"	13
7	Reminder to Muhammad Bilal for Provision Of Master Degree dated 27/05/2019	"E"	14
8	Letter to Law Department for Convening of Departmental Promotion Committee (DPC) meeting.	"F"	15
9	Minutes of first Departmental Promotion Committee (DPC) meeting held on 04/07/2019	"G-H"	16-17
10	Representation of Muhammad Bilal dated 16/08/2019	"I"	18
11	Letter of Advocate General's Office to Law Department forwarding Representation of Muhammad Bilal to Seek views of Establishment Department Dated 29/08/2019	"J"	19
12	Law Department Letter to Establishment department for views/Comments dated 11/09/2019	"K-L"	20-21
13	Reply of Establishment Department regarding views/Comments on Muhammad Bilal Khan Representation to Law Department dated 18/09/2019	"M-N"	22-23

14	Representation of Muhammad Bilal dated 18/09/2019 regarding amendment in service rules (SSRC)	"O"	24
15	Letter of Advocate General office forwarding Departmental Appeal/Representation against the Notification of Computer Programmer (BPS-17) and Web Administration (BPS-17) dated 08/10/2019 by Muhammad Bilal Khan	"P"	25-28


Deponent - 5

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. **820/2020**

Muhammad Bilal Khan s/o Haji Muhammad Sharif,
r/o Street#6, Syed Abad Pajagi Road, Peshawar

.....Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar.
2. Govt. of Khyber Pakhtunkhwa through
Secretary, Law & Human Rights Department, Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary,
Establishment Department, Civil Secretariat, Peshawar.
4. Advocate General, Khyber Pakhtunkhwa, Peshawar.
5. Mr. Ahmad Khan, Computer Programmer (BPS-17)
Advocate General Office, Khyber Pakhtunkhwa, Peshawar.
6. Mr. Zia Ullah Khan, Web Administrator (BPS-17),
Advocate General Office, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

COMMENTS ON BEHALF OF RESPONDENT No. 5

RESPECTFULLY SHEWETH:

It is submitted as under;

PRELIMINARY OBJECTIONS:

1. That the instant Appeal is not maintainable because the Appellant did not challenge the Service Rules, rather he challenged the very orders of promotion of answering respondents No. 5 and 6 before this Hon'ble Tribunal. On this score alone, the instant Appeal is liable to be dismissed.
2. That the Appellant has no locus standi and cause of action.
3. The Government has the powers to enhance the qualification for promotion for any post.
4. That the Appellant has no ^{locus} ~~locus~~ standi to file the instant Appeal within the meaning of Section 4(b)(i) of the Service Tribunal Act 1974, as he does

not qualify to hold the subject post and to be promoted to the next higher cadre as he is lacking the mandatory qualification required for the subject posts.

5. That the Appellant has filed the instant Appeal before this Hon'ble Tribunal with un-cleaned hands which is also smeared with malice.
6. That the appellant is not entitled to file the instant Appeal because of his own conduct as he himself submitted an application before the competent Authority while **exercising the option to forego** his promotion vide application Diary No: 5439/AG, dated 29/05/2019 in office of the Advocate General, Khyber Pakhtunkhwa. (copy of application is annexed as annexure "A").
7. That the instant Appeal has been filed just to harass and blackmail the answering respondent.
8. That the Appeal in hand is also hit by the principle of estoppel due to his own conduct because he did not challenge the Service Rules before this Hon'ble Tribunal. Instead he challenged the promotion notification dated: 08/10/2019.
9. That the subject Appeal is also liable to be dismissed as the Appellant has concealed the material facts from this Hon'ble Tribunal. However, it is important to know that the rules mentioned therein by the Appellant in Para-4 is totally irrelevant, baseless and just to mislead this Hon'ble Tribunal as the same are not the Rules for the Posts of Computer Programmer (BPS-17) and Web Administrator (BPS-17) or any other post of Office of Advocate-General, Khyber Pakhtunkhwa. Advocate General office has its own Rules which is still in vogue and still hold the field through which the Respondent was promoted after fulfilling proper codal and legal formalities. (Notified Service Rules are annexed as annexure "B & C")
10. That the instant Appeal does not contain full and complete disclosure of facts. It suffers grossly from mis-statements of facts.
11. That departmental Appeal was not filed to the competent authority / higher authority.
12. The appellant filed different Appeals before different authorities, which is against the law/rules.

13. Repeated representations are not allowed in Service Laws/Rules.
14. The Hon'ble Tribunal has no jurisdiction in fitness/promotion cases.

ON FACTS:

1. Para-1 of the Appeal is correct to the extent that the Appellant was appointed in BPS-11 in office of the Advocate General, Khyber Pakhtunkhwa. The Appellant is still working there. He was asked to provide his original Master degree as required for promotion, but he could not do so because Appellant had bachelor degree at his credit. (Copy of letters No: 12209-10/AG, dated 13.05.2019 (annexed as annexure "D"). And reminder letter No: 13089/AG, dated: 27.05.2019 (annexed as annexure "E").
However, in response, he forewent his promotion saying that *"if the required qualification for promotion is Master Degree, then he foregoes, if otherwise, he is willing to be promoted"* (Annexed as annexure "A")
2. As far as para#2 is concerned, the same pertains to office record therefore, the Respondent cannot comment thereupon and the official Respondent No. 4 would be in a better position to comment upon the para.
3. That this para is also related to the official record. Therefore, the Respondent No. 4 and other official Respondents would be in better position to respond the same.
4. That it is correct to the extent that two (02) i.e. post of Computer Programmer BPS-17 and that of Web Administrator BPS-17 were created in the Advocate General Office and the same were going to be filled through Departmental Promotion Committee (DPC). However, it is important to know that the relevant rules mentioned therein by the Appellant in Para-4 is totally irrelevant and baseless and just to mislead this Hon'ble Tribunal as the same are not the Rules for the Posts of Computer Programmer (BPS-17) and Web Administrator (BPS-17) or any other post of Office of Advocate-General, Khyber Pakhtunkhwa. Advocate General office has its own rules which is still in vogue and still hold the field through which the Respondent was promoted after fulfilling proper codal and legal formalities.

The Original Rules for the impugned Posts are reproduced below:-

4 **Computer Programmer (BPS-17)**

- (a) *Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant programmers and Computer Operator, having qualification prescribed for initial recruitment with five years service as such; and*
- (b) *fifty percent (50%) by initial recruitment.*

Note: A joint seniority list of both the Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion.

Initial Recruitment:

At Least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.

Web Administrator (BPS-17)

- (a) *Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant programmers and Computer Operator, having qualification prescribed for initial recruitment with five years service as such; and*

Provided that if no suitable candidate is available for promotion then by initial recruitment.

Initial Recruitment:

At Least Second Class Master's Degree or equivalent qualification in Computer Science from a recognized University.

(Notified Service Rules are annexed as annexure "B & C" above)

5. It is incorrect. In fact, the Appellant was not considered due to the reason of not fulfilling the initial required qualification for the subject post and the Respondent alongwith Respondent No. 6 was considered for the said posts as they were fulfilling the qualification required for

the subject post. It is very important to mention here that seniority alone is not the sole criteria for promotion against the higher post (s), other requisite conditions such as qualification is also necessary for promotion against the technical posts, which the appellant was lacking.

6. It is correct to the extent that Working Papers of Departmental Promotion Committee were prepared by the Department. It is very important to mention here that the appellant and the answering respondents were working as **computer operators**. The impugned notification was for the promotion post i.e. Computer programmer BPS-17 and Web Administrator BPS-17. Qualification of Master degree was the basic requirement for the both posts.
7. It is incorrect. In pursuance to this office letter bearing No. 9925-26/AG dated 15/04/2019, (annexed as "F") first meeting of the Departmental Promotion Committee (DPC) was convened on 04/07/2019 in the Law Department, Khyber Pakhtunkhwa. The Departmental Promotion Committee (DPC) examined and considered particulars of all the four (04) Senior most Computer Operators, including the appellant and observed that those Computer Operators were eligible for promotion who possessed the prescribed qualification for initial recruitment of Computer programmer BPS-17 and Web Administrator BPS-17.

In view of the above, the Departmental Promotion Committee (DPC) directed the representative of this office to present revised working papers of all Seven (07) Computer Operators before the next meeting of the Departmental Promotion Committee (DPC) for the promotion of those who possess the prescribed qualification as envisaged in Khyber Pakhtunkhwa Advocate general Recruitment and Appointment Rules 1981. Minutes of the meeting held on 04/07/2019 is annexed as "G & H"

The Departmental Promotion Committee (DPC) second meeting was held on 09/08/2019. During the proceedings the Appellant filed First (1st) Representation regarding promotion for the post of Computer Programmer and Web Administrator to the Advocate General diary No:7914 dated 16/08/2019 (annexed as "I"). Representation is forwarded to Secretary Law Letter No:17435/AG dated 29/08/2019 (annexed as "J") for seeking views of Establishment Department, Secretary Law letter to Secretary Establishment bearing No: E&A/LD/2-12/2019/17451-53 dated:

11/09/2019 (annexed as "K & L"). Reply/views from Establishment Department bearing No: SOR-IV(ED)/7-1/2019, dated Peshawar: 18/09/2019. (annexed as "M-N")

Reply/views of Establishment Department reproduced below:

"to advise that Provincial Information Technology Group Service Rules, 2006 is framed for IT Staff working under Administration control of Establishment Department while Advocate General Office have their own Service Rules.

Therefore Provincial Information Technology Group Service Rules, 2006 are not applicable to the Office of Advocate General Khyber Pakhtunkhwa."

That after getting expert views/advice and fulfilling of codal formalities from the Establishment Department the Competent Authority issued the impugned notification of promotion of Respondent No 5 and 6.

8. It is incorrect. As per Rules, the Appellant is not entitled to the subject post, whereas Respondent was rightly promoted in accordance with Service Rules of Advocate General's Office. Furthermore, the appellant annexed with his Appeal Rules of other department/office, instead of Office of the Advocate-General, Khyber Pakhtunkhwa. Therefore, the Appellant has tried to mislead this Hon'ble Tribunal.

The appellant filed Second (2nd) Representation/appeal to Advocate General bearing diary No: 8757 dated: 18/09/2019 for the amendment in the service Rules for the said subject posts, reproduced herein below:-

"that the Law Department may Please be approached to withhold proceeding of the departmental promotion Committee (DPC) and a meeting of the Standing Service Rules Committee (SSRC) may be Convened for amendment in Service Rules"

This Fact was not brought into the knowledge of this Hon'ble Tribunal. He should proceed/follow that representation first. (Annexed as "O")

Appellant filed another departmental appeal bearing diary No: 9808/AG dated 16/10/2019 before the incompetent authority i.e. Advocate General, who is the not higher authority. As Promotion,

order was issued by the Secretary Law Department, Khyber Pakhtunkhwa.

Furthermore, in service law/Rules, only one departmental appeal is allowed, but the appellant filed different appeals to the different authorities, on the same subject, in the same breath. (Annexed as "P")

8. This para does not pertain to the answering Respondent therefore, no comments.

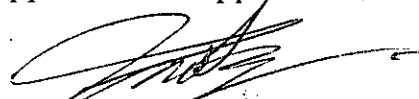
ON GROUNDS:

- A. It is incorrect. Refusal of the Department by not promoting the Appellant is in accordance with law as per Departmental Rules Appellant is lacking the initial necessary qualification for the subject post.
- B. It is incorrect. The Appellant is not qualified and eligible for the subject post as he cannot be promoted because of lacking of the initial qualification. The promotion of the Respondents is in accordance with the Service Rules, therefore, no illegality has been committed by dropping the Appellant and considering the Respondent for promotion.
- C. That criteria laid down for the promotion of Respondents No. 5 and 6 was not discriminating but the same was done under rules already framed for the subject department. Therefore, no violation, whatsoever, has been made by considering Respondents No. 5 and 6 for promotion and overlooking the Appellant.
- D. It is incorrect. Seniority alone is not the sole criteria for promotion against the technical/professional posts, other requisite conditions such as higher required qualification is also necessary.
- E. It is incorrect. No violation was made in the recruitment and promotion. Everything has been done in accordance with the rules and regulations of the Advocate General Office. It is very important to mention here that Office of Advocate-General has its own rules for the subject posts. (Clarification /correspondence between Advocate-General, Law Department and Establishment Department as mentioned in para No. 7 above enclosed.

Furthermore, promotion order was made in accordance with the said Rules which was in field at that time by the Departmental Promotion Committee. He should have impugned the said rules first before knocking the door of this Hon'ble Tribunal and then question the Promotion order of the answering respondent.

- F. That when the Appellant is not entitled to be promoted to the subject post as he did not possess the necessary initial qualification which is mandatory for the purpose of promotion, he cannot take this plea that he has been deprived of promotion but instead is wasting the precious time of this Hon'ble Tribunal. The Appellant should improve his qualification and thereafter he be considered for promotion but when he otherwise cannot compete the Respondents, therefore, he should not waste the precious time by filing this frivolous and mischievous Appeal. Furthermore, the appellant has exercised his option of foregoing his promotion. Now how can he challenge the same. Therefore, maxim "approbate and reprobate" is fully applied in the situation because "No one could be allowed to approbate and reprobate in the same breath" nor could he challenge the said notification of promotion


It is, therefore, most humbly prayed that Appeal of the Appellant may kindly be dismissed with cost.




Respondent - S.

Through

Counsel

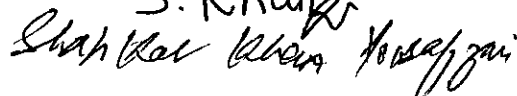

M. Asif Yousofzai

A.S.C.


Taimur Ali Khan

Advocate

S. Khan


Shah Wali Khan Yousofzai

Advocate

Dated: