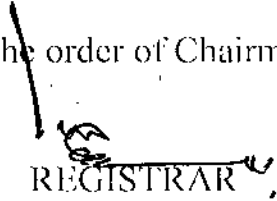


FORM OF ORDER SHEET

Court of _____

Case No. - 02/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	2	3
1-	02/01/2023	<p>The appeal of Mr. Amanullah presented today by Mr. Muhammad Asif Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 02 /2023

AmmanUllah

V/S

Govt of KP.

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S.NO.	Documents	Annexure	Page No.
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2.	Copy of deptt Appeal	---A---	08-10
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~~APPELLANT~~
Ammanullah

THROUGH:

(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT

SYED NOMAN ALI BUKHAR
(ADVOCATE HIGH COURT)

Cell No. 0335-8390122

Date: 27/12/2022.

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 02 /2022

Mr. Amanullah, District Comptroller of Accounts BPS-19
Peshawar.

(Appellant)

VERSUS

1. The Govt of KP through Chief Secretary, KP, Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa Peshawar.
3. The Secretary Finance Deptt: KP, Peshawar.
4. The Director, Treasuries & Accounts Khyber Pakhtunkhwa Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 24/08/2022 WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF BS-19 ON REGULAR BASIS W.E.FROM 07/05/2019, WHILE THE INTERVENING PERIOD CAN BE COUNTED TOWARDS INCREMENT UNDER FR-26 (C) BUT WITHOUT ARREARS AND NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE IMPUGNED NOTIFICATION DATED 24/08/2022, WHEREBY THE APPELLANT WAS PROMOTED FROM BPS-18 TO BPS-19 WITH EFFECT FROM 07/05/2019 MAY BE DECLARED AS

(2)

ILLEGAL, UNLAWFUL AND THE RESPONDENT MAY BE DIRECTED TO MODIFY THE IMPUGNED NOTIFICATION AND PROMOTED THE APPELLANT W.E.FROM 03/10/2017 FROM THE DATE JUNIOR NAWAB KHAN WAS PROMOTED WITH ALL BACK AND CONSEQUENTIAL BENEFITS INCLUDING SENIORITY, INCREMENT, MONTHLY PAY AND ALLOWANCES OF BPS-19 W.E.FROM 03/10/2017 AS PER JUDGMENT DATED 20/10/2021. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was joined the Deptt: in 1985 and was promoted to BPS-17 on 10.02.2007 and further promoted to BPS-18 on 21.04.2012, presently working as District Account Officer Torghar. Appellant had performed his duties assigned to him with zeal and devotion and up to entire satisfaction of his superiors. All the entries made in the service book of the appellant.
2. That The deptt conducted the PSB meeting held on 25.09.2017 and 17.09.2018 for the promotion of BSP-19 district comptroller Accounts, but the appellant was deferred on the ground that the two inquiries was pending against the appellant. thereafter another PSB meeting was conducted on 19.04.2019 for BPS-19 in which appellant was again deferred on the same point despite that the inquiry was already conducted and the show cause notice was served upon the appellant which was properly replied further it is added that the show cause notice was also suspended by the Peshawar high court Peshawar letter on decided by the High court in favor of appellant.
3. That the appellant feeling aggrieved filed departmental appeal against the illegal, inaction and omission of the respondents which was rejected vide order dated 09.10.2019 received by the appellant on 28.10.2019 is against the law and rules. **Copy of departmental appeal and rejection order is attached as Annexure-A & B.**
4. That the appellant being feeling aggrieved filed an appeal bearing No.1705/2019 for consideration of promotion to the post of BPS-19. The said appeal was finally heard by the Honorable Tribunal on 20.10.2021 and the Honorable Tribunal was kind enough to accept the appeal as prayed for. **(Copy of judgment is attached as Annexure-C).**

5. That appellant filed execution petition no. 381/2021 for implementation. Which was disposed of vide order dated 07.07.2022 on the point that SO(PSB) assured the tribunal that the notification would be issued in terms of judgment. In response. The respondent issued the notification dated 24.08.2022 wherein the appellant was promoted w.e.from 07/05/2019 instead from 03/10/2017, while the intervening period can be counted towards increment under Fr-26 (c) without arrears. The promotion order is not accordance with the terms of judgment and also in violation of order dated 07/07/2022. **Copy of the impugned notification dated 24/08/2022 is attached as annexure-D.**
6. That the appellant feeling aggrieved filed departmental appeal against the impugned notification which was not responded within statutory period of 90 days. **Copy of the departmental appeal is attached as annexure-E.**
7. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUND:

- A. That not promoting the appellant to the post of District Comptroller Officer BS-19 w.e.from 03/10/2017 with all back and consequential benefits is against the law, facts, norms of justice and material on record, therefore, not tenable in the eye of law.
- B. That the post of promotion for the appellant is availability since 2017 but deferred three time mere on the basis of pendency of inquiry. Therefore, the appellant is legally entitled to be considered for promotion from his due date with all back and consequential benefits.
- C. That the appellant was fully eligible according to rules and also in seniority list of District Account Officer BS-18 at S.no.3 but despite that three time deferred on the ground of inquiry. It is the duty of deptt: to complete the proceedings in time. So all the actions od deptt: is against the law and rules.
- D. That the ground mentioned in the departmental attached here with the instant appeal may also be consider integral part of this main appeal.
- E. That admittedly no fault could be attributed to appellant for his delayed promotion as it was respondent No. 3, who considered and attached weight to an illegal ground i.e. pendency of inquiry and thus appellant could not be made to suffer for the same.

- F. That according to Supreme Court Judgment cited as 1985 SCMR 1394, when the appellant was preclude from the promotion then in case of promotion the appellant is entitled for all the back benefits.
- G. That by now it is an establishment law that an ante-date promotion could be granted if at the relevant time, the case of the employee is not deficient on his part and as against this, if any illegality and irregularity is committed by the authority, the employee could not suffer and thus who would be entitled for ante-date promotion with all back benefits but the appellant was illegally deprived from the back benefits. In this regard wisdom can be drawn from **2011 SCMR PAGE 389 AND 2016 SCMR PAGE 1784.**
- H. That the appellant promoted to BPS-19 not in time, it is fault of the department not of the appellant, so any irregularities committed by the department not held the appellant responsible according to superior courts judgment.
- I. That if the grievance of the appellant is not resolved then the appellant will face huge financial loss even it will affect the pension of the appellant.
- J. That the relevant authorities restrain the appellant from performance of duty due there improper exercise of official power, therefore, the appellant cannot be deprived from his legal right of salary.
- K. That the apex Court has already clearly held in case of Anita Turab (PLD-2013 Supreme Court Page No. 195) that matter of tenure, appointment, posting, transfer and promotion, of service could not be dealt with in an arbitrary manner but could only be sustained if it was in-accordance with law. Whenever there was statutory provision or rules or regulation of government the matter of appointment of Civil Servants that must be followed honestly and scrupulously and discretionary must be exercised and structured, transparent and reasonable manner, thus the verdict of the Honorable Supreme Court fully favours the appellant's case.
- L. That as there is no any order regarding the stoppage of promotion of appellant, therefore, the appellant has legal vested rights to be considered for promotion from the date when post is available for him in his quota w.e.from 03/10/2017. (97-SCMR--515), 1997 PLC CS 512. **Copy of the order is attached as annexure-F.**
- M. That the appellant was entitled to be promoted from the date junior was promoted with all back benefits through proforma promotion as per proviso of FR-17. **Copy of the relevant rules is attached as annexure-G.**

5

- N. That the Honorable Apex Court is also given the verdict that every civil servants is the legal right to be dealt with in-accordance with the law and rules under the which is legal service rights are protected. Thus the appellant has legal and genuine claim.
- O. That the appellant was not treated according to law and rules.
- P. That the appellant seeks permission to advance the other ground and proof at the time of hearing.

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

~~APPELLANT~~
Ammanullah

THROUGH:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT

Syed Noman Ali Bukhari
SYED NOMAN ALI BUKHARI
(ADVOCATE HIGH COURT)

6

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2022

Amanullah

V/S

Govt of KPK etc

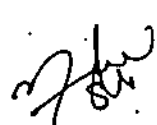
CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

7

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2022

Amanullah

V/S

Govt of KPK etc

AFFIDAVIT

I, Amanullah, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT


Amanullah



Reg: ~~10000~~

Phone: 0997-920137

OFFICE OF THE DISTRICT ACCOUNTS OFFICER, TORGHAR.

No. DAO/TG/312

Dated: 04/07/2019

A (8)

To

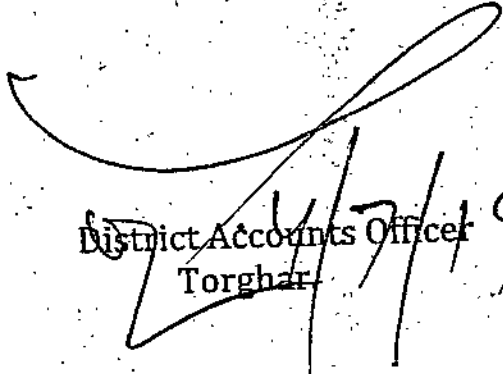
The Director,
Treasuries & Accounts,
Khyber Pakhtunkhwa,
Peshawar.

Through Proper Channel

SUBJECT: APPEAL /REPRESENTATION FOR CONSIDERATION OF PROMOTION FROM DISTRICT ACCOUNTS OFFICER B-18 TO DISTRICT COMPTROLLER OF ACCOUNTS B-19 BY PSB ON ACTING CHARGE/REGULAR BASIS IN R/O AMANULLAH D.A.O. TORGHAR FROM THE DATE WHEN JUNIOR WERE PROMOTED

Memo,

Kindly refer to the captioned above and to state that an application in respect of the undersigned is enclosed herewith along with enclosures for onward submission to the quarter concerned for consideration/further necessary action please.


District Accounts Officer
Torghar

(9) (10)

The Chief Secretary,
Govt: of Khyber Pakhtunkhwa,
Peshawar.

Through Proper Channel

Subject: APPEAL /REPRESENTATION FOR CONSIDERATION OF PROMOTION FROM DISTRICT ACCOUNTS OFFICER B-18 TO DISTRICT COMPTROLLER OF ACCOUNTS B-19 BY PSB ON ACTING CHARGE/REGULAR BASIS IN R/O AMANULLAH D.A.O. TORGHAR FROM THE DATE WHEN JUNIOR WERE PROMOTED.

Sir,

Most humbly requested that on the subject narrated matter, that I Amanullah presently working as D.A.O Torghar, resident of District Battagram being regularly, deffered in the P.S.B Meetings held on 25.09.2017, 17.09.2018 and 19.04.2019 from District Accounts Officer BPS-18 to District Comptroller of Accounts BPS-19 on the grounds, that two enquires are pending against me and PER for the year 2015 not available while my most junior cadre fellows are promoted.

I am therefore accordingly compelled to brought into your kind notice the factual position in r/o the above mentioned stigmas as below :-

1. Factual position of Enquiry No.1


The enquiry was conducted by the enquiry committee in the month of January, 2017 and report was submitted to concerned in May, 2017 therefore I received a show cause notice in the month of November, 2017 and I was submitted reply accordingly vide No.DAO/TG/B-I/1501 dated 08.12.2017 (Copy attached for ready reference as annexure -A)

Hence nothings are pending on the part of me, therefore adverse using/lying of the same as pending are not justified in the light of Establishment of justice and various judgments of the superior Courts, in as such position also provided that promotion of a Civil Servant may not be keep pending due to as such bars.

2. Factual Position of Enquiry No. 2

This one is not an Enquiry to be pending, however a 2nd show cause notice vide No.SO(ESTT)FD/19-25/2015/Amanullah, dated 01.02.2017 was served upon me, on the same facts, enquiry and alligations on which once legal proceeding was completed and minor punishment was imposed upon me, as such even after mandatory period was also lapsed, therefore the same was challenged by me in the Peshawar High Court Peshawar through a writ petition No.537-P/2017 and so far the same order of the Competent Authority is suspended by the Honorable Peshawar High Court, Peshawar, order dated 10.02.2017, copy of the order sheet, (attached as annexure-B).

Hence operation of adverse effect of the same against me is

(10) 

3. The PER for the year 2015. Not Available.

In fact my PER for the period 25.08.2015 to 31.12.2015 was intimated to me as adverse remarks of the reporting officer and countersigning officer, therefore accordingly I was preferred an appeal before; the Chief Secretary of Khyber Pakhtunkhwa, for its expunge on facts, grounds and figures, so the then Chief Secretary i-e Muhammad Azam Khan Sb was pleased to expunge the adverse remarks of reporting /countersigning officers received to me vide office order NoSO(ESTT)FD/1-51/2017/ACR/Amanullah, dated 26.12.2017 (Copy of the order attached as annexure-C) and remaining portion was asked me as under process, which is still on the others parts and not me.

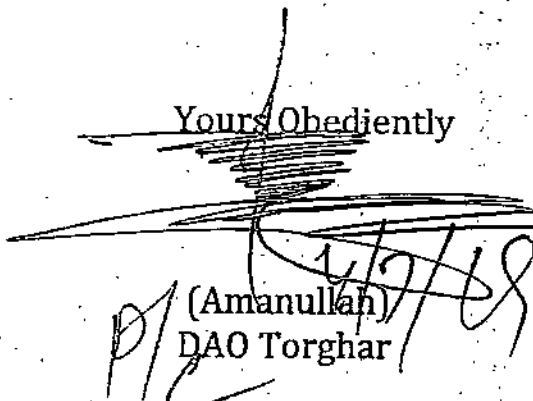
If the other portion i-e w-e-f 01.01.2015 to 24.08.2015 is still not completed, by someone, then it is provided under the provision of E&D Rules 2011, Rule No.2 (i) (vii) as misconduct on some one part, therefore accordingly requested for appropriate necessary action instead the same is bar against me for my due service advancement, or otherwise an alternate solution also been provided in the matter as per Para No.2.39-A (2) (3) (4) of a guide to performance Evolution/ACRs (Copy attached as annexure-D) and most appropriate that my reporting officer for the whole year 2015 is one and same, therefore his reporting and remarks which are for the period 25.08.2015 to 31.12.2015 are same for the other portion may kindly be treated for the whole year 2015 as expunged by the Competent Authority and Matter of countersigning be dealt as per Rules Para 2-39 A (4) by only recording of reason as in Part IV of the PER cannot countersigned being countersigning officer was Employee of Federal Govt, and his repatriation is tantamount to as an officer retired from the department service, so dealing completion of P.E.Rs provided as explained above,

The position narrated as above accordingly prayed that I may kindly be granted/reviewed my due rights of service advancement and promotions as on acting charge basis as DCA B-19 from the date of 25.09.2017, when my juniors were promoted/appointed on acting charge basis and from 17.09.2018 on regular basis as DCA B-19, when my Most Junior were promoted on Regular basis, also both the services events on proforma basis under the provision of FR-17, please.

Thanking you an anticipation

Dated 04.07.2019

Yours Obediently


(Amanullah)
DAO Torghar

B (11) (C)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk> [facebook.com/GoKPFD](https://www.facebook.com/GoKPFD) twitter.com/GoKPFD

NO:SO(ESTT-I)FD/1-55/2019-18/Amanullah/

Dated Pesh: the 09-10-2019

To

The Director, Treasuries & Accounts,
Khyber Pakhtunkhwa.

Subject:- APPEAL/REPRESENTATION FOR CONSIDERATION OF PROMOTION FROM THE POST OF DISTRICT ACCOUNTS OFFICER (BS-18) TO THE POST OF DISTRICT COMPTROLLER OF ACCOUNTS (BS-19) BY PSB ON ACTING CHARGE/REGULAR BASIS IN R/O MR. AMANULLAH DAORGHAR FROM THE DATE WHEN JUNIOR WERE PROMOTED

ANO 4/C

I am directed to refer to your letter No.1-55/DT&A/19/Appeal/1472 dated 09-07-2019 and to state the competent authority has considered the appeal / representation of the above named officer / appellant and dismissed for the reasons that said officer being custodian of Govt: Treasury / Funds is involved in over drawl of pay & allowances without having any regard to the rules.

(Signature)
Section Officer (Estt-I)

Endst: No: & Date even

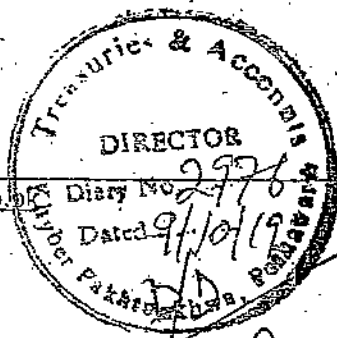
Copy forwarded for information to:

1. PS to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Special Secretary, Finance Department.
3. The PA to Addl: Secretary (Admn:), Finance Deptt:.
4. The PA to Dy: Coordinator(PIAC), Finance Deptt:.

Section Officer(Estt-I)

F.No.2019 (P-649)

munir.khan@finance.gkp.pk



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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1705 2019

Mr. Amanullah, District Account Officer
Torghar, BPS-18

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 1682

Date 26/11/2019

(Appellant)

VERSUS

1. The Govt of KP through Chief Secretary, KF, Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa Peshawar.
3. The Secretary Finance Deptt: KP, Peshawar.
4. The Director, Treasuries & Accounts Khyber Pakhtunkhwa Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION AS DISTRICT COMPTROLLER OF ACCOUNTS (BPS-19) FROM HIS DUE DATE/JUNIOR TO HIM WAS PROMOTED AND AGAINST THE REJECTION ORDER DATED 09-10.2019 RECEIVED BY THE APPELLANT ON 28.10.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS..

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE PSB MEETING DATED 19.04.2019 MAY BE DECLARE TO THE EXTANT OF APPELLANT AS ILLEGAL AND UNLAWFUL. THE INACTION /OMISSION OF THE RESPONDENTS NOT PROMOTING THE APPELLANT AS DISTRICT COMPTROLLER OF ACCOUNTS (BPS-19) FROM HIS DUE DATE, JUNIOR TO HIM WAS PROMOTED MAY BE DECLARE AS ILLEGAL, UNLAWFUL, AGAINST THE PROMOTION RULES AND NORMS OF JUSTICE AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION AS DISTRICT COMPTROLLER OF ACCOUNTS (BPS-19) FROM HIS DUE DATE, JUNIOR TO HIM WAS PROMOTED BEING ELIGIBLE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST

Admitted to-day

Registrar

26/11/19

Admitted to-day

Registrar

26/11/19

ATTESTED

Registrar

26/11/19

Registrar

26/11/19

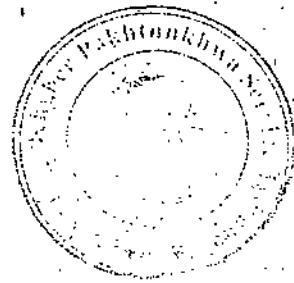
13

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1705/2019

Date of Institution ... 26.11.2019

Date of Decision ... 20.10.2021



Amanullah, District Account Officer Torghar, BPS-18.

(Appellant)

VERSUS

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

(Respondents)

SYED NOMAN ALI BUKHARI,
Advocate,

For Appellant

MUHAMMAD RASHEED
Deputy District Attorney

For Respondents

SALAH-UD-DIN
ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant joined respondent department in 1985 and was promoted to BPS-17 on 10-02-2007 and further promoted to BPS 18 on 21-04-2012. The appellant is presently working as District Account Officer Torghar. The department conducted PSB meetings held on 25-09-2017, 17-09-2018 and 19-04-2019 for promotion to the post of District Comptroller Accounts, but case of the appellant was deferred on the ground that two inquiries were pending against the appellant. Feeling aggrieved, the appellant filed departmental appeal, which was rejected vide order dated 09-10-2019, hence the instant service appeal with prayers that the appellant may be promoted as District Comptroller

Atiq-ur-Rehman Wazir
Member (Executive)
Khyber Pakhtunkhwa Service Tribunal
Peshawar

(84)

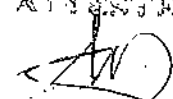
of Accounts(BPS-19) from the date, his juniors were promoted, with all back benefits.

2. Learned counsel for the appellant has contended that not promoting the appellant to the post of District Comptroller of Account despite having seniority/eligibility, rejection order dated 09-10-2019 is against law, facts, norms of natural justice and material on record, therefore not tenable in the eye of law; that case of the appellant was deferred thrice mere on the basis of inquiry, which however is not a valid reason for deferment of promotion of the appellant, as it was responsibility of the respondents to complete the proceedings well in time; that inaction of the respondents not to consider the appellant for promotion is against the spirit of section-9 of civil servant Act, 1973 and service rights duly protected under the civil servant laws; that the apex court has very clearly held in Anita Turab case reported as PLD-2013 Supreme Court 195 that in matter of promotion, cases could not be dealt with in an arbitrary manner; that there is no order regarding stoppage of promotion of the appellant, therefore the appellant has legal vested right to be considered for promotion from the date, when the vacancy was available for him in his quota. Reliance was placed on 1997 SCMR 515; that not granting promotion due to the reason that PER pertaining to year 2015 was missing is a lame excuse, which is evident from the order dated 26-12-2017; that the appellant has not been treated in accordance with law and has been discriminated as his other colleagues and his juniors were promoted on 15-05-2013, whereas the appellant have been ignored despite having seniority, eligibility as well as availability of post.

3. Learned counsel for the respondents has contended that as per Para-V (a)(ii) of Promotion Policy, promotion of a civil servant would require to be deferred, in case, any disciplinary or departmental proceedings are pending against him, hence case of the appellant was deferred repeatedly as the inquiries are still pending against him; that promotion of the appellant will be considered as and when the reasons for deferment cease to exist; that the appellant has been dealt with in accordance with prescribed law and promotion policy and no discrimination has been made.

4. We have heard learned counsel for the parties and have perused the record.

5. As per assertion of the respondents, there are two inquiries pending against the appellant, but record would suggest that on completion of inquiry, a show cause notice proposing minor penalty was served upon the appellant, to which


ATTORNEY

 NAME
 No. of ...
 Service ...

(15)

he responded vide letter dated 08-12-2017, but the respondents failed to pass any final order till today, which is contrary to the instructions contained in letter dated 14-02-1969 and which means that such inquiry is no more in the field. Regarding second inquiry, it was found that a fact finding inquiry was conducted, on the basis of which a show cause notice was served upon the appellant proposing minor penalty of censure plus recovery of drawn amount of Rs, 120,000/, in which the penalty was subsequently enhanced to major penalty of removal from service, which was challenged by the appellant in writ petition No 537-P-2017, whereby the court suspended the show-cause notice dated 01-12-2017 vide order dated 10-02-2017 and finally struck down the whole proceedings vide judgment dated 23-04-2020, hence assertion of the respondents to this effect are not based on facts, rather the respondents vide letter dated 03-08-2021 had withdrawn the show-cause notice served upon the appellant, but maintained the penalty of censure and recovery of the amount, so the only thing left pending is a minor penalty. Placed on record are letters dated 07-01-1969 and 20-06-2008, which would show that there would be no bar on promotion of a civil servant who has been awarded any minor penalty. Record also reveals that case of the appellant for promotion was processed repeatedly but was deferred due to the single reason of pendency of inquiries against him, which in-fact were not pending. We have also noted that the appellant was otherwise fit for promotion and vacancy to this effect was also available, but case of the appellant was deferred every time under the pretext of pending inquiries.

6. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
20.10.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified true & correct copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Receipt of copy of this order _____

 Date of Delivery of copy _____
 01-11-21
 01-11-21



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

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[twitter.com/GoKPFD](https://www.twitter.com/GoKPFD)

Dated Pesh: the 24-08-2022

NOTIFICATION

No.SO (Estt-D)/FD/1-55/2022 Consequent upon the approval granted by Hon'ble Chief Minister, Khyber Pakhtunkhwa to the recommendation of Provincial Selection Board, in its meeting held on 06.7.2022, Mr. Amanullah, District Accounts Officer (BS-18) is hereby promoted to the post of District Comptroller Accounts (BS-19) on regular basis **subject to the final outcome of CPLA**, with immediate effect.

2. The officer, on promotion, shall remain on probation for a period of one year, extendable to another one year in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. In term of Para-7 of the Establishment & Administration Department letter No. SORI (S&GAD)/1-29/75 dated 13-04-1987, the officer is hereby allowed to regain his seniority w. e. f 07-05-2019 when his erstwhile junior Mr. Nawab Khan was promoted as District Comptroller of Accounts BS-19 on regular basis, while the intervening period can be counted towards increments under FR-26 (c) but without arrears.

4. The officer upon his promotion to BS-19 is allowed to actualize his promotion against already occupied post of District Comptroller of Accounts, Peshawar.

**SECRETARY TO GOVERNMENT
KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Endst: No: & Date even

Copy forwarded for information & necessary action to:

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
3. All DCAs/DAOs in Khyber Pakhtunkhwa.
4. PS to Minister for Finance.
5. PS to Secretary Finance Department.
6. PS to Special Secretary (A&R), Finance Department.
7. PA to Add: Secretary (Admin) Finance Department.
8. Officer concerned.
9. Office Order file.

N. S.
SECTION OFFICER (E-1)

No
375
25-8-2022
**District Comptroller of Accounts
Peshawar**



E (17)

Directorate of Treasuries & Accounts Khyber Pakhtunkhwa

Treasury Block, District Courts Compound, Behind Jamia Masjid, Khyber Road,
Peshawar, Phone & Fax: 091-9211856

No. 1-55/DT&A/22/appeal/974

Dated Peshawar the 12-09-2022

To

The Sector Officer (Estt-I),
Government of Khyber Pakhtunkhwa,
Finance Department Peshawar.

Subject: **DEPARTMENTAL APPEAL/ NOTIFICATION**

I am directed to refer to the subject noted above and to enclose a copy of letter No.DCA/PR/2022-23/468 dated 08-09-2022 along with a self-explanatory appeal received from Mr. Amanullah, District Comptroller of Accounts, Peshawar for kind perusal/necessary consideration if deem appropriate, please:

Encl: As above

**Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa**

Endst: No. & Date Even:

✓ Copy for information is forwarded to the District Comptroller of Accounts, Peshawar w/r to his letter No. referred to above.


**Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa**

DNB: 507
13/09/22

18

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS PESHAWAR

NO.DCA-PR/2022-23/

468

Dated: 08/09/2022

To

The Director,
Treasuries & Accounts,
Peshawar.

Subject:


DEPARTMENTAL APPEAL / NOTIFICATION

Memo:

Kindly find enclosed a self-explanatory departmental appeal over a notification No.SO(ESTT-I)FD/1-55/2022 dated 24/08/2022 in r/o of the undersigned which is hereby submitted for onward necessary action, please.

Enclosed as above.


(AMANULLAH)
District Comptroller of Accounts
DCA, Peshawar


8/9/2022

To

The Chief Minister,
Khyber Pakhtunkhwa.

Through: Proper Channel

Subject: **DEPARTMENTAL APPEAL / NOTIFICATION**

Sir,

My humble submission is as under for consideration if found appropriate.

01. That vide notification No.SO(ESTT-I)/FD/1-55/2022 Dated: 24/08/2022, I, Amanullah, District Accounts Officer (BS-18) got promotion to the post of District Comptroller of Accounts (BP-19) on regular basis, with immediate effect and subject to final outcome of CPLA (copy attached as P-3).
02. That the condition subject to final outcome of the CPLA is irrelevant as, in my accepted appeal by the honorable Service Tribunal in appeal No. 1705/2019, terms and conditions there, are not having been regarded, which are the back benefits/ consequential benefits over the juniors since 03/10/2017 as on acting charge than Mr. Muhammad Hanif vide Notification No. SO (ESTT-I) FD/1-55/PSA/2017 dated 03/07/2017 (copy attached as P-4) and on regular basis since 07/05/2019, when erstwhile junior Mr. Nawab Khan was promoted, as "proforma".
03. That at para 3 of the notification under appeal, itself provides, that in term of para 7 of the Establishment and Administration Department letter No. SOR1(S&GA)/1-29/75 Dated: 13/04/1987, the Administrative Department accordingly have admitted some terms and conditions in light with the provision of FR-26 (c) without arrears and back benefits but in fact, as above terms and conditions are also to be complied with in light of FR-17(1) including, since, dated 13/11/1995 as under;

23[Provided that the 24[appointing authority] may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through proforma promotion or up-gradation arising from the antedated fixation of his seniority.] (copy attached as P-5 & 6).

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As above when any seniority of a civil servant is ante-dated, the status also provided with payments of arrears of pay and allowances through proforma promotion or upgradation by the appointing authority if satisfied and so as civil servant was provided for no fault of his own.

04. That I am prevented from the due rights, perks & privileges to avail on due dates as the word "deferred" itself, when ceased so providing restoration from the deferred dates and the reason of the deferment was also doubtful. Because Rule-11(07) of the Khyber Pakhtunkhwa Government Servant (E & D) Rules, 2011 states "The inquiry officer or enquiry committee, as the case may be, is required to submit the enquiry report within thirty days", hence, pending of two enquiries against me for five years is not justified nor possible, unless the same tools were used by someone officer junior to me working in Finance Department by his misuse of position and status beyond the power and got his promotion than me in a drastic manner, earlier.

Keeping in view of the above, it is therefore prayed for that, I, may very kindly be granted proforma promotion in light of FR-17 (1) from the date 03/10/2017, when my junior Mr. Muhammad Hanif was promoted as on acting charge basis and dated 07/05/2019 on regular basis, when my junior Mr. Nawab khan was promoted, with all consequential benefits i.e. payments of pay & allowances etc of BS-19, please.


(AMANULLAH)
DISTRICT COMPTROLLER OF ACCOUNTS
PESHAWAR



F (91) *[Signature]*
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
Dated Pesh: the 03-10-2017

NOTIFICATION

NO.SO (ESTT)FD/1-55/PSB/2017. On the recommendation of Provincial Selection Board, Khyber Pakhtunkhwa, the competent authority has been pleased to promote / appoint the following officers of Khyber Pakhtunkhwa Treasury Establishment from the posts of Deputy Director/District/Agency Accounts Officers/Treasury Officers (BS-18) to the post of District Comptroller of Accounts (BS-19) on regular / acting charge basis with immediate effect. The officer at S.No.1 will be on probation till retirement.

S.No.	Name of Officers
1.	Mr. Muhammad Imran on regular basis
2.	Mr. Shahid Pervez Bhatti on acting charge basis
3.	Mr. Muhammad Hanif on acting charge basis
4.	Mr. Nawab Khan on acting charge basis

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & Date even.

Copy forwarded to:-

1. The Secretary to Govt: of Khyber Pakhtunkhwa Establishment Deptt: Peshawar.
2. The Accountant General Khyber Pakhtunkhwa Peshawar.
3. The Accountant General Pakistan Revenue, sub-office Peshawar.
4. The Director Treasuries and Accounts Khyber Pakhtunkhwa Peshawar.
5. All Divisional Commissioners in Khyber Pakhtunkhwa.
6. Deputy Commissioner, DIKhan, Bannu, Kohat, Peshawar, Mardan, Swat & A. Abad.
7. All DCAs/DAOs/AAOs in Khyber Pakhtunkhwa/FATA.
8. PSO to Chief Minister, Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa
10. PS to Secretary Finance.
11. Officers concerned.
12. Office Order file.

[Signature]
(MUHAMMAD AMAN)
Section Officer (Estt)

Received on
19-10-2017

19/10
[Signature]

[Signature]

G 92
Rao

GOVERNMENT OF PAKISTAN
FINANCE DIVISION



COMPILATION
OF THE
FUNDAMENTAL RULES
AND
SUPPLEMENTARY RULES

MADE BY

The President including Orders etc.

issued by the Federal Government, Auditor General, etc.

VOLUME I

UPDATED EDITION

2018

[Handwritten signature]

Government decision.—Permanent transfers from a higher to a lower scale in anticipation of the abolition of a post are not transfers within the meaning of F. R. 15.

(G.I., F.D., letter No.F-452-R.I/27, dated the 1st February, 1928.)

F. R. 16. A Government servant may be required to subscribe to a provident fund, a family pension fund or other similar fund in accordance with such rules as the²¹President may by order prescribe.

F. R. 17. (1) Subject to any exceptions specifically made in these rules and to the provisions of sub-rule (2), an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties. ²²[:]

²³[Provided that the ²⁴[appointing authority] may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through proforma promotion or up-gradation arising from the ante-dated fixation of his seniority.]

(2) The date from which a person recruited overseas shall commence to draw pay on first appointment shall be determined by the general or special orders of the authority by whom he is appointed.

[For Administrative Instructions issued by the ²⁵President regarding "CHARGE OF OFFICE" and "LEAVING JURISDICTION", See Part II of Appendix No. 3 in Volume II of this Compilation.]

Orders issued by the ²⁶President under Fundamental Rule 17(2).—With reference to clause (2) of this rule, the ²⁷President has decided that the pay of officers recruited overseas who are entitled to a first class passage to Pakistan, shall commence from the date of disembarkation, subject to their proceeding to take up their duties without avoidable

²¹Substituted by Ministry of Law Notification No.F.13(1)/59-D&L, dated 24-1-1961, Gaz. Of Pak., Extra., Pp.102-103, as issued vide their Notification No.F.2(18)/60-Legis., dated 24-1-1961, Gaz. Of Pak., Pp.71-72.

²²In sub-rule (1) at the end full stop subs, by colon & thereafter proviso added by S.R.O. 1092 (I)/95 [No.F.3(1)R.II/94], dated 6th November, 1995, Gaz. of Pak., Extr., Pt. II, Page No.2521, dated Nov. 13, 1995.

²³In sub-rule (1) at the end full stop subs, by colon & thereafter proviso added by S.R.O. 1092 (I)/95 [No.F.3(1)R.II/94], dated 6th November, 1995, Gaz. of Pak., Extr., Pt.II,Page No.2521, dated Nov. 13, 1995.

²⁴In the proviso substituted for "President" by the S.R.O.106 (I) /2001 [No.F.3(1)R.2/94], dated 13-02-2001, Gaz. of Pak., Extr., Pt. II, Page No.375, dated 17th Feb. 2001.

²⁵Substituted by Ministry of Law Notification No.F.13(1)/59-D&L, dated 24-1-1961, Gaz. Of Pak., Extra., Pp.102-103, as issued vide their Notification No.F.2(18)/60-Legis., dated 24-1-1961, Gaz. Of Pak., Pp.71-72.

²⁶Substituted by Ministry of Law Notification No.F.13(1)/59-D&L, dated 24-1-1961, Gaz. Of Pak., Extra., Pp.102-103, as issued vide their Notification No.F.2(18)/60-Legis., dated 24-1-1961, Gaz. Of Pak., Pp.71-72.

²⁷Substituted by Ministry of Law Notification No.F.13(1)/59-D&L, dated 24-1-1961, Gaz. Of Pak., Extra., Pp.102-103, as issued vide their Notification No.F.2(18)/60-Legis., dated 24-1-1961, Gaz. Of Pak., Pp.71-72.

24

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar

Amanullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt of KP (Respondent)
(Defendant)

I/We, Amanullah (Appellant)

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI, ASC,


SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar