

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. 797 /2018

Mr. Muhammad Saeed

V/S


Health Deptt.

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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREM COURT,
PESHAWAR.


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 737 /2018

Mr. Muhammad Saeed, (Retired),
Senior PHC technician (Bs-14),
R/o Shah Nawaz Town, Near Mufti Madrassa
Pajagi Road, Basheer Abad.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1027

Dated 05-6-2018

APPELLANT

VERSUS

1. The Govt: of KPK Through the Chief Secretary KPK Peshawar.
2. The Secretary Health Deptt: KPK Peshawar.
3. The Secretary Finance Deptt: KPK Peshawar.
4. The Director General Health Services Khyber Pakhtunkhwa,
Peshawar.

RESPONDENTS

Filed to-day

~~Registrar~~
5/6/18

Re-submitted to -day
and filed.

Registrar
12/6/18

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNALS ACT, 1974, AGAINST THE PROMOTION ORDER DATED 01.02.2018 WHEREBY JUNIORS IN SERVICE TO THE APPELLANT HAVE BEEN PROMOTED DESPITE THE FACT THAT APPELLANT WAS SENIOR AND WAS IN SERVICE WHEN THE PROMOTIONS POSTS BECAME VACANT / CREATED AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROFORMA/NOTIONAL PROMOTION AS PHC TECHNOLOGIST (BPS-17) FROM HIS DUE DATE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS

1. The appellant was appointed by the competent authority in the health department on 11.12.1985 as Technician however on attaining the age of superannuation appellant was retired from the service on 02.01.2018
2. That, before retirement, the appellant was holding the post of senior PHC technician (BS-14).
3. That, with the promulgation of rules/ structure on 10.05.2016 by the government of Khyber Pakhtunkhwa for paramedics staff, several posts of PHC technologists in BPS-17 became vacant in promotion quota. According to the rule the appellant is eligible for the promotion to the post of Senior PHC Technologist (M.P). **Copy of rules is attached as Annexure-A.**
4. That , in the final seniority list of qualified paramedics, appellant was at serial no .9 while the names of Mr. Amir khan , Mr. Muhammad Hashim ,Mr Muhammad Usman, Mr.Janas khan, Mr Qaisar khan, Mr.Aziz ur Rehman can be seen below the name of the appellant. **Copy of seniority list is attached as Annexure-B.**
5. That, appellant working papers were sent for the purpose of promotion to the post of senior PHC technologist (BS-17) but the department did not convened the meeting of the DPC/PSB during the tenure of service of the appellant and delayed intentionally.
6. That as appellant was eligible for the post Senior PHC Technologist (M.P) (BPS-17) since the date when the post became vacant 10.05.2016, but the department did not consider him for the post of

Senior PHC Technologist (M.P) (BPS-17) in due time and delayed the case without any reason. However DPC meeting was held on 30.01. 2018 after got superannuation of the appellant. **Copy of working paper is attached as Annexure-C.**

7. That, even on 30.01.2018 the name of appellant was put before the DPC for the purpose of promotion but he was not considered due to his superannuation on 02.01.2018. **Copy of DPC meeting is attached as Annexure-D.**
8. That the respondent department issued promotion notification dated 01.02.2018 whereby the colleagues of the appellant were promoted and also junior to the appellant was also promoted. The appellant being aggrieved from the order filed departmental presentation for the purpose of notional promotion but the same was not responded with in statutory period 90 days. **Copy of notification and departmental appeal is attached as Annexure-E & F.**
9. That now the appellant come to this Hon'ble Tribunal for his claim on the following grounds amongst others.

GROUND:

- A. That, not considering the name of the appellant for promotion in time despite having a clear vacant post is illegal, unlawful, void and ineffective and the same is against the principles of natural justice, also.
- B. That, granting promotion to the juniors to the appellant by the department exposes that clear, regular, sanctioned and budgetary posts in BS-17 were lying vacant since 2016 i.e the date when the rules were notified.
- C. That the posts was available and the appellant was also eligible for the same at the time of the application but despite that the appellant has been kept deprived from the benefits and an arbitrarily manner which is not permissible in the eyes of law.
- D. That the Superiors Court has repeatedly held that in case of promotion, the same should be given from the date of availability of vacancy in promotion quote, especially, when there is no order stoppage of promotion from the government. Thus keeping in view the above principle the appellant is entitle for Proforma promotion from his due date.

- E. That, according to rules the post of PHC technologist BS-17 TO BE Filled in by promotion. Moreover the appellant required length of service for the purpose of promotion was also completed and all his ACR(S) were above the mark, as such the appellant fulfilled all the criteria laid down in the rules for promotion but despite that the appellant did not promote to the post of That as appellant was eligible for the post Senior PHC Technologist (M.P) (BPS-17) since the date when the post became vacant 10.05.2016, but the department did not consider him for the post of Senior PHC Technologist (M.P) (BPS-17) in due time and delayed the case without any reason.
- F. That, the respondent , malafidely , not convened the meeting of the DPC before the appellant retirement because right of the appellant to be promoted to the higher grade was accrued to him when the post became vacant and according to supreme court judgment the promotion shall be given from the date the vacancy available.
- G. That, now, appellant, being retired civil servant , is only claiming the notional promotion for the purpose of retirement /pensionary benefits/ monetary benefits without disturbing the seniority/ sequence of other officers/officials.
- H. That appellant has not been treated justly and fairly and article 4, 25 and 27 of the constitution of Islamic republic of Pakistan, 1973.
- I. That, according to dictums laid down by the superior courts any civil servant can claim promotion after retirement when the right to be promoted was accrued to him but the department/ government , due to the reasons best known to it, failed to considered the name of the appellant for promotion.
- J. That, no reasons , whatsoever has been given by the department for not considering the name of the appellant except the fact of his retirement on attaining the age of superannuation.


- K. That the appellant was entitled for promotion w.e.f from 2016 but he was deprived from his legal and constitutional right for the fault of others.
- L. That the Hon'able Supreme Court of Pakistan has held in many cases that in absence of any stoppage of promotion order by the Govt/ competent authority, the civil servant is to be entitled from the date of availability of post. Thus the appellant is entitled for proforma promotion w.e.from his due date.
- M. That the same nature case the Hon'ble Tribunal accepted the appeal no 731/2015 and grant notional promotion, so the case of the appellant is also same nature and may be treated the same and may be grant notional promotion to the appellant from his due date. **Copy of judgment is attached as annexure –G.**
- N. That the appellant was not treated according to the law and rules and deprive from the legal right of the promotion.
- O. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

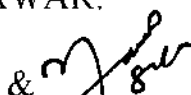
It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.


APPELLANT

Mr. Muhammad Saeed

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREM COURT,
PESHAWAR.


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

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EXTRAORDINARY
GOVERNMENT

REGISTERED NO. PIII
GAZETTE



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 10TH MAY, 2016

GOVERNMENT OF THE KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

NOTIFICATION
Peshawar dated the 10th May, 2016.

No. SOH-III/HD/3-S/2014 -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, and in supersession of all Notifications issued in this behalf by the Health 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 3 to 5 of the Appendix to the posts of Paramedical Staff in the Health Department specified in column 2 of the said Appendix.

APPENDIX

S. No.	Nomenclature of the post.	Qualification for appointment by initial recruitment.	Age limits.	Method of recruitment.
1	2	3	4	5
1	Principal Technologist			
		(i) Principal Clinical Technologist Dental; (ii) Principal Clinical Technologist Pharmacy; (iii) Principal Clinical Technologist Radiology; (iv) Principal Clinical Technologist Pathology;		By promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technologists and Chief PHC Technologists with five years service in BS-19 or seventeen years service in BS-17 and above as such in the relevant technology.

ATTESTED

<p>Principle PHC Technologist</p> <ul style="list-style-type: none"> (v) Principal Clinical Technologist Anesthesia; (vi) Principal Clinical Technologist Cardiology; (vii) Principal Clinical Technologist Surgical; (viii) Principal Clinical Technologist Dialysis; (ix) Principal Clinical Technologist Physiotherapy; (x) Principal Clinical Technologist Pulmonology; (xi) Principal Clinical Technologist Gastroenterology; and (xii) Principal Clinical Technologist Ophthalmology / otorhinolaryngology; and 			
<p>Chief PHC Technologist (Multi Purpose); and</p> <p>(ii) Principal PHC Technologist (MCH).</p>			<p>By promotion, on the basis of seniority-cum-fitness, from amongst Senior Technologists and Senior PHC Technologists with seven years service in BPS-18 or twelve years service in BPS-17 and above as such in the relevant technology.</p>
<p>2</p> <p>Chief Technologist</p> <ul style="list-style-type: none"> (i) Chief Clinical Technologist Dental; (ii) Chief Clinical Technologist Pharmacy; (iii) Chief Clinical Technologist Radiology; (iv) Chief Clinical Technologist Pathology; (v) Chief Clinical Technologist Anesthesia; (vi) Chief Clinical Technologist Cardiology; (vii) Chief Clinical Technologist Surgical; (viii) Chief Clinical Technologist Dialysis; (ix) Chief Clinical Technologist Physiotherapy; (x) Chief Clinical Technologist Pulmonology; (xi) Chief Clinical Technologist Gastroenterology; and (xii) Chief Clinical Technologist Ophthalmology/ Otorhinolaryngology; and 			

BPS
17

Approved

<p>Chief PHC Technologist</p> <p>(i) Chief PHC Technologist (Multi-Purpose); and (ii) Chief PHC Technologist (MCH).</p>			
<p>Senior Technologist</p> <p>(i) Senior Clinical Technologist Dental; (ii) Senior Clinical Technologist Pharmacy; (iii) Senior Clinical Technologist Radiology; (iv) Senior Clinical Technologist Pathology; (v) Senior Clinical Technologist Anesthesiologist; (vi) SCT Senior Clinical Technologist Cardiology; (vii) Senior Clinical Technologist Surgical; (viii) Senior Clinical Technologist Dialysis; (ix) Senior Clinical Technologist Physiotherapy; (x) Senior Clinical Technologist Pulmonology; (xi) Senior Clinical Technologist Gastroenterology; and (xii) Senior Clinical Technologist Ophthalmology/Otorhinolaryngology; and</p> <p>Senior PHC Technologist</p> <p>(i) Senior PHC Technologist (Multi-Purpose); and (ii) Senior PHC Technologist (MCH).</p>	<p>At least Second Class Master's Degree or B.Sc Honours/ BS (04-years) in the relevant technology or equivalent qualification from a recognized University / Institution.</p>	<p>20-35 years</p>	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Technologists and PHC Technologists with five years service as such in the relevant technology; and (b) fifty percent by initial recruitment.</p>
<p>Technologist</p> <p>(i) Clinical Technologist Dental; (ii) Clinical Technologist Pharmacy; (iii) Clinical Technologist Radiology; (iv) Clinical Technologist Pathology; (v) Clinical Technologist Anesthesia;</p>	<p>At least Second Class Bachelor's Degree in the relevant Technology from a recognized University/ Institution.</p>	<p>18-32years</p>	<p>(a) Forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians and Chief PHC Technicians with three years service as such in the relevant technology;</p>

ATTACHED

	<p>(vi) Clinical Technologist Cardiology; (vii) Clinical Technologist Surgical; (viii) Clinical Technologist Dialysis; (ix) Clinical Technologist Physiotherapy; (x) Clinical Technologist Pulmonology; (xi) Clinical Technologist Gastroenterology; and (xii) Clinical Technologist Ophthalmology / Otorhinolaryngology); and</p> <p><u>PHC Technologist</u></p> <p>(i) PHC Technologist (Multi-Purpose); and (ii) PHC Technologist (MCH).</p>		<p>(b) twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology.</p> <p>Note: For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column No. 3:</p> <p>Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials; and</p> <p>(c) forty percent by initial recruitment.</p>
<p>5</p>	<p><u>Chief Technician</u></p> <p>(i) Chief Clinical Technician Dental; (ii) Chief Clinical Technician Pharmacy; (iii) Chief Clinical Technician Radiology; (iv) Chief Clinical Technician Pathology; (v) Chief Clinical Technician Anesthesia; (vi) Chief Clinical Technician Cardiology; (vii) Chief Clinical Technician Surgical; (viii) Chief Clinical Technician Diagnostics; (ix) Chief Clinical Technician Physiotherapy; (x) Chief Clinical Technician Pulmonology; (xi) Chief Clinical Technician Gastroenterology; and</p>		<p>(c) forty percent by initial recruitment.</p> <p>By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Technicians and Senior PHC Technicians with at least two years service as such in the relevant technology.</p> <p style="text-align: center;">ATTACHED</p>

<p>6</p>	<p>(xii) Chief Clinical Technician Ophthalmology, (Otorhinolaryngology); and Chief PHC Technician (i) Chief PHC Technician(Multi-Purpose); and (ii) Chief PHC Technician (MCH). Senior Technician (i) Senior Clinical Technician Dental; (ii) Senior Clinical Technician Pharmacy; (iii) Senior Clinical Technician Radiology; (iv) Senior Clinical Technician Pathology; (v) Senior Clinical Technician Anesthesia; (vi) Senior Clinical Technician Cardiology; (vii) Senior Clinical Technician Surgical; (viii) Senior Clinical Technician Dialysis; (ix) Senior Clinical Technician Physiotherapy; (x) Senior Clinical Technician Pulmonology; (xi) Senior Clinical Technician Gastroenterology; and (xii) Senior Clinical Technician Ophthalmology/ Otorhinolaryngology); and Senior PHC Technician (i) Senior PHC Technician (Multi-Purpose); and (ii) Senior PHC Technician (MCH).</p>			<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Technicians and PHC Technicians with at least two years service as such in the relevant technology.</p>
<p>7</p>	<p>Technician (i) Clinical Technician Dental; (ii) Clinical Technician Pharmacy; (iii) Clinical Technician Radiology; (iv) Clinical Technician Pathology; (v) Clinical Technician Anesthesia; (vi) Clinical Technician Cardiology; (vii) Clinical Technician Surgical; (viii) Clinical Technician Dialysis; (ix) Clinical Technician Physiotherapy; (x) Clinical Technician Pulmonology; (xi) Clinical Technician Gastroenterology; and (xii) Clinical Technician Otorhinolaryngology; and Senior PHC Technician (i) Senior PHC Technician (Multi-Purpose); and (ii) Senior PHC Technician (MCH).</p>	<p>(i) Technician/PHC Technician : At least Second Division Secondary School Certificate with Science from a recognized Board with Diploma in the relevant Paramedical Technology from Khyber Pakhtunkhwa Medical Faculty or Diploma in the relevant Paramedical Technology from any recognized institution, provided that the same is registered with the Medical Faculty Khyber Pakhtunkhwa Peshawar; and</p>	<p>18-30 years</p>	<p>By initial recruitment</p>

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952 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 10th MAY, 2016

<p>PHC Technician</p> <p>(i) PHC Technician(Multi-Purpose); and (ii) PHC Technician (MCH).</p>	<p>(ii) PHC Technician (MCH): Secondary School Certificate with at least Second Division in Science from a recognized board and Diplomas of LHV and Midwifery from recognized Nursing Examination Board.</p>		
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SECRETARY TO

GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
HEALTH DEPARTMENT.

Printed and published by the Manager,
State & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar

APPROVED



DIRECTOR GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR.

No. _____ /AE-VII
Dated. _____ / _____ / 2017

B

(2)

Multi Purp

Pesh

Domicile

10

Thangla

Peshawar

11

Taripu

Swat

Peshawar

1. All Principals, of Medical Colleges in KPK.
2. The Principal PGPI, Buddhni Road Douran Pur, PIMTs DI Khan, Abbottabad, Swat.
3. All Hospital Directors, of Medical Teaching Institutions in KPK.
4. Director General Provincial Health Services. Academy KPK Peshawar.
5. The Director Health Services, FATA Peshawar.
6. The Medical Superintendent, Saidu Group of Teaching Hospital Swat.
7. The Medical Superintendent, Molvi Ameer Shah Memorial Hospital, GT Road Peshawar.
8. The Medical Superintendent, Govt: NKB, Memorial Hospital, Kohat Road Peshawar.
9. The Medical Superintendent, Services Hospital, Peshawar.
10. The Medical Superintendent, SGS Memorial Hospital, Peshawar.
11. The Medical Superintendent, Sarhad Hospital for Psychiatric Diseases, Peshawar.
12. The Medical Superintendent, General & Mental Hospital Dadar, Mansehra.
13. All Medical Superintendents, DHQ/ AHQ Hospitals in KPK/FATA.
14. All Agency Surgeons in FATA/ FRs.
15. All District Health Officers in Khyber Pakhtunkhwa.

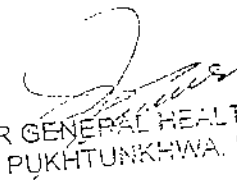
Subject:

FINAL SENIORITY LIST OF DEGREE HOLDERS (PHC TECHNICIANS) (MP) BS-12 (SR. PHC TECHNICIANS) (MP) BS-14 (CHIEF PHC TECHNICIANS) BS-16 OF HEALTH DEPARTMENT KHYBER PAKHTUNKHWA.

Memo:

Enclosed please find Final Seniority List of Degree Holder PHC Technicians (MP) BS-12 (Sr. PHC Technicians) (MP) BS-14 (Chief PHC Technicians) (MP) BS-16 of Health Department Khyber Pakhtunkhwa for information and circulation amongst all the concerned officials working under your control

Note: The Final seniority list has also been downloaded from the website www.dhiskp.gov.pk


DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR

Cc:

PS to Secretary to Govt: of Khyber Pakhtunkhwa, Health Department Peshawar.


ATTESTED

Final Seniority list of Qualified Paramedics Degree Holders (Multi Purpose). v

Name	Father Name	Date of 1st appointment	Passing Degree	Total Obtained Marks & Division	Percentage	Board/ University/ Institution	Present Posting	Hometown	Date of Birth	Date of Retirement
	3	4		6	7	8	9	10	11	12
L. Iqbal Khan	Durrani Khan	21.06.1983	2011-Annual	3612 / 5000	72.24	University of Peshawar	DHO Peshawar	Peshawar	07.05.1961	28.02.2021
Khalid-ur-Rahman	Awan-ul-Haq	11.10.2012	2011-Annual	3332	70.64	University of Peshawar	DHO Shangla	Shangla	20.04.1966	14.08.2026
Muhammad Yousaf	Muhammad Yousaf	08.03.1988 02.08.2012 11.08.2015	2011-Annual	3510 / 5000	70.20	University of Peshawar	DHO Haripur	Haripur	15.05.1965	14.05.2025
Fazal Haifi	Fajbar	27.06.1983	2011-Annual	3423 / 5000	68.46	University of Peshawar	PMIT Swat	Swat	30.03.1964	29.03.2024
Muhammad Iqbal	Karim Gul	09.02.1984	2011-Annual	3238 / 5000	64.76	University of Peshawar	DHO Peshawar	Peshawar	01.05.1963	30.01.2023

Det. of Retiree

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8	Jan Muhammad	Nowshad Khan	25-06-1983	2011-Annual	3099/5000	61-98	University of Peshawar	DHO Dir Lower	Dir Lower	17-11-1961	16-11-2021
9	Muhammad Saad	Fazle Malik	11-12-1985 02-08-2012 11-08-2015	2011-Annual	3026/5000	60-52	University of Peshawar	DHO Lower Dir	Charsadda	05-01-1958	02-05-2018
10	Amir Khan	Khan Baz	11-04-1995	2011-Annual	2978/5000	59-56	University of Peshawar	BHU Food & Chma	Khy. Agcy	04-04-1962	03-04-2022
11	Bashir ul Haq	Habibul Haq	13-05-1986	2014-Annual	3516/5000	70-32	University of Peshawar	DHO Charsadda	Charsadda	14-04-1966	13-04-2026
12	Muhammad Hashish	Gul Zatin	26-12-2006	2014-Annual	3495/5000	69-90	University of Peshawar	Agency Surgeon Bajtor	Bajour Agency	04-01-1981	05-01-2011

Muhammad Usman	02.04.1984	01.04.2042	Mardan	DHO Mardan	University of Peshawar	68.54	33,275,000	2014-Annual	07.11.1980	2014-Annual	66.54	33,275,000	University of Peshawar	DHO Jaffer Dir	Dr Usman	16.05.1959	15.05.2019
Ammi Khan	11.11.1968	10.11.2028	Kohat	DHO Kohat	University of Peshawar	68.56	3,000 / 5000	2014-Annual	07.11.1980	2014-Annual	66.16	3,000 / 5000	University of Peshawar	AS ER Kohat	Kohat	12.04.1965	11.04.2025
Muhammad Hamid	05.10.1963	04.10.2023	Kohat	DHO Kohat	University of Peshawar	68.12	3,000 / 5000	2014-Annual	07.11.1980	2014-Annual	65.32	32,667,5000	University of Peshawar	DHO Butgram	DHO Butgram	14.05.1984	13.05.2044
Aziz Rehman	15.03.1982	14.03.2042	Shangla	DHO Shangla	University of Peshawar	65.02	3251 / 5000	2014-Annual	07.11.1980	2014-Annual	64.54	3227 / 5000	University of Peshawar	DHO Dir	Upper Dir	5/1/1974	4/1/2034
Hidayat Ullah	06.01.1982	05.01.2042	Manshra	DHO Manshra	University of Peshawar	64.00	3200 / 5000	2014-Annual	13.04.2001	2014-Annual							
Chaham Rabbani																	
Muhammad Jalir																	

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27	Abdul Basit	Muhammad Shauib	31.03.1983	2014-Annual	3174 / 5000	63.48	University of Peshawar	DHO Mardan	Mardan	12.01.1964	11.01.2024
28	Abdul Basit	Sabbir Daud Khan	05.03.1986	2014-Annual	3172 / 5000	63.44	University of Peshawar	DHO D.Khlan	D.Khlan	17.05.1963	16.05.2023
29	Mirajuddin	Usair Din	12.05.1987	2014-Annual	3121 / 5000	62.42	University of Peshawar	DHO Mardan	Mardan	03.08.1967	02.08.2027
30	Naseeb Zada	Khair Zada	06.04.1988	2014	3109/5000	62.18	University of Peshawar	DHO Mardan	Mardan	01.12.1960	30.11.2020
31	Sarfraz Ali	Sarfraz Ali	01.12.2006 11.08.2015	2014-Annual	3076 / 5000	61.52	University of Peshawar	AS Kurram	Kurram	15/9/1972	14.09.2032
32	Miraj Ali	Fazal Dad	07.02.2009	2014-Annual	3034 / 5000	60.68	University of Peshawar	DHO Mardan	Mardan	16.03.1984	15.3.2044
33	Abdul Jalil	Abdul Aziz	07.09.2010	2014-Annual	2963/5000	59.26	University of Peshawar	MMTH D.Khlan	D.Khlan	03.03.1985	02.03.2045

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at University of Peshawar	Sir Salam Khan	01/12/1993	Annual - 011	5051.0000	59.8	Peshawar University	NW Agency	Miran-Jah	19/1/65	NO/8/2023
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[Signature]
 Director General Health Services,
 Khyber Pakhtunkhwa, Peshawar

[Signature]
ATTESTED

**DIRECTORATE GENERAL HEALTH SERVICES,
KHYBER PAKHTUNKHWA, PESHWAR.**



WORKING PAPER:

There are 76 sanctioned posts of PHC Technologists (MP) BS-17 in the Health Institutions/offices of the Health Department Khyber Pakhtunkhwa in the settled and FATA (Annexure-I) out of which 50 posts were laying vacant amongst which 20 posts have recently been filled-in by way of promotion on the basis of seniority-cum-fitness from amongst the Chief PHC Technicians (MP) BS-16 (Annexure-II) and remaining 30 posts are to be filled-in in the following Health Institutions/Offices vacated due to the retirement and new reflection in the settled and FATA noted against each. (Annexure-III).

S.NO	Name	Date of Retirement & New Creations	Name of Health institution	NO of posts.
1.	FATA	New reflection	FATA	18
2.	MR. Qayyum Nawaz	13-05-2012	DHO Haripure	1
3.	Abdul Qayyum	31-03-2013	DHO Peshawar	1
4.	Saeed Ahmad	30-04-2013	PIMT Abbotabad	1
5.	Khurshid Hussain	03-05-2013	DHO Bunsr.	1
6.	Fazli Subhan	16-10-2012	PGPI LRH	1
7.	Rehmatullah Khan	31-12-2014	DHO Dil Khan	01
8.	Iqbal Ahmad	13-04-2015	DHO Battagram	01
9.	Muhammad Iqbal	02-02-2014	DHO Abbottabad	01
10.	Muhammad Kalim	01-01-2016	DHO Mansehra.	01
11.	Muhammad SHamim	03-05-2016	DHO Battagram.	01
12.	Shams-ur-Rahman	07-09-2016	King Abdullah Hosp: Manshera	01
13.	Syed Faiz Ali Shah	30-04-2017	(PGPI)Peshawar	01
			Total	30

In light of approved Services Rules vide Notification NO.SOH-III/HD/5/2014 dated 10-05-2016 (Annexure-IV) the post of PHC Technologist (MP) BS-17 is required to be filled in as Under:-

- (a) Forty percent by promotion on the basis of seniority-cum-fitness, from amongst the Chief Technicians and Chief PHC Technicians with Three years' Service as such in the relevant Technology.
- (b) Twenty percent by promotion on the basis of seniority-cum-fitness from amongst the chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years' service as such in the relevant Technology.

Note:- For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians, and Technicians with reference to the dates of their acquiring qualification prescribe for initial recruitment as in column No.3.

Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session, then the officials who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials.

- (c) Forty percent by initial recruitment.

In the light of above service Rules that:-

- i. 20 posts have been filled-in by way of promotion on the basis of seniority cum-fitness from amongst the Chief PHC Technicians (MP) BS-16 with three years' Service as such in the relevant Technology.
- ii. 10 posts are required to be filled-in on the basis of seniority-cum-fitness from amongst the Chief PHC Technicians (MP) BS-16, Senior PHC Technicians (MP) BS-14 and PHC Technicians (MP) BS-12 having Qualification for initial recruitment with three years' service as such in the relevant Technology.

ATTESTED

- iii. 20 posts of PHC Technologist (MP) BS-17 are to be filled-in by initial recruitment later-on.

As per Final seniority list of Qualified Paramedics of Multipurpose cadre (Annexure-V) the following Chief PHC Technicians (MP) BS-16 Senior PHC Technicians BS-14 & PHC Technicians (MP) BS-12 are due for promotion to the post of PHC Technologist (MP) BS-17 according to approved service rules.

S.NO	Name/F, Name of Officials	Date of appointment	Whether three years Service Completed or Not	Whether PERs Completed or Not	Place of posting.	Remarks
1.	Khalid Khan S/O Durrani Khan	Chief PHC Tech: BS-16 21.06.1983	Completed	Completed	DHO Peshawar.	
2.	Khair-ur- Rehman S/O Anwar-ul-Haq	PHC Tech: BS-12 11.10.2012	Completed	Completed	DHO Shangla.	
3.	Abdul Razzaq S/O Muhammad Yousaf	Sr.PHC Tech: BS-14 08.03.1988	Completed	Completed	DHO Haripur.	
4.	Fazal Hadi S/O Lajbar	Chief PHC Tech: BS-16 27.06.1983	Completed	Completed	PMIT Swat.	
5.	Muhammad Iqbal S/O Karim Gul	Chief PHC Tech: BS-16 09.02.1984	Completed	Completed	DHO Peshawar.	
6.	Syed Maqsood Anwar S/O Syed Muhammad Shah	Chief PHC Tech: BS-16 19.06.1983	Completed	Completed	DHO Abbottabad RHC Kund.	
7.	Zainul Abidin S/O Izat Khan	Chief PHC Tech. BS-16 15.10.1985	Completed	Completed	DHO Charsadda	
8.	Jan Muhammad S/O Nowshad Khan	Chief PHC Tech: BS-16 25.06.1983	Completed	Completed	DHO Dir Lower	
9.	Muhammad Saeed S/O Fazle Malik	Sr.PHC Tech: BS-14 11.12.1985	Completed	Completed	DHO Lower Dir	
10.	Amir Khan S/O Khan Baz	Sr.PHC Tech. BS-14 11.04.1995	Completed	Completed	DHO Peshawar	
11.	Bashir ul Haq S/O Habibul Haq	Sr.PHC Tech: BS-14 13.05.1986	Completed	Completed	DHO Charsadda	
12.	Muhammad Hashim S/O Gul Zarin	PHC Tech: BS-12 26.12.2006	Completed	Completed	Agency Surgeon Bajaur	

ATTESTED

13.	Muhammad Usman S/O Muhammad Haroon	PHC Tech: BS-12 07.12.2006	Completed	Completed	DHO Mardan
14.	Janas Khan S/O Amin Khan	PHC Tech: BS-12 02.08.2007	Completed	Completed	DHO Kohat
15.	Qaisar Khan S/O Muhammad Hanif	Sr.PHC Tech: BS-14 12.02.1986	Completed	Completed	DHO Kohat
16.	Aziz ur Rehman S/O Bahadar Khan	Chief PHC Tech: BS-16 17.02.1984	Completed	Completed	DHO Lower Dir.
17.	Khalid Farooq S/O Muhammad Rafique	PHC Tech: BS-12 07.11.1990	Completed	Completed	AS FR Kohat.
18.	Hidayat Ullah S/O Sahib-ul-Haq	PHC Tech: BS-12 23.05.2006	Completed	Completed	DHO Batagram.
19.	Ghulam Rabbani S/O Hajat Mand	PHC Tech: BS-12 07/01/2013	Completed	Completed	DHO Shangla.
20.	Misbahuddin S/O Dost Muhammad	1 PHC Tech: BS-12 3-04-2001	Completed	Not Completed	DHO Dir.

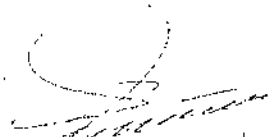
It is certified that:-


- a. No Departmental/Anti Corruption/Judicial proceedings are pending against the above officials.
- b. The official is holding the post of Chief PHC Technician (MP) BS-16, Sr. PHC Technician (MP) BS-14 & PHC Technician (MP) BS-12 on regular basis and not holding the post on Adhoc/ temporary basis.
- c. The officials are not actually on deputation or long leave.
- d. The officials have completed the prescribed minimum length of Service/ experience as per Service Rules.
- e. The provisional seniority list of Qualified Chief PHC Technicians (MP) BS-16, Senior PHC Technicians (MP) BS-14 & PHC Technicians (12) has circulated amongst all the concerned on 22-08-2017. (Annexure-VI)
- f. The final seniority list is undisputed.
- g. The synopsis of PERs & No Disciplinary Action Certificate are at (Annexure-VII)

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The Departmental Promotion Committee is requested to determine the suitability of the above mentioned 10 Qualified Chief PHC Technicians (MP) BS-15, Senior PHC Technicians (MP) BS-14 & PHC Technicians (MP) BS-12 for promotion to the post of PHC Technologist (MP) BS-17 with immediate effect.


DIRECTOR GENERAL HEALTH SERVICES
KHYBER PUKHTUNKHWA, PESHAWAR


ATTESTED

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF QUALIFIED PARAMEDICS (RELEVANT DEGREE HOLDERS) FROM BS-12/14 & 16 TO THE POST OF BS-17 IN DIFFERENT CATEGORIES IN HEALTH DEPARTMENT, KHYBER PAKHTUNKHWA, PESHAWAR HELD ON 30TH JANUARY, 2018 AT 1030 HRS.

A meeting of the Departmental Promotion Committee was held on 30-01-2018 at 1000 hours under the Chairmanship of Secretary Health to consider the promotion of qualified Paramedics (relevant Degree Holders) from BS-12/14 & 16 to the post of BS-17 in different categories in Health Department.

The following attended the meeting:-

- | | |
|---|----------|
| 1. Mr. Muhammad Abid Majeed Secretary Health. | Chairman |
| 2. Mrs. Zuhra Nigar, DS (Admn), Health Department | Member |
| 3. Mr. Naik Muhammad, DS, Finance Department | Member |
| 4. Mr. Najeed Ullah, Section Officer (Regulation-II) Estb. Deptt. | Member |
| 5. Dr. Khalid Iqbal, ADG (HRM), DGHS, Office Peshawar. | Member |

The meeting started with recitation from the Holy Quran. Mr. Sheeraz Khan, Assistant Director (Paramedics) DG Health Office Khyber Pakhtunkhwa, explained the agenda regarding promotion of qualified Paramedics (relevant Degree Holders) in different categories from BS-12/14 & 16 to BS-17 in Health Department.

The committee thoroughly examined/checked the documents, Service Rules, Seniority position and original PERs of the incumbents. The committee unanimously cleared the promotion of the following qualified Paramedics (relevant Degree Holders) from BS-12/14 & 16 to the post of BS-17 in different specialties with immediate effect. They will be on probation period for a period of one year.

Service Rules.

“twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology”.

Note: For the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment as in column

No. 3:

Provided that if two or more officials acquired the qualification prescribed for initial recruitment in the same session then the official who obtains the highest marks or grade in the examination shall be deemed to be senior to the other officials;

- Chief Technician (Anesthesia) BS-16, Senior Technicians (Anesthesia) BS-14 & Technicians (Anesthesia) BS-12 to Clinical Technologist (Anesthesia) BS-17.**

S:NO	Name	Place of Present posting.	Remarks.
1.	Arbab Sikandar S/O Mir ahmad Khan	KTH Peshawar	Promoted

2. Chief Technician (Dental) BS-16, Senior Technicians (Dental) BS-14 & Technicians (Dental) BS-12 to Clinical Technologist (Dental) BS-17.

S.NO	Name	Place of Present posting.	Remarks.
1.	Fazle Aala S/O Fazle Maula	LRH Peshawar.	Promoted.

3. Chief PHC Technician (MCH) BS-16, Senior PHC Technicians (MCH) BS-14 & PHC Technicians (MCH) BS-12 to PHC Technologist (MCH) BS-17.

S.NO	Name	Place of Present posting.	Remarks.
1.	Ulfat Begum D/O Fazal Ahmad	DHO Charsadda.	Promoted
2.	Areeta Kumari D/O Mir Chand	Services Hospital Peshawar.	Promoted
3.	Bibi Benazir D/O Mubarak Khan	DHO Chitral* BHU Shughora Chitral.	Promoted

4. Chief Clinical Technician (Ophthalmology) BS-16, SENIOR CLINICAL TECHNICIANS (Ophthalmology) BS-14, TECHNICIANS (Ophthalmology) BS-12 to Clinical Technologist (Ophthalmology) BS-17.

S.NO	Name	Place of Present posting	Remarks.
1.	Waheed Ullah Khan S/O Muhammad Karim	KGN Hospital/MTI Bannu	Promoted
2.	Malik Irfanullah Khan S/O Malik Afzal Khan	DHQ Hosp: KDA Kohat	Promoted
3.	Abdul Wahid S/O Gul Muhammad Khan	NBMH Kohat Road Pesh;	Promoted

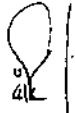
Chief PHC Technician (M.P) BS-16, Senior PHC Technicians (M.P) BS-14 & PHC Technicians (M.P) BS-12 to PHC Technologist (M.P) BS-17.

S.NO	Name	Place of Present posting	Remarks.
1.	Khalid Khan S/O Durrani Khan	DHO Peshawar.	Promoted
2.	Khair-ur-Rehman S/O Anwar-ul-Haq	DHO Shangla.	Promoted
3.	Abdul Razzaq S/O Muhammad Yousaf	DHO Haripur.	Promoted
4.	Fazal Hadi S/O Lajbar	PMIT Swat.	Promoted
5.	Muhammad Iqbal S/O Karim Gul	DHO Peshawar.	Promoted
6.	Syed Maqsood Anwar S/O Syed Muhammad Shah	DHO Abbottabad RHC Kund.	Promoted
7.	Zainul Abidin S/O Izat Khan	DHO Charsadda	Promoted

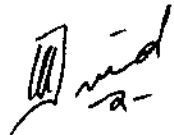
8.	Jan Muhammad S/O Nowshad Khan	DHO Dir Lower	Promoted
9.	Muhammad Saeed S/O Fazle Malik	DHO Lower Dir	Retired on 02-01-2018.
10.	Amir Khan S/O Khan Baz	DHO Peshawar	Promoted
11.	Bashir ul Haq S/O Habibul Haq	DHO Charsadda	Promoted
12.	Muhammad Hashim S/O Gul Zarin	Agency Surgeon Bajaur	Promoted
13.	Muhammad Usman S/O Muhammad Haroon	DHO Mardan	Promoted
14.	Janas Khan S/O Amin Khan	DHO Kohat	Promoted
15.	Qaisar khan S/O Muhammad Hanif	DHO Kohat	Promoted
16.	Aziz ur Rehman S/O Bahadar Khan	DHO Lower Dir.	Promoted

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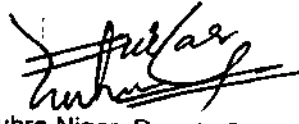
The meeting ended with vote of thanks from the chair.



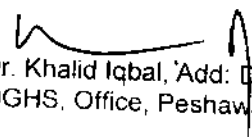
Mr. Naik Muhammad, Dy. Secretary,
Finance Department.



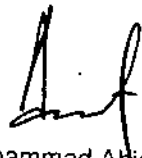
Mr. Najeed Ullah, Section Officer
(R-II), Establishment Department.



Mrs. Zuhra Nigar, Deputy Secretary (Admn)
Health Department.



Dr. Khalid Iqbal, Add: DG,
DGHS, Office, Peshawar.



(Mr. Muhammad Abid Majeed)
Secretary Health Govt. of Khyber Pakhtunkhwa
Health Department
(Chairman)


ATTESTED



E/ (26)

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 1st February, 2018

NOTIFICATION.

No. SOH-III/8-60/2018. Upon recommendations of the Departmental Promotion Committee, the following Paramedics (Relevant Degree Holders) are hereby promoted to the post of Technologists (BS-17) in different categories/specialties in Health Department with immediate effect in the public interest.

1. **Chief Technician (Anesthesia) BS-16, Senior Technicians (Anesthesia) BS-14 & Technicians (Anesthesia) BS-12 to Clinical Technologist (Anesthesia) BS-17.**

S.NO	Name	Place of Present posting.	Remarks.
1.	Arbab Sikandar S/O Mir Ahmad Khan	MTI, KTH Peshawar.	Promoted.

2. **Chief Technician (Dental) BS-16, Senior Technicians (Dental) BS-14 & Technicians (Dental) BS-12 to Clinical Technologist (Dental) BS-17.**

S.NO	Name	Place of Present posting.	Remarks.
1.	Fazle Aala S/O Fazle Maula	MTI, LRH Peshawar.	Promoted.

3. **Chief PHC Technician (MCH) BS-16, Senior PHC Technicians (MCH) BS-14 & PHC Technicians (MCH) BS-12 to PHC Technologist (MCH) BS-17.**

S.NO	Name	Place of Present posting.	Remarks.
1.	Ulfat Begum D/O Fazal Ahmad	DHO Charsadda.	Promoted
2.	Areeta Kumari D/O Mir Chand	Services Hospital Peshawar.	Promoted
3.	Bibi Benazir D/O Mubarik Khan	DHO Chitral BHU Shughora Chitral.	Promoted

4. **Chief Clinical Technician (Ophthalmology) BS-16, Senior Clinical Technician (Ophthalmology) BS-14, Technicians (Ophthalmology) BS-12 to Clinical Technologist (Ophthalmology) BS-17.**

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S.NO	Name	Place of Present posting	Remarks.
1.	Waheed Ullah Khan S/O Muhammad Karim	KGN Hospital/MTI Barnu	Promoted
2.	Malik Irfanullah Khan S/O Malik Afzal Khan	DHQ Hosp: KDA Kohat	Promoted
3.	Abdul Wahid S/O Gul Muhammad Khan	NBMH Kohat Road Peshawar.	Promoted

5. **Chief PHC Technician (M.P) BS-16, Senior PHC Technicians (M.P) BS-14 & PHC Technicians (M.P) BS-12 to PHC Technologist (M.P) BS-17.**

S.NO	Name	Place of Present posting	Remarks.
1.	Khalid Khan S/O Durrani Khan	DHO Peshawar.	Promoted
2.	Khair-ur-Rehman S/O Anwar-ul-Haq	DHO Shangla.	Promoted

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3.	Abdul Razzaq S/O Muhammad Yousaf	DHO Haripur.	Promoted
4.	Fazal Hadi S/O Lajbar	PMIT Swat.	Promoted
5.	Muhammad Iqbal S/O Karim Gul	DHO Peshawar.	Promoted
6.	Syed Maqsood Anwar S/O Syed Muhammad Shah	DHO Abbottabad RHC Kund.	Promoted
7.	Zainul Abidin S/O Izat Khan	DHO Charsadda	Promoted
8.	Jan Muhammad S/O Nowshad Khan	DHO Dir Lower	Promoted
9.	Amir Khan S/O Khan Baz	DHO Peshawar	Promoted
10.	Bashir ul Haq S/O Habibul Haq	DHO Charsadda	Promoted
11.	Muhammad Hashim S/O Gul Zarin	Agency Surgeon Bajaur	Promoted
12.	Muhammad Usman S/O Muhammad Haroon	DHO Mardan	Promoted
13.	Janas Khan S/O Amin Khan	DHO Kohat	Promoted
14.	Qaisar Khan S/O Muhammad Hanif	DHO Kohat	Promoted
15.	Aziz ur Rehman S/O Bahadar Khan	DHO Lower Dir.	Promoted

6. They will be on probation for a period of one year.
7. Posting/transfer Notification in favor of above mentioned officers will be issued later on.

**SECRETARY HEALTH
GOVT. OF KHYBER PAKHTUNKHWA**

Encl. Even No and Date.

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Health Services, Khyber Pakhtunkhwa.
3. The Director General, Provincial Health Services Academy, Peshawar.
4. The Director, Health Services, FATA.
5. Hospital Directors, MTIs, Khyber Pakhtunkhwa concerned.
6. Medical Superintendents, DHQ Teaching Hospital, Khyber Pakhtunkhwa concerned.
7. Principals/Deans, KMC/KCD/PGPI, Peshawar.
8. District Health Officers, Khyber Pakhtunkhwa concerned.
9. District Accounts Officers, Khyber Pakhtunkhwa concerned.
10. The Deputy Director I.T, Health Department.
11. PS to Senior Minister Health, Khyber Pakhtunkhwa.
12. PS Secretary Health, Khyber Pakhtunkhwa.
13. PA to Additional Secretary (Establishment) Health, Khyber Pakhtunkhwa.
14. PA to Deputy Secretary (Admn) Health, Khyber Pakhtunkhwa.
15. Officers concerned.

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2018
SECTION OFFICER-III

F

(197)

To,

THE HONOURABLE CHIEF SECRETARY,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

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سید نعمان قاری
0306 5109438

Subject: APPEAL / REPRESENTATION UNDER SECTION - 4 OF SERVICE TRIBUNALS ACT, 1974:

Asif Yousaf / zai
TASC

I. AGAINST NON CONSIDERATION OF APPELLANT IN PSB / DPC MEETING DATED 30.01.2018 IN CONSEQUENCE OF WHICH NOTIFICATION NO. SOH-III/8-60/2018 DATED 01.02.2018 WAS ISSUED WHEREBY JUNIORS IN SERVICE TO THE APPELLANT HAVE BEEN PROMOTED DESPITE THE FACT THAT APPELLANT WAS SENIOR AND WAS IN SERVICE WHEN THE PROMOTION POSTS BECAME VACANT / CREATED AND HIS WORKING PAPERS FOR THE PURPOSE OF PROMOTION WERE FORWARDED BY THE COMPETENT AUTHORITY.

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A/E

Put up pls

II. FOR NOTIONAL / PRESUMPTIVE PROMOTION TO THE POST OF PHC TECHNOLOGIST (B-17) ON REGULAR BASIS, BEING SENIOR & ELIGIBLE FROM THE DATE WHEN POST BECAME VACANT ALONGWITH THE RETIRING / TERMINAL BENEFITS, BACK BENEFITS PLUS RE-CALCULATION OF PENSION ETC ACCORDINGLY.

Sub 2/2

PRAYER: THAT ON ACCEPTANCE OF THIS DEPARTMENT APPEAL / REPRESENTATION THE APPELLANT MAY BE GRANTED PRESUMPTIVE PROMOTION TO THE POST OF PHC TECHNOLOGIST (BPS-17) FROM THE DATE WHEN POST BECAME VACANT AND BE ALLOWED THE RETIRING AND PENSIONARY BENEFITS ETC IN BPS-17 WITH SUCH OTHER RELIEF AS MAY DEEM FIT IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED.

Doxy Health

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ATTESTED

Respected Sir,

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I, MUHAMMAD SAEED S/o Fazl-e-Malik, Senior PHC Technician (BS-14) (Retired), submit my Appeal / Representation for the subject mentioned purpose for your honor's sympathetic and benevolent considerations, as under: -

- 1) That, Appellant was appointed by the Competent Authority in the Health Department on 11.12.1985 however on attaining the age of superannuation Appellant was retired from the service on 02.01.2018.
- 2) That, before retirement, the Appellant was holding the Post of Senior PHC Technician (BS-14).
- 3) That, with the promulgation of Rules / Structure on 10.05.2016 by the Government of Khyber Pakhtunkhwa for Paramedics Staff, several posts of PHC Technologists in BPS-17 became vacant in Promotion quota.
- 4) That, in the Final Seniority List of Qualified Paramedics, Appellant is positioned at Serial No. 9 while the names of Mr. Amir Khan, Mr. Bashir ul Haq, Mr. Muhammad Hashim, Mr. Muhammad Usman, Mr. Janas Khan, Mr. Qaisar Khan & Mr. Aziz-ur-Rehman can be seen below the name of the Appellant.
- 5) That, Appellant's working papers were sent for the purpose of promotion to the Post of Senior PHC Technologist (BS-17) but the Department did not convene the meeting of the DPC / PSB during the tenure of service of the Appellant however the meeting was held on 30.01.2018.
- 6) That, even on 30.01.2018 the name of the Appellant was put before the DPC for the purpose of promotion but he was not considered due to his superannuation on 02.01.2018.

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- 7) That, not considering the name of the Appellant for promotion despite having a clear vacant post is illegal, unlawful, void and ineffective.
- 8) That, the same is against the principles of Natural Justice, also.
- 9) That, granting promotion to the juniors to the Appellant by the Department exposes that clear, regular, sanctioned and budgetary posts in BS-17 were lying vacant since 2016 i.e. the date when the Rules were notified.
- 10) That, according to Rules the post of PHC Technologist (BS-17) is to be filled in by promotion. Moreover the Appellant's required length of service for the purpose of promotion was also completed and all his ACR(s) were above the mark, as such the Appellant fulfilled all the criteria laid down in the rules for promotion.
- 11) That, the Respondent, mala fide, not convened the meeting of the DPC before the Appellant's retirement because right of the Appellant to be promoted to the higher grade was accrued to him when the post became vacant.
- 12) That, now, Appellant, being retired Civil Servant, is only claiming the presumptive promotion for the purpose of retirement / pensionary benefits / monetary benefits without disturbing the seniority / sequence of other Officers / Officials.
- 13) That, Appellant has not been treated justly and fairly and Article 4, 25 & 27 of the Constitution of Islamic Republic of Pakistan, 1973 has been violated.
- 14) That, according to dictums laid down by the Superior Courts any Civil Servant can claim promotion after retirement when the right to be promoted was accrued to him but the Department / Government, due to the reasons best known to it, failed to consider the name of the Appellant for promotion.

[Signature]
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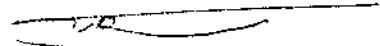
15) That, no reason whatsoever has been given by the Department for not considering the name of the Appellant except the fact of his retirement on attaining the age of superannuation.

It is, therefore, requested that Appeal / Representation be accepted as prayed for.

Thanking You.

Yours faithfully,

Dated: 27-22-2018


(MUHAMMAD SAEED),

(Retired)

S/o Fazi-e-Malik,

Senior PHC Technician (BS-14)

R/o Shuh Nawaz Town

Near Mufti Madryasa


PAGGI Road Basher Abad

0344-191165

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ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT D.I.KHAN.

Appeal No. 731/2015

Date of Institution ... 09.06.2015

Date of Decision ... 25.10.2017



Umar Khitab(Retired Office Assistant),
Office of OFWM Director HRD, D.I.Khan.

... (Appellant)

VERSUS

1. The Secretary Agriculture & Live Stock Peshawar,
and 3 others.

... (Respondents)

SYED NOMAN ALI SHAH BUKHARI,
Advocate

--- For appellant.

MR. FARHAJ SIKANDAR,
District Attorney

... For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

... MEMBER(Executive)
... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Office Assistant and later on posted as Superintendent on 30.07.2010 in his own pay and scale. Though he was eligible for promotion against the said post but not considered in time for unknown reasons. That the appellant preferred departmental appeal on 11.02.2015, but was not responded within the stipulated period, hence, the instant service appeal.

ATTESTED

MEMBER (Executive)
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

ARGUMENTS

3. Learned counsel for the appellant argued that appellant stood at sr. no. 1 of the seniority list of Office Assistant circulated in 2014. He was appointed as Superintendent in own pay and scale vide order dated 03.07.2010. Working paper for promotion of the appellant against two available vacant posts of Superintendent was sent for placement before DPC meeting scheduled for 19.01.2015. Case of his promotion was not decided in time by the respondents, hence, delayed intentionally. Subsequently post was upgraded in 2014. Thereafter on reaching the age of superannuation the appellant got retired from service on 19.03.2015. He further contended that appellant was denied promotion by deferring the case on the pretext of amending the existing service rules after upgradation of post of Superintendent by the provincial government. According to promotion policy case of a civil servant can be deferred, if inter se-seniority is disputed/ subjudice, disciplinary proceedings are pending and PER is incomplete. Similarly, vide notification dated 17.02.2016 four Superintendents were promoted on regular basis except sr. no. 2 Mr. Hukam Khan, who was promoted w.e.f 02.12.2015 i.e date of retirement. It is a clear case of discrimination as enshrined in Article-25 of the constitution. Reliance was placed on case law as reported in 2007 PLC (C.S) 1267, 2009 PLC (C.S) 229, 2008 SCMR 1535, 1997 SCMR 515, 1985 SCMR 1158, 2006 SCMR 1938 and judgment of this Tribunal dated 31.08.2016 passed in service appeal no. 323/2015.

4. Learned District Attorney argued that the appellant became eligible for promotion as Superintendent in 2013. His promotion case was discussed in DPC meeting held on 17.04.2014 but deferred due to a dispute regarding two wings of the department. Again his case was placed before DPC on 19.01.2015 and deferred because as a result of general up-gradation of posts amendments were required in the services rules. On both the occasions his promotion case was deferred due valid justification highlighted above.

ATTESTED

ATTESTED
 Cyber & Information
 Service Tribunal,
 Peshawar

ATTESTED

CONCLUSION.

5. Careful perusal of record would reveal that the appellant was eligible for promotion to the post of Superintendent against the available vacant posts. Promotion case of the appellant was not finalized in time and on reaching the age of superannuation he retired from service on 19.03.2015. Thereafter, the post of Superintendent was upgraded to BPS-17. Meeting of DPC was held on 09.01.2015 but case of promotion of Superintendents was deferred for making amendments in service rules due to general upgradation of posts in 2014. Amendments were required to be made in time but due to red tapism case was dragged/ delayed unnecessarily. It merits to mention there that promotion can only be deferred in case inter-se-seniority is disputed/subjudice, disciplinary proceedings are pending and PER is incomplete. Hence, promotion case of the appellant was not deferred on a valid ground and is also a serious departure from laid down procedure. Moreover, vide notification dated 17.02.2016 Mr. Hukum Khan was promoted to the post of Superintendent w.e.f 02.12.2015 i.e from the date of his retirement. It is established beyond doubt that the appellant eligible for promotion but his case was intentionally and deliberately delayed by the respondents on one pretext or the other. He became a victim of apathy, indifferent and casual attitude of respondents thus failed to get his due right in time.

6. As a sequel to above, we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for notional promotion to the post of Superintendent BPS-17 from the due date. Parties are left to bear their own costs. File be consigned to the record room.

Certified to be true copy
 E. M. MUGHAL
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

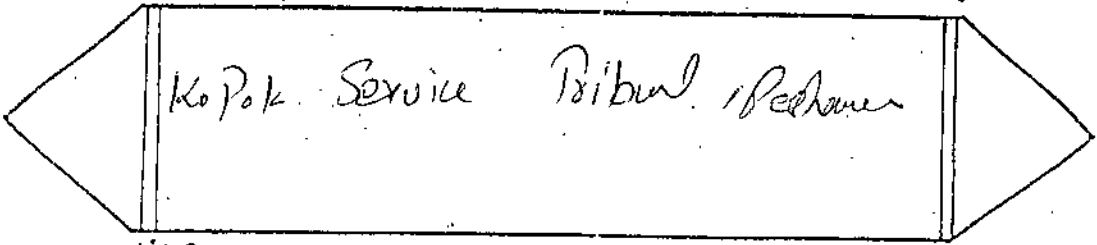
(MUHAMMAD HAMID MUGHAL)
 MEMBER

ANNOUNCED
 25.10.2017

(AHMAD HASSAN)
 MEMBER
 CAMP COURT D.I.KHAN

ATTENDED

بعدالت



2 جناب
بنام

موزعہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی متعلقہ
آن مقام سید نور علی اکبر صاحب کی درخواست پر

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔

Syed Nooman Ali Bukharia
Advocate

Attested

Accept

المرقوم 04 _____ ماہ 06 _____ 2018

_____ واہ العیاد _____

کے لئے منظور ہے۔

بمقام

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 797-P/2018

Muhammad Saeed..... **Appellant**

Versus

Government of Khyber Pakhtunkhwa & others **Respondents.**

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S. No.	Description	Annexure	Pages No.
1	Comments		1-2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 797 OF 2018

Muhammad Saeed.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Preliminary Objections:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
5. That the Appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the Appellant has not come to the Tribunal with clean hands.
7. That the Appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.

ON FACTS:

1. Para No. 1 pertains to record, hence no comments.
2. Para No. 2 pertains to record, hence no comments
3. Para No. 3 correct to the extent that 20% post were reserved for paramedics Degree Holders as per approved Service Rules.
4. Para No. 4 pertains to record. However it is added that the meanwhile the Appellant got retired from service prior to the conducting of Departmental District Promotion Committee meeting.
5. Para-5 is misleading and misconceived, hence denied. It is further clarified that no-grudge or mala fide could be attributed by the Appellant toward him by anybody at the helm of affairs. The PSB/DPC was as per schedule, as a matter of routine and the name of the Appellant did not come under consideration for the purposes of promotion, as he was no more a civil servant after attaining retirement on superannuation.
6. Incorrect as in para-5 above.
7. Incorrect as in para-5 above.
8. Para-8 is misconceived hence denied, detail reply has already been furnished in the preceding paras. Misleading para-5 above.
9. The Appellant has got no cause of action to file instant Appeal.

ON GROUNDS.

- A. Incorrect, as explained in para-5 above.
B. Incorrect, as explained in para-5 above.
C. Incorrect, as explained in para-5 above.
D. Para-D is misconceived, hence denied. Mere availability of vacancy does not occur any right to an aspirant for promotion, unless and until the same is filled after proper scrutiny and proper consideration may by the PSB/DPC.
E. Para-E is wrong. The detail reply has been furnished in the preceding paras.
F. Incorrect, as explained in preceding para.
G. Para-G is wrong and incorrect. Admittedly the Appellant has been retired on superannuation before convening and consideration of his name for the purpose of promotion, therefore he is not entitled for notional promotion or any kind of benefits attached to the said post.
H. Para-H is wrong, incorrect, hence denied.
I. Para-I Every case is decided in the light of its own facts.
J. Incorrect, as explained in para-5 above.
K. Para-K is wrong & incorrect, hence denied.
L. Para-L is wrong & incorrect, the detail reply has already been furnished in preceding paras.
M. Para-M is misleading as every case has got its own peculiar circumstances.
N. Para-N is wrong and incorrect, hence denied. The Appellant was treated in accordance with law and the rules.
O. The respondents also seek permission to raise additional grounds at the time of arguments.

PRAYER:

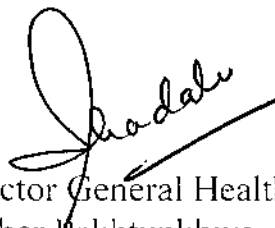
It is therefore most humbly prayed that on acceptance of comments, the instant appeal may very graciously be dismissed with cost.



Secretary, Health Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 02



Secretary, Finance Department,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 03



Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 04

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.797-P/2018

Muhammad Saeed

VS

govt of KP:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents as service record is already in the custody of respondent deptt.
2. Admitted correct by the respondents as service record is already in the custody of respondent deptt.
3. Admitted correct by the respondent moreover. Para-3 of the appeal is correct. Further it is added that the respondent admitted that the vacancy was available in para-D of the ground in their reply.
4. Admitted correct by the respondents as service record is already in the custody of respondent deptt. Moreover, mere retirement cannot waive the right of the appellant which is already accrued to appellant before retirement. The similar nature case is already accepted by the Peshawar High Court Peshawar vide judgment dated 19.09.2018.
5. Incorrect and misleading. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, it is added that the appellant remain civil servant even after retirement and come under the definition of civil servant. According to superior court judgment the employee is entitled even after retirement if the right was accrued to him before retirement.
6. Incorrect and misleading. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant.

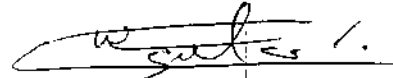
7. Incorrect and misleading. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant.
8. Incorrect and misleading. While para-8 of the appeal is correct as mentioned in the main appeal of the appellant
9. Incorrect. The appellant has good cause of action to file the instant appeal which is liable to accepted on the following grounds.

GROUND:

- A) Incorrect. The impugned orders are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to set aside.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained above.
- C) Incorrect. Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained above. Moreover, the same nature case is already accepted by the Peshawar High Court Peshawar vide judgment dated 19.09.2018.
- D) Incorrect. Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained above. Moreover, the same nature case is already accepted by the Peshawar High Court Peshawar vide judgment dated 19.09.2018.
- E) Incorrect. Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant. Moreover the working paper is already send and approved during service of the appellant so its mean process of promotion is start in service of the appellant. Further it is added that same nature case is already accepted by the Peshawar High Court Peshawar. The depts already delayed the case of the appellant from 2016 without any reason and justification.
- H) Incorrect. Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant
- I) Incorrect. Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.


- J) Incorrect. Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Incorrect. Incorrect. While para-K of the appeal is correct as mentioned in the main appeal of the appellant.
- L) Incorrect. Incorrect. While para-L of the appeal is correct as mentioned in the main appeal of the appellant.
- M) Incorrect. Incorrect. While para-M of the appeal is correct as mentioned in the main appeal of the appellant.
- N) Incorrect. Incorrect. While para-N of the appeal is correct as mentioned in the main appeal of the appellant
- O) legal.

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



APPELLANT

Through:


(M. ASIF YOUSAFZAI)

& 
SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT

