

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

**Service Appeal No. 868/2019**

Date of Institution ... 20.08.2018

Date of Decision ... 14.01.2021

Iftikhar Khan, Assistant (BPS-16),  
Khyber Pakhtunkhwa, Service Tribunal, Peshawar.

... (Appellant)

**VERSUS**

The Government of Khyber Pakhtunkhwa through Chief Secretary,  
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and three other  
respondents.



... (Respondents)

Mr. IFTIKHAR KHAN,  
Appellant

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--- In person.

MR. RIAZ AHMAD PAINDAKHEIL,  
Assistant Advocate General

--- For respondents.

**MUHAMMAD JAMAL KHAN**  
**MIAN MUHAMMAD**  
**ATIQ-UR-REHMAN WAZIR**

--- **MEMBER (Judicial)**  
--- **MEMBER (Executive)**  
--- **MEMBER (Executive)**

**JUDGEMENT:**

**MUHAMMAD JAMAL KHAN, MEMBER:-** By virtue of the instant service appeal submitted under Section-4 of the Khyber Pakhtunkhwa Services Tribunal Act, 1974, the vires of notification/rules dated 03.04.2018 have been challenged.

2. That on establishment of the Khyber Pakhtunkhwa Services Tribunal, while adhering to the provisions contained in Article 212 of the Constitution of Islamic Republic of Pakistan the Service Tribunal has been conferred exclusive jurisdiction in the matter pertaining to terms and conditions of civil servants of the Province, Appellant being a civil servant is also rendering duties as Office Assistant in BPS-16 in this

Tribunal since 25.08.2017 and he is acting as such to the entire satisfaction of his higher-ups. On 03.04.2018, the Secretary Establishment Department Khyber Pakhtunkhwa Civil Secretariat, Peshawar, notified Service Rules which are not only irrational but also disadvantageous to the service career of appellant as the number of officials working in each cadres and their prospects of promotion have not been brought under consideration. For bringing the matter into the notice of competent authority, departmental appeal was moved on 24.04.2018 waiting for the expiry of the statutory period but without having any response, therefore having no other adequate remedy the instant service appeal was instituted.

3. Respondents were summoned, in compliance thereof they attended the Tribunal through their authorized representative thereby controverting the claim of appellant by submitting reply/comments by raising legal and factual objections.

4. We have heard arguments of the appellant as well as learned Assistant Advocate General and were able to go through the record on file with their valuable assistance in view of which our findings are recorded in the following paras.

5. Here it is deemed appropriate to mention that in the past due to split judgment, pro and contra of the Divisional Bench of this Tribunal one Hon'ble Member declared and accepted the appeal whereas the other Hon'ble Member dismissed the same, therefore, the instant appeal was referred to Larger Bench for the decision.

6. Before embarkation on adjudicating the issue involved in the instant case it is appropriate to have a look at the arguments advanced by the appellant himself. According to appellant in the service structure there are three contestants/aspirants for a single post of Registrar in BPS-18, that are, Additional Registrar, Superintendent and Budget & Accounts Officer all holding posts in BPS-17, according to the rules notified for the Ministerial Establishment of the Service Tribunal separate rather distinct seniority lists have been provided for all cadres. For Law Drafter and Assistant Registrar both falling in BPS-16 each cadre having one post has to be promoted to the post of Additional Registrar. As regard Office Assistants holding nine posts in BPS-16 have

to be promoted to the post of Superintendent (BPS-17) and still further a Cashier-cum-Assistant holding BPS-16 having one post has to be promoted as Budget & Accounts Officer in BPS-17. It is worth to be noted that seniority list of all the three cadres have been merged when the official of each cadre attains BPS-17 where-after a common seniority list have to be maintained. Appellant opined that while keeping in view the number of posts available for Office Assistant holding BPS-16 which are nine in numbers whereas other cadres of Additional Registrar and Budget & Accounts Officer having two and one post respectively would be promoted to higher grade with accelerated pace as compared to the chances of promotion available to the Office Assistants when he is promoted to BPS-17 on his turn thus having dismal chances of promotion and at the same time lagging behind by remaining junior to the lateral entrants in service. That except the post of Law Drafter qualification for all the remaining posts is a Bachelor Degree and B.Com. While keeping in view the principles of parity and maintaining equilibrium such scheme of things as provided in the rules would not uphold the cardinal principles of justice, therefore, he submitted that each official having different cadre but having the same grade should have equal chances of promotion, he placed reliance on **PLD 1980 S C 153**, wherein it has been held that Article 212 read with Civil Servants Act, 1973, Section-25 of the Act *ibid* vires of rules competency to determine-Rules having altered terms and conditions of service, bar of Article 212 applicable with full force- question of vires of rules vis-à-vis with section-25 of Civil Servants Act, 1973, in such exercise to be necessarily considered *vide* citation (e) and last two paras of the aforesaid judgement. He referred to **1991 SCMR 1041**, wherein it has been held that if a statutory rule or a notification adversely affects the terms and conditions of a civil servant, the same can be treated as an order in terms of Section-4 (1) of the Service Tribunal Act (LXX of 1973) and can file an appeal in the Service Tribunal, even if the fundamental rights of a civil servant are bypassed or violated, it has been further provided in the aforesaid dictum that all citizens are equal before law and entitled to equal protection of law, state however is not prohibited to treat its citizens on the basis of reasonable qualification *vide* citations (d), (e), (f) of the referred to dictum. He referred to **PLD 2004 S C 317**, wherein it has been held if

an objection is raised qua the validity of amendment in the rules by a civil servant on the ground that the same had adversely affected his right in the service as to promotion, jurisdiction of the High Court was barred by virtue of Article 212 of the Constitution. It was ordained that the civil servant should approach the Services Tribunal for redressal of his grievance, which was vested with the jurisdiction not only to go in to the question of validity or vires of the rules qua right of such a civil servant but also the question of mala-fides if raised in the appeal vide citation (b) and para-5 of the referred to judgement. While making reference to **2002 PLC (C.S) 94**, vide discussing the vires of Section-4 of the Services Tribunal Act (LXX of 1973) vis-à-vis the Constitution of Pakistan 1973 Articles 199 & 212 it has been held that the matter relating to the terms and conditions of service would not come within the jurisdiction of the High Court- even if a statutory rule was ultra vires, the Services Tribunal would have the jurisdiction to strike down the same vide para-8 of the referred to judgement. He referred to **2012 PLC (C.S) 142**, while discussing the scope of Section-4 (1) of the Balochistan Services Tribunal Act, 1974, that appeal challenging the vires of law, statutory service rules or notification adversely affecting terms and conditions of civil servants such law/rules/notification could be in turn an order in term of Section 4 (1) of Balochistan Services Tribunal Act, 1974, and could be challenged in an appeal before Services Tribunal. It has further been provided that the jurisdiction conferred upon Services Tribunal is not limited and all service matters including vires of service laws can be challenged before it vide citation c of the referred to judgement. Similar question of jurisdiction has also been tackled in **2012 PLC (C.S) 1211**. He made reference to **2015 PLC (C.S) 215**, it has been held categorically that the Services Tribunal has got exclusive jurisdiction to entertain and adjudicate upon the matters relating to the right to be considered for promotion to a higher grade vested in the Khyber Pakhtunkhwa Services Tribunal Act, 1974, vide citation-a read with para-12 of the referred to judgement. He referred to **2018 PLC (C.S) 40**, Wherein it has been held unequivocally that the Service Tribunal was fully competent to entertain and decide the cases wherein vires of Service Rules or notification had been challenged on the touch stone of being violative of Fundamental Rights and to direct the authority for framing such rules beneficial to the

prospect of promotion of civil servants and was held that the claim of petitioner/employees would fall in terms and conditions of service vide citation (a) and paras-10 & 11 of the referred to judgment. He referred to **2019 PLC (C.S) 995**, wherein it has been held that the vires of rules could be challenged before Service Tribunal vide summarized para at the inception of judgement read with para-7 ibid of the referred to dictum. He made reference to Services Appeal No. 231/2011 Captioned Mian Farooq Iqbal Versus Mines and Minerals Department Khyber Pakhtunkhwa decided on 19.01.2013, the rules in vogue in the Mines and Minerals Department till 16.10.2010 were revoked and new rules were notified where clause-b of the rule was replaced on mala-fide intention which notification was set-aside by dent of which rules were notified on 17.10.2010 by restoring clause-b of notification No. SOI(IND)1-688-Vol-V dated 10.12.2003 and furthermore that promotion to be made strictly keeping in view section-9 (2)(a)(b) of Civil Servants Act, 1973, and Esta Code directions. He placed reliance on Service Appeal No. 1218/2011 titled Fozia Shehzadi Versus Education Department Government of Khyber Pakhtunkhwa decided on 19.12.2017, wherein the department of Elementary & Secondary Education Government of Khyber Pakhtunkhwa amended method of recruitment in exercise of the powers under sub-rule 2 of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 which changed the qualification for promotion, was challenged to be ultra vires of the Fundamental Rights and it was held by this Tribunal that it is now a settled position of law that vires of any rules or law touching the terms and conditions of civil servants can be decided by this Tribunal and reference was made to the dictums laid down in **PLD 1980 Supreme Court 153 and 1991 SCMR 1041** which were stated to be much clear, therefore, it was held that this Tribunal has the jurisdiction to look into the vires of law and rules touching the terms and conditions of the Civil Servants vide para-6 of the referred to judgement. He placed reliance on **PLD 1990 SC 1092**, while elaborating discretion, it has been held that where ever wide worded powers conferring discretion exist, there remains always the need to structure the discretion and courts when can interfere with the discretion vide citation (s) of the judgement. In **1997 SCMR 1804**, it has been held that the general principles that discretionary decision

should be made according to rational reasons needs (a) that there be findings of primary fact based on good evidence and (b) that decision about the fact be made for reasons which serve the purpose of the statute in an intelligible and reasonable manner. The actions which do not meet these threshold requirements are arbitrary and may be considered a misuse of powers vide citation(c) of the referred to dictum. In **1999 SCMR 467**, while elaborating Article 25 of the Constitution of Pakistan wherein the principles of equality of citizens has been enunciated, it has been held that Government is not supposed to discriminate between the citizens and its functionaries cannot be allowed to exercise discretion at their whims, sweet will or as they please rather they are bound to act fairly, evenly and justly vide citation (a) of the referred to dictum. He made reference to **2005 SCMR 25**, wherein distinction has been drawn in discretionary decision and arbitrary decision it was held that discretionary decisions should be made according to rational reasons. In discretionary decision there must be findings of primary facts based on good evidence and the decision about the fact be made for reasons which serve the purpose of statute in intelligible and reasonable manner and the actions which do not meet the threshold requirements are arbitrary and may be considered as misuse of powers. It has further been held that discretion powers have certain pre-conditions and that are seven instruments useful in structuring of discretionary powers, are open plans, open policy statement, open rules, open findings, open reasons, open precedents and fair informal procedure. Still further it has been held that functionaries of any organization or establishment cannot be allowed to exercise discretion at their whims, sweet will or in arbitrary manner, rather they are bound to act fairly, evenly and justly vide citation (c) (d) (e) para-15 of the referred to judgement. He placed reliance on **2015 SCMR 630**, while discussing Section-24-A of the General Clauses Act, (X of 1897) wherein it has been held that the executive authority having discretionary powers, its exercise and scope--when legislature conferred a wide range of power it must be deemed to have assumed that the powers would be firstly, exercised in good faith, secondly, for the advancement of the objects of the legislation, and, thirdly, in a reasonable manner--- where the authorities failed to regulate their discretion by the framing of rules, or policy statements or

precedents it became mandatory for the courts to intervene in order to maintain the requisite balance for the exercise of statutory powers vide citation (e) and para-10 of the referred to dictum. He made reference to **2015 SCMR 1257**, wherein it has been held that every public functionary is supposed to function in good faith, honestly and within the precincts of his powers so that person concerned should be treated in accordance with law as guaranteed by Article-4 of the Constitution. It has also been held that the objects of good governance cannot be achieved by exercising discretionary powers unreasonably or arbitrarily and without application of mind but the objective can be achieved by following the rules of justness, fairness, and openness, in consonance with the command of the Constitution enshrined in different Articles including Articles 4 & 25 vide paras-11 & 12 of the referred to judgement. He made reference to **PLD 2017 Sindh High Court 690**, wherein it has been held that when legislature confer powers on the government to frame rules, it is expected that such powers have been used only bonafide, in a responsible spirit and true interest of public and in furtherance of the object for attainment of which such powers have been conferred---powers conferred upon government to frame rules is not unlimited but subject to certain per-requisites and pre-conditions---unlimited right of delegation is not inherent in legislative power itself---court may reject a regulation as invalid and ultra vires if it fails to comply with statutory essential. It has also been held that where authority failed to regulate their discretions by framing of rules, policy statements or precedents, it becomes mandatory for courts to intervene in order to maintain requisite balance for exercise of statutory powers vide citations (c) & (d), and para-15 (a) (b) (c) (f) (g) (h) (i) of the judgement.

7. The appellant pointed out that the Khyber Pakhtunkhwa Services Tribunal had submitted draft rules and dispatched it to SSRC but the same have not been brought under consideration by the forum concerned without assigning any reason. Appellant referred to Section-24-A of the General Clauses Act, 1897, elaborating that when powers are conferred on the authority, it has to be exercised reasonably and also referred to **Sections 21 and 23 of the Act ibid**. Registrar of the Khyber Pakhtunkhwa Services Tribunal represented the institution at

the SSRC but was not able to emphatically forward the stance of the institution thus remaining just a signatory to the same. He further placed reliance on **2018 SCMR 598** wherein it was held that the terms and conditions of service cannot be unilaterally altered by the employer to the disadvantage of the employees vide citation (a) and para-6 of the judgement. The office of Registrar Khyber Pakhtunkhwa Services Tribunal has to perform functions of Trio nature i.e scrutiny of record, judicial and accounts. A person rich in experience in manifold fields and spheres would contribute to proper functioning of the office of Registrar and such a scheme of things could not be ensured when seniority of different cadres have been split. He submitted that when they are on better footing or in a position of advantage, reference is being made to the issue of specialization but when they have no such advantage no reference to it at all is being given. **He referred to Article 25 & 38E of the Constitution of Islamic Republic of Pakistan wherein it has been held that all citizens are to be treated equally ruling out possibilities of discrimination.** He further placed reliance on **2003 PLC (C.S) 965**, wherein it has been held that state subjects are equal before law and are entitled to equal protection of law---state subject could not be discriminated or refused their rights of services---rights of service would mean and include appointment, promotion and all other ancillary matters attached to the service of a citizen. It has further been held that rules prescribed being subservient to the original Act--- any rule enacted in derogation of original Act or defeating the spirit of the constitution could not be allowed to prevail vide citations (c) (d) of the referred to dictum. In **2015 PLC (C.S) 1495**, similar principle has been laid down while making reference to Article 25 of the Constitution of Pakistan vide citation (b) and para 12 of the judgement he added. He placed reliance on **2004 CLD 260**, while discussing mala fides it was held that an action taken with mala fides is an action taken maliciously for personal motives whether to hurt the person against whom action is taken or to benefit oneself. The term mala fides is equated with bad faith. Some of the instances of mala-fides are evasion of the spirit of bargain, lack of diligence and slacking off, willful tendering of imperfect performance, abuse of a power to specify terms and interference with or failure to cooperate in the other party's performance vide citation (c). He placed reliance on **2010 SCMR 511**,



wherein it has been held that no employee had vested right in promotion but where rules, regulation and policy had been framed for appointment or promotion for mala-fide reason or due to arbitrary act of the competent authority, aggrieved person was entitled to challenge the same vide citation (e) of the referred to judgement. He further submitted that in other departments such as Education, Agriculture, Live Stock and C&W similar principles have been adopted by maintaining common seniority list of the officials having the same grades but holding different cadres. He submitted that adoption of the rules in other departments in the circumstances is indispensable, for full delivery of services by each and every official of the Services Tribunal, therefore, providing for efficient service structure is need of the hour and norm of the day. He placed reliance on **2010 SCMR 511** and submitted that the acts done in the promulgation and adoption of rules suffers from elements of mala-fide.

8. On the contrary, the learned Assistant Advocate General contended that the notion regarding the lesser chances of promotion is just a misnomer having no nexus with ground reality. The present appeal is not competent due to conduct of appellant who is estopped to have recourse to this Tribunal. In fact the Registrar of this Tribunal has attended the meeting of SSRC and has participated in the rules framing process, the rules are based on sound reasons and are consensus oriented which are not just whimsical rather having a pragmatic approach to the actual realities. As regard the assertion of appellant regarding mala-fide the learned Assistant Advocate General submitted that it is in fact an abstract concept carrying broad implications, no mala-fide could be attributed to the rules framing bodies. Whether there was any mala-fide on the part of rule framing body with the rest of officials who have greater chances of promotion while exemplifying that a Primary School Teacher is required Bachelor of Science qualification whereas at the eve of his retirement he would reach Grade-16 although channel of promotion are open to him or he can become District Education Officer or even a Director of the institution. For Senior English Teacher the criteria of qualification is the same. While making reference to the post of Law Drafter he submitted that the holder of the same post in the High Court is having grade 17 whereas the appointment of

the Civil Judge is made in BPS-18. As regard the job descriptions of various posts of distinct cadres the appellant remained mum. The appellant has not made recourse to this Tribunal with clean hands as he has instituted the present case on petty grounds with mala-fide intention and intends to infringe upon the rights of other employees of the Tribunal. However, the prospects of promotion is just like pyramid which narrows down in every department in higher scale. The Service Rules were notified after thorough deliberation by the SSRC Committee in which the representative of Services Tribunal was also present and all the stake holders have developed consensus while finalizing the service rules. He placed reliance on **2015 SCMR 269** (citation d) that under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, a criteria has been laid down and domain has been provided which falls exclusively within the ambit of the concerned department/legislature, therefore, extinguishing right of appellant. He placed reliance on **2019 PLC (C.S) 995** and submitted that the government has prerogative to frame rules which fall within its exclusive domain. He placed reliance on **2019 PLC (C.S) 282, 2018 PLC (C.S) 1135** that every legislation is subject to judicial review. It is not a vested right of a civil servant to seek amendment in the rules.

9. The perusal of record clarifies the fact that there are four different cadres working in this Tribunal i.e the Law Drafter (BPS-16) one post, Assistant Registrar (BPS-16), Cashier-cum-Assistant (BPS-16) and Office Assistant (BPS-16). Out of the four cadres, the officials of former three cadres are having one post each whereas the cadre of Office Assistant have nine posts. The academic qualification for initial recruitment to the post of Law Drafter (BPS-16) is L.L.B, for Assistant Registrar and for the Office Assistant a Bachelor Degree is required whereas for Cashier-cum-Assistant qualification is D.Com. According to the rules notified, there are just two posts of Grade-16 to be promoted to the post of Additional Registrar (BPS-17) i.e Law Drafter and Assistant Registrar, a Cashier-cum-Assistant is having a single post to be promoted as Budget & Accounts Officer (BPS-17) whereas the Office Assistants (BPS-16) have nine posts to be promoted to a single post of Superintendent (BPS-17). On attainment of promotion in BPS-17 a common seniority list has to be maintained who in turn would get promotion to the single post of

Registrar (BPS-18) on the principle of seniority-cum-fitness. Thus while looking at the scenario in this context, the Law Drafter and Assistant Registrar as well as Cashier-cum-Assistant would have rapid chances of promotion as compared to the promotion chances of Office Assistants (BPS-16). The question arises that when the holders of all the three posts sans Law Drafter having more or less the same academic qualification whether they should not have equal chances of promotion? For best delivery of services and for amelioration of the lot of the public at large, each cadre should have equal chances of promotion so that no official of any cadre have a feeling of discrimination. How an official can render duties to the best of his abilities in the public interest when he is not provided equal chances of promotion and are thus discriminated. The officials of each cadre would have a bright career when the channel of promotion is open to all equally so that the possibility of deprivation of one cadre at the cost of other is ruled out subject to an exception of Law Drafter who stands on a high pedestal as far as his respective qualification is concerned, therefore, a mechanism can be set making of his adjustment in the seniority list at appropriate place, however, maintaining of equilibrium for the entire set of the officials by maintaining a common seniority list would be the only solution for addressing the problem. When the seniority of the officials have later on being merged when they get promotion in BPS-17 whether it cannot be equated at initial stage. The guiding principles for formulation of rules should be devised in a manner to safeguard the rights of all and similarly placed employees who are to be treated across the board. A single institution having different categories of services must have rules devised in such manner to provide equal opportunity of promotion. Since all the employees are part of the same institution, therefore, employees of one set of cadre can conveniently get adequate knowledge of other cadres and in this regard appropriate opportunities can be provided by making internal arrangements. While giving effect to the rules the case of Office Assistants have not been taken case of or taken into account vis-a-vis other office holder resulted into infringements of their rights. The rules must not have a negative impact on employees of one cadre at the cost of other employees serving in other cadres. Such a scheme of thing shall definitely distort and malign the whole atmosphere and a workable peaceful environment and a

smooth working with cohesion would be an impossible phenomenon having a negative impact on the overall performance of the institution the ultimate sufferer of which would be civil servants and their dependents. Injustice or discrimination of course begets a sense of deprivation leading to distortion in thoughts entailing on the mental cognitive faculties, which play havoc by creating chaos which are elements detrimental to the public serenity which unbalances the whole fabric of society. It destroys career, to handicap families which results in financial problems. Discrimination which leads to a sense of deprivation rather consternation foreclosing the doors of creative mind the beginning of this sort of tension results into the end of talent. Accordingly, healthy mental activities abates. When there are no creative minds or there is dearth of creative minds the progress of institution stops and its down fall commences which have a far reaching repercussions on other institution and the society at large, therefore ensurance of complete justice can be ensured only when similarly placed employees are treated at par without an iota of discrimination.

10. The reasons assigned in the preceding paras are to be converged on a single principle to give effect to the rules in a concrete form by devising of a mechanism so that the issue is addressed in a manner to give everyone his due otherwise the action so taken would have momentous consequences. The SSRC which seized with the matter must have acted in perspicacity by encompassing all aspects and facets so that the accomplishment so made should have not resulted into deprivation of one cadre. Formulation of rules for promotion must be in a way to have equal avenues of promotion for each cadre which is not possible without merger of seniority list by maintaining common seniority list at all levels indiscriminately. Similar principles of maintaining a common seniority list of officials having different cadres but the same grade and working in the same institution/department have been provided such as C&W Department, Agriculture Department, Mines and Minerals Department and Irrigation Department etc. Such actions, acts are explicitly in contravention of **Section-24-A of the General Clauses Act, 1897** and violative of **Articles 25 & 38-E of Constitution of Islamic Republic of Pakistan** wherein it has been provided that all citizens are to be treated equally ruling out possibility

of discrimination. The authorities referred to by appellant clearly enunciate when service rules are based on discrimination the Services Tribunal is conferred with jurisdiction to take cognizance of the matter and in this regard reliance is placed on the entire set of precedents produced by appellant in support thereof.

11. As regard conferment of discretionary powers on the competent authority/forum it has been provided in a number of precedents of the Hon'ble Supreme Court of Pakistan that it should always be exercised judiciously in a reasonable way without any sort of discrimination and to the prejudice of none. Certain principles of lofty nature have been laid down by the august Supreme Court of Pakistan adherence to which is a pre-requisite for exercising discretionary powers when it has been vested in the authority. The matter regarding exercise of discretionary powers is not paltry in nature and utmost care and caution is required, it must be for the betterment and good of all. The principles so laid down are seven instruments i.e useful in structuring of discretionary powers that are open plans, open policy statements, open rules, open findings, open reasons, open precedents and fair informal procedure, reliance in this regard is placed on **PLD 1990 Supreme Court 1092, 1997 SCMR 1804, 1999 SCMR 467, 2005 SCMR 25, 2015 SCMR 630, 2015 SCMR 1257, PLD 2017 Sindh 690.** The jurisdiction of the Services Tribunal is not limited and all service matters falling within the ambit of service rules can be challenged before it when statutory rules or a notification adversely affecting the terms and conditions of a civil servant and the same can be treated an order passed under the provision of the Service Laws.

12. No evidence has just emanated that prior to the promulgation of the subject rules, the Draft rules were circulated to obtain opinion of the employees who are to be regulated under those rules by providing a service structure whether the rights of the civil servants have not be infringed when the modalities required were not set in motion? The consultative process must have preceded before finalizing and giving effect to the rules as it has put some of the employees at disadvantageous position as compared to the case of others, thus violative of **Section-23 of General Clauses Act, 1897**, therefore, the recasting of the rules in the circumstances becomes essential,

therefore, unless and until the issue involved is tackled and necessary, appropriate modification and amendments in the rules are made for the purpose of maintaining the joint seniority list of the officials the anomaly and grievance shall remain in the field unresolved and unsettled.

13. As regard the dictums relied upon by the learned Assistant Advocate General appearing on behalf of respondents in utmost deference and regard thereto the principles laid down in the precedents relied upon by appellant viably resolve the controversy vis-à-vis the precedents relied upon by the learned Assistant Advocate General. While looking at the human conduct the chances of errors and mistakes are there and a forum must be there to have jurisdiction in the matter to address the issue otherwise the inevitable result would be perpetuating the anomaly to the entire prejudice of the sufferers. Needless to mention here that government has been invested with powers to frame rules but in accordance with the true spirit of the law and precedents referred to above.

14. The upshot of what has been discussed above is that on the acceptance of the instant appeal respondents are directed to give effect to the rules in the light of observations made above. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**

**14.01.2021**

*- Sd -*

**(MUHAMMAD JAMAL KHAN)  
Member (Judicial)**

*- Sd -*

**(MIAN MUHAMMAD)  
Member (Executive)**

*- Sd -*

**(ATIQ-UR-REHMAN WAZIR)  
MEMBER (Executive)**

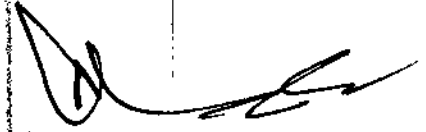
**ORDER**

28<sup>th</sup> Nov, 2022

1. Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

2. Vide our detailed order of today placed in Service Appeal No. 76/2014 titled "Syed Shahin Shah-vs-Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others" (copy placed in this file), this appeal is also dismissed. Costs to follow the events. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 28<sup>th</sup> day of November, 2022.*



**(Kalim Arshad Khan)**  
Chairman




**(Fareeha Paul)**  
Member(Executive)

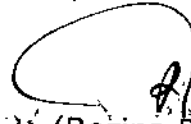
18.07.2022

Appellant alongwith his counsel present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Irshad Khan S.O for respondents present.

Former requested for adjournment in order to prepare the brief of the case. Adjourned. To come up for arguments on 12.09.2022 before D.B.


  
(Fareeha Paul)  
Member(E)

  
(Rozina Rehman)  
Member (J)

12.09.2022

Appellant in person present: Mr. Muhammad Riaz Khan, Painsdakhel, Assistant Advocate General alongwith Mr. Riaz Khan, Superintendent for the respondents present.

Mr. Mian Muhammad, learned Member (Executive) is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 28.11.2022

  
(Salah-Ud-Din)  
Member (J)



3-12-21

Proper D.B. on Tax, therefore case adjourned to 16-2-22 for same.

*[Signature]*  
Reader

16-2-22

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 11-5-22.

*[Signature]*  
Reader

11<sup>th</sup> May, 2022

Appellant present in person. Mr. Muhammad Riaz Khan Paindakhel, Assistant A.G. alongwith Muhammad Riaz Superintendent for the respondents present.

Learned counsel for the appellant is not in attendance. Last opportunity is granted to the appellant to produce his counsel on next date, otherwise, the case will be decided on the basis of available record. To come up for arguments on 18.07.2022 before the D.B.

*[Signature]*  
(Fareeha Paul)  
Member(E)

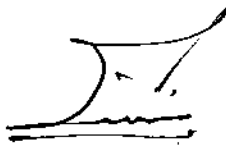
*[Signature]*  
(Kalim Arshad Khan)  
Chairman

03.09.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate, present. Mr. Riaz, Superintendent and Mr. Rasheed Ahmed, Assistant (Litigation) alongwith Mr. Riaz Ahmed Pindakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested that as other Service Appeals of the appellant are also pending adjudication in this Tribunal and in this respect, the appellant is going to submit an application for fixing of all the service appeals on same date. Adjournd. To come up for arguments before the D.B on 01.10.2021.

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

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

1-10-2021


*Due to non Availibility of the  
Concerned DB The case is adjourned  
to 10-11-2021*


  
Rashed

10.11.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate present. Mr. Rasheed Gul, Assistant alongwith Mr. Javed Ullah, Assistant Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment as he has not made preparation for arguments. Adjournd. To come up for arguments before the D.B on 03.12.2021.

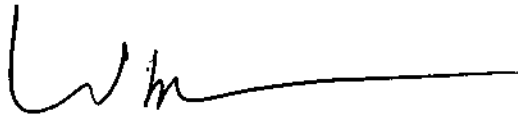
  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(SALAH-UD-DIN)  
MEMBER (J)

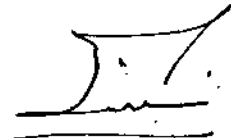
23.06.2021

Appellant in person present. Mr. Usman Ghani, learned District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments before the D.B on 30.08.2021



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



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

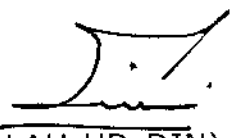
30.08.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate, present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant stated that as other appeal of the appellant is fixed on 03.09.2021, therefore, the appeal in hand also be fixed alongwith the said appeal. Adjourned. To come up for arguments before the D.B on 03.09.2021.



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

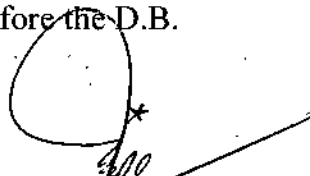


(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

09.11.2020

Nemo for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Naheed, Assistant for respondents present.

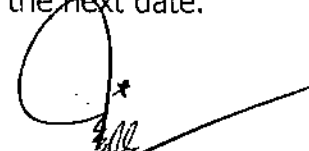
The Bar is observing general strike, therefore, the matter is adjourned to 19.01.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member (E)

19.01.2021

Appellant alongwith counsel and Mr. Muhammad Rashid, DDA for the respondents present.

Former requests for adjournment in order to further prepare the brief. Adjourned to 25.03.2021 before the D.B. Parties are expected to conclude their respective arguments on the next date.

  
(Mian Muhammad)  
Member(E)

  
Chairman

25.03.2021

Junior to counsel for the appellant present. Mr. Riaz Khan Paidakhel learned Asst. AG for respondents present.


The Worthy Chairman is on leave, therefore, the case is adjourned to 23.06.2021 for arguments before D.B.

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

11-5 .2020

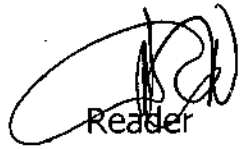
Due to COVID19, the case is adjourned to

28/7/2020 for the same as before.

  
Reader

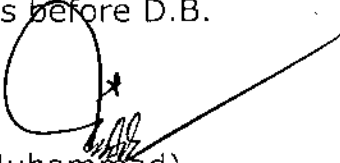
28.07.2020

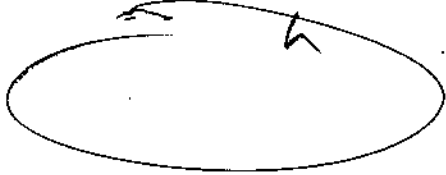
Due to COVID-19, the case is adjourned. To come for the same on 21.09.2020 before D.B.

  
Reader

21.09.2020


Mr. Muhammad Asif Yousafzai, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present. Learned counsel for the appellant is seeking adjournment. Adjourned to 09.11.2020. File to come up for arguments before D.B.

  
(Mian Muhammad)  
Member (Executive)

  
(Muhammad Jamal Khan)  
Member (Judicial)

11.03.2020

Counsel for the appellant present. Addl: AG  
alongwith Mr. Sajid, Supdt for respondents present.  
Learned counsel for the appellant seeks adjournment.  
Adjourned. To come up for arguments on 11.05.2020  
before D.B.



Member



Member

06.09.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney alongwith Hayatullah, Superintendent for the respondents present.


Written reply furnished by respondents No. 3, 4 and 5 which is placed on record. Representative of respondents No. 1, 2 & 6 states the said respondents relies on the written reply furnished by respondents No. 3, 4 & 5 today. To come up for arguments on 22.11.2019 before a D.B. The appellant may submit rejoinder, within a fortnight, if so advised.

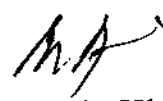
Chairman



22.11.2019


Appellant alongwith his counsel and Mr. Ziaullah, Deputy District Attorney alongwith M/S Hayatullah, Superintendent and Sajid, Superintendent for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Rejoinder is placed on record. Case to come up for arguments on 22.01.2020 before D.B.

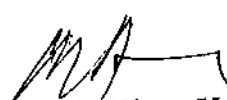
  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

22.01.2020

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 11.03.2020 for further proceedings/arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

A. No. 1443/2018  
Syed Shahen Shah vs Govt

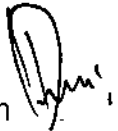
10.07.2019

Appellant in person and Addl:AG alongwith Mr. Hayat Ullah, Supdt and Mr. Sohail Akhtar, Assistant for respondents present.

The representative of the respondents states that the requisite reply has been prepared which is yet to be signed by the respondent no.5. He, therefore, requests for a short adjournment.

Adjourned to 29.07.2019 before S.B on which date the requisite shall positively be submitted.

Chairman



29.07.2019

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Hayat Ullah, Supdt and Mr. Sajid, Supdt for respondents present.

Once again a request for adjournment is made on behalf of the respondents today. The matter is adjourned to 06.09.2019 before S.B for submission of reply/comments. In case the respondents failed to do the needful on the next date, the matter would be decided on the available record.

Chairman





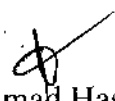
25.03.2019

Appellant in person present. Written reply not submitted. Rehmat Superintendent representative of the respondent No.5 present and seeks time to furnish written reply. No one present on behalf of remaining respondents. Notice be issued to respondents No.1 to 4 and 6. Adjourn. To come up for written reply/comments on 24.4.2019 before S.B

  
Member

24.04.2019

Counsel for the appellant and Addl: AG alongwith Mr. Hayatullah, Supdt and Mr. Rehmat Khan, Supdt for respondents present. Written reply/comments not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 13.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

13.06.2019

Appellant in person and Addl. AG alongwith Hayatullah, Superintendent and Sajid Superintendent for the respondents.

Representatives of the respondents once again requests for time to submit written reply. Adjourned to 10.07.2019 as a last chance to the respondents for submission of their written reply/comments.

  
Chairman

1443/2018

07.11.2019

Appellant alongwith his counsel present.

9/11/19

Contends, inter-alia, that notification dated 01.08.2018 issued by the respondents had closed the gate of promotion of the appellant who is presently working as Deputy Director Finance & Accounts. The service designation of appellant has not been included in column 6 of the table provided in the impugned notification which is discriminatory on the part of the respondents. The appellant submitted a representation on 09.08.2018 which has, till date, remained un-responded.

In view of the averments of the learned counsel for the appellant the instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents. To come up for written reply/comments on 21.02.2019 before S.B.

  
Chairman

21.02.2019 Junior to counsel for the appellant present. No one present on behalf of respondent department Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 25.03.2019 before S.B.

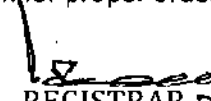

  
Member

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1443/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/11/2018	<p>The appeal of Syed Shahinshah presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 29/11/18</p>
2-	07/12/2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/01/2019.</u></p> <p> CHAIRMAN</p>

12/10

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1443 /2018

Syed Shahinshah

V/S


LG &RDD Department etc.

**INDEX**

S.NO.	Documents	Annexurē	Page No.
1.	Memo of appeal	-----	01-04
2.	Copy of order dt. 06.10.1991	---A---	05
3.	Copy of order dt. 22.04.1996	---B---	06
4.	Copy of order dt. 30.06.2001	---C---	07
5.	Copy of adjustment order dt. 18.08.2001	---D---	08
6.	Copy of order dt. 29.7.2013	---E---	09
7.	Copy of order dt. 12.10.2018	---F---	10
8.	Copy of notification dt. 01.08.2018	---G---	11-12
9.	Copy of departmental appeal	---H---	13
15.	Vakalat Nama	-----	14

**APPELLANT**

THROUGH:

  
(M. ASIF YOUSAFZAD)  
ADVOCATE SUPREME COURT,

(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT,

&

(S. NOMAN ALI BUKHARI)  
ADVOCATE PESHAWAR

Room No. Fr-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar Cantt:  
Contact No: 03339103240

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1443 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 1689

Dated 29-11-2018

Mr. Syed Shahinshah,  
Deputy Director (BPS-18) (Finance & Accounts),  
Hayatabad Phase-V, Peshawar.

(Appellant)

**VERSUS**

1. The Government of KPK through Chief Secretary KPK, Peshawar.
2. The Chief Secretary KPK, Civil Secretariat, Peshawar.
- ✓ 3. The Secretary to the Government of KPK, Establishment Department, Civil Secretariat, Peshawar.
- ✓ 4. The Secretary Local Government and Rural Development Department KPK, Civil Secretariat, Peshawar.
- ✓ 5. The Secretary to the Government of KPK, Finance Department, Civil Secretariat, Peshawar.
6. The SSRC through its Chairman/ Secretary to the Government of KPK, Establishment Department, Civil Secretariat, Peshawar.

(Respondents)

Filed to-day  
Registrar  
29/11/18.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 01.08.2018 WHEREIN THE DESIGNATION OF THE APPELLANT AS ACCOUNT OFFICER WAS NOT MENTIONED IN THE SERVICE RULES OF DIRECTORATE GENERAL, LOCAL & RURAL DEVELOPMENT DEPARTMENT FOR THE POST OF DIRECTOR WHEREAS ASSISTANT DIRECTOR WITH 12 YEARS REGULAR SERVICE EXPERIENCE AND ASSISTANT DIRECTOR SENIORS ARE MENTIONED.

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY PLEASE BE DIRECTED TO CONVENE THE STANDING SERVICE RULES COMMITTEE MEETING (SSRC) OF THE DEPARTMENT FOR THE INCLUSION AND NOTIFYING THE SERVICE DESIGNATION OF ACCOUNT

**OFFICER WITH 12 YEARS SERVICE FOR THE POST OF DIRECTOR WHICH IS TO BE NOTIFIED IN THE MODIFIED NOTIFICATION OF THE DEPARTMENT CONCERNED. 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 appointed in the Worker Welfare Board on the post of Manager Training (BPS-17) Secretariat Training Centre Peshawar dated w.e.f 01.07.1991. **(Copy of order dated 06.10.1991 is attached as Annexure-A).**
2. That the post of Account Officer (BPS-17) was advertised by KPK Public Service Commission in the department of LG&RDD and the appellant applied through proper channel to the said post and was selected on the said post and was posted as Account Officer Peshawar in the Director General Local Government & Rural Development Department vide order dated 22.04.1996 and since then performing his duty to according to law. **Copy of the order dated 22.04.1996 is attached as Annexure-B).**
3. That during the devaluation power plan, 2001 of restructuring LG&RDD the office of the Director General LG&RDD, Khyber Pakhtunkhwa and its allied offices in settle districts were abolished w.e.f 30.06.2001. **Copy of notification is attached as Annexure-C.**
4. That the appellant was adjusted in the new setup as per adjustment policy of the Provincial Government vide order dated 18.08.2001. **Copy of Adjustment order is attached as Annexure-D.**
5. That the appellant was repatriated after 12 years in 2013 to Local Government and Rural Development Department vide order dated 29.07.2013. **Copy of order is attached as Annexure-E.**
6. That the appellant was promoted from Account Officer BS-17 to the post of Deputy Director (Finance Account BPS-18) vide order dated 12.10.2018. **Copy of order dated 12.10.2018 is attached as Annexure-F.**

7. That the respondent department issued rules for promotion on 01.08.2018 of different cadres in which the cadre of the Director is also included and for the promotion of Director the rules are, by promotion on the basis of seniority-cum-fitness from amongst Deputy Director and Assistant Director (senior) with at least seven (07) years service as such or twelve (12) years service as Assistant Director and above without mentioning the cadre of the appellant i.e. Finance & Accounts due to which the appellant is deprived from promotion to the post of Director. **Copy of notification dated 01.08.2018 is attached as Annexure-G.**
8. That as the appellant aggrieved from the impugned notification dated 01.08.2018 therefore he filed departmental appeal dated 10.08.2018 which was not responded within the statutory period of Ninety Days. **Copy of Departmental appeal is attached as Annexure-H.**
9. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

#### **GROUND:**

- A) That the notification dated 01.08.2018 is against the law, facts norms of justice and material on record therefore tenable and liable to be modified by including the cadre of the appellant for promotion to the post of Director
- B) That although Deputy Director and Assistant Director (senior) was included for promotion to the post Director without mentioning the Finance & Account cadre in the rules for promotion of Director which deprived the appellant from his legal right of promotion to next cadre i.e Director by the arbitrary manner of the respondents.
- C) That the rule notified on 01.08.2018 without fulfilling the legal requirement of the rules which deprived the appellant from the legal right of the promotion to the next cadre i.e Director.
- D) That the appellant has not been treated in accordance with law and rules and has been deprived from his legal right of the promotion vide notification dated 01.08.2018.
- E) That the planning officer were terminated in the year 2003 and was reinstated in the year 2005 and their cadre was changed to the Assistant Director on their reinstatement and their seniority were also

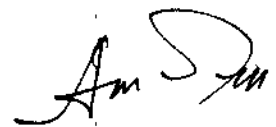
mentioned in the seniority list of Assistant Directors which shows that on side the cadre of the appellant was not mentioned in the impugned rules while on other hand other cadre i.e planning officer were included in the seniority list of assistant directors.

F) 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 may be accepted as prayed for.

APPELLANT  
  
Syed Shahinshah

THROUGH:

  
(M.ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,

  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT,

&  
  
(S. NOMAN ALI BUKHARI)  
ADVOCATE PESHAWAR



(5)

Annexure-A

(A)

ET/10/21

NWFP WORKERS WELFARE BOARD,  
3-A/2, SADDAN ROAD, PESHAWAR CANTT.

Dated Peshawar the, 6-10-1991.

deleted 21/5/2001

OFFICE ORDER

Consequent upon his appointment vide this office No. WWS.1-1/603-09 dated 19-6-1991.

Syed Shahin Shah has assumed the charge of the office of Manager Training (B-17) Secretarial Training Centre Peshawar w.e.f. 1-7-1991 T/M.

*sd/*

( SECRETARY )  
NWFP, WORKERS WELFARE BOARD.

Andat: No. WWS:1-47/92 Dated Peshawar, the 6th October, 1991

Copy to :-

✓ 1.

Syed Shahin Shah Manager Secretarial Training Centre Industrial Estate, Peshawar.

2.

Personal file of the official concerned.

ATTESTED

*Abdul Hafeez*

(ABDUL HAFEEZ) 6/10/91  
ADMINISTRATIVE OFFICER,  
NWFP, WORKERS WELFARE BOARD.

ATTESTED

6  
Annet-B

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 22ND APRIL, 1996

N O T I F I C A T I O N

NO.SO(LG-I)2-204/96,- In pursuance of this Department Notification No.SO(LG-I)2-204/96, dated the 7th April, 1996, the Provincial Government in the Local Government Elections and Rural Development Department are pleased to post Syed Shahin Shah S/O Aftinosh of District Peshawar as Accounts Officer in Basic Pay Scale No.17 (3880-290-7360) in the Directorate General, Local Govt. and Rural Development Department, NWFP Peshawar against a vacant post.

SECRETARY TO GOVERNMENT OF NWFP,  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

Dndst.NO.SO(LG-I)2-204/96. Dated Pesh:the 22nd April, 1996

A copy forwarded to:-

1. The Accountant General, N.W.F.P., Peshawar.
2. The Director General, LG&RDD, NWFP, Peshawar.
3. Syed Shahin Shah S/O Aftinosh r/o Jamal-ud-Din Afghani Road University Town Peshawar.
4. The Manager Govt. Printing Press Peshawar.
5. Personal file of the officer concerned.

H.M/

ALAM ZEB MALIK  
SECTION OFFICER-I

ATTESTED

ATTESTED

- (7) -

Annex-C

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 27th AUGUST, 2001

**ORDER**

**No. SO(LG-1)4-116/DG/2001/KC.-**

Consequent upon the restructuring of the Local Government and Rural Development Department in NWFP as a result of devolution of power to District Governments, the competent authority is pleased to order the abolition of the office of Director General, Local Government and Rural Development Department, NWFP and its allied offices in the settled districts i.e. Assistant Directors, LG & RDD with effect from 30-6-2001 (A.N).

SECRETARY TO GOVT. OF NWFP,  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Dated Peshawar 27th August, 2001

Indst. No. SO(LG-1)4-116/DG/2001

C.C.

1. The Private Secretary to Chief Secretary NWFP.
2. All the Administrative Secretaries to Government of NWFP.
3. The Secretary to Governor, NWFP, Peshawar.
4. The Secretary Local Council Board, NWFP, Peshawar.
5. All the District Coordination Officers, in NWFP.
6. The Provincial Transition Wing (PTW), Civil Sectt: Peshawar.
7. The PS to Secretary LG & RDD, Peshawar.
8. The PAs Addl: Secretary/Deputy Secretary, LG & RDD.
9. The Director (FATA), LG & RDD, NWFP, Peshawar.
10. All Section Officers/Planning Officers in LG & RDD.
11. All Assistant Directors, LG & RDD in FATA.

9m  
12-55 SECTION OFFICER (ESTAB:)  
(3870)  
27/8/2001

★  
**ATTESTED**

8

Annex-D

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 18<sup>TH</sup> AUGUST, 2001

NOTIFICATION

No. SO(LG-1)-116/DCI/2001/KC:- Consequent upon the restructuring of the Local Government and Rural Development Department in NWFP, the competent authority has been pleased to adjust the following Officers in the Office of DCO Peshawar with effect from 1.7.2001.

1. Syed Shahinshah,  
Accounts Officer (BPS-17),  
Dte: General, LG & RDD,  
NWFP, Peshawar.
2. Mr. Muhammad Salim,  
Computer Programmer Officer (B-17),  
Dte: General, LG & RDD, Peshawar.

SECRETARY TO GOVT. OF NWFP,  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Encl: No. SO(LG-1)-116/DCI/2001

Dated Peshawar 18<sup>th</sup> August, 2001

1. All the Administrative Secretaries to Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The District Coordination Officer, Peshawar.
4. The PS to Secretary LG & RDD, Peshawar.
5. The Director (FATA), LG & RDD, NWFP, Peshawar.
6. The Section Officer (Surplus Pool), Estt. & Adm. Department.
7. The Officers concerned.

SECTION OFFICER (ESTAB.)

ATTESTED



9 Annex-E

GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT

ORDER

Dated Peshawar, the 29<sup>th</sup> July, 2013

No. SO(LG-E)10-458/2008. - Consequent upon his repatriation by the Government of Khyber Pakhtunkhwa, Establishment & Administration Department Notification No. SOE-II(EI)2(5)2012, dated 31-01-2012 and approval of the Competent Authority, Syed Shuhin Shah, Accounts Officer (BS-17) is hereby adjusted against the vacant post of Accounts Officer (BS-17) in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar from the date of his arrival i.e. with effect from 04-01-2013.

SECRETARY TO GOVT. OF KHYBER  
PAKHTUNKHWA, LG, E & RDD

Dated Peshawar, the 29<sup>th</sup> July, 2013

Inst No. SO(LG-E)10-458/2008

Copy is forwarded:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
5. The Director Information, Khyber Pakhtunkhwa, Peshawar.
6. All Assistant Directors, LG & RDD in Khyber Pakhtunkhwa.
7. Syed Shuhin Shah, Accounts Officer, Dir: General, LG & RDD, Peshawar.
8. The Section Officer (E-II), Government of Khyber Pakhtunkhwa, Establishment Department
9. The PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
10. The PS to Secretary, LG, E & RDD.
11. The PS to Special Secretary, LG, E & RDD.
12. The office order file.

(IZAZ BELAHI)  
SECTION OFFICER (ESTAB)

ATTESTED



Government of Khyber Pakhtunkhwa  
Local Government, Elections and Rural Development Department

NOTIFICATION

Dated Peshawar, 12<sup>th</sup> October, 2018

2503

No.SO(LG-I)2-128/2018.- The Competent Authority on the recommendations of Provincial Selection Board has been pleased to promote Syed Shahinshah, Accounts Officer (BPS-17) to the post of Deputy Director (Finance and Accounts) BPS-18 in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa Peshawar with immediate effect.

2. On his promotion, the officer will remain on probation, in terms of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
3. Consequent upon his promotion, Syed Shahinshah is posted against the vacant post of Deputy Director (Finance & Accounts) BPS-18 in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar with immediate effect.

SECRETARY TO GOVT. OF KHYBER  
PAKHTUNKHWA, LG.E&RDD

Endst No. SO(LG-I)2-128/2018

Dated Pesh: 12<sup>th</sup> October, 2018

Copy is forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
4. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
5. Syed Shahinshah, Accounts Officer, Directorate General, LG&RDD, KP, Hayatabad, Peshawar
6. The Manager, Government Printing Press, Peshawar.
7. Personal file of the officer concerned.
8. The PS to Secretary, LG.E&RDD.
9. Office order file.

  
(HAJI MUHAMMAD)  
SECTION OFFICER (ESTAB)

Ph: # 091-9213224

★  
ATTESTED

1D.	Deputy Director (Finance and Accounts).	-	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst Accounts Officers with at least five years' service as such.
1E.	Deputy Director (Technical).	-	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst Assistant Engineers and Assistant Directors (Technical) with five (05) years' service as such and having a Bachelor's Degree in Civil Engineering.”;  <b>Note:</b> For the purpose of promotion to the post of Deputy Director (Technical), there shall be maintained a joint seniority list of Assistant Engineers and Assistant Directors (Technical).”;

(d) against Serial No. 2, in column No. 2, the slash and words “/Planning Officer” shall be deleted.

(e) against Serial No. 3, in columns 3 and 6, the following shall respectively be substituted, namely:

3.	6.
“At least Second Class Master's Degree in Commerce / Business Administration/BS (Honours) Finance and Accounting or its equivalent qualification from a recognized University.	(i) Fifty (50) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Accountants with at least five (05) years' service as such: Provided that if no suitable officer is available for promotion then by transfer.; and  (ii) fifty (50) per cent by initial recruitment.”.

(f) against Serial No. 5, in column No. 2, for the words “Sub Divisional Officer”, the words and brackets “Assistant Director (Technical)” shall be substituted.

(g) against Serial No. 7, in column Nos. 2 and 6, for the existing entries, the following shall respectively be substituted, namely:

2.	6.
“Assistant.	(i) Seventy-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with at least three years' service as such; and (ii) twenty-five percent by initial recruitment.”;

(h) against Serial No. 9, in column No. 6, in clause (iii), the full-stop, appearing at the end shall be replaced by colon and thereafter the following proviso shall be added, namely:

“Provided that if no suitable officer is available for promotion then by transfer.”;

(i) after Serial No. 9, as so amended, the following new entries shall be inserted, in the respective columns, namely:

1.	2.	3.	4.	5.	6.
“9B.	Auto CAD Operator.	(a) At least Second Class Bachelor's Degree from a recognized University;	-	18 to 30 years.	By initial recruitment.”;

		(b) six months Diploma in Civil AutoCAD from a recognized Technical Institute; and (c) at least two years' experience in relevant field.			
--	--	---	--	--	--

(j) for Serial No. 11 the following shall be substituted, in the respective columns, namely:

1.	2.	3.	4.	5.	6.
"11.	Accountant.	At least Second Class Bachelor's Degree in Business Administration or its equivalent qualification, from a recognized University.	-	21 to 30 years.	By initial recruitment:  Provided that till the appointment of a suitable person on initial recruitment the post shall be filled by transfer.";

(k) for Serial No. 14, the following shall be substituted, in the respective columns, namely:

1.	2.	3.	4.	5.	6.
"14.	Computer Operator.	(a) At least Second Class Bachelor's Degree in Computer Science (BCS)/ Information Technology (BIT) (04-years) or its equivalent qualification from a recognized University; or (b) At least Second Class Bachelor's Degree from recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	--	21 to 32 years.	By initial recruitment.";

*Handwritten signature and date: 12-8-11*

(l) after Serial No. 19, the following new entries shall be inserted, in the respective columns, namely:

1.	2.	3.	4.	5.	6.
"19A.	Driver.	Preferably literate and holding a valid Driving License.	-	18 to 40 years.	By initial recruitment."; and

**ATTESTED**



- (m) for Serial No. 20, in column No. 2, after the word and slash "Chowkidar/", the word "Sweeper" shall be added.

SECRETARY TO GOVERNMENT OF KP  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

No. SO(LG-I)2-188/SSRC/2018.-

Dated Peshawar, the 01<sup>st</sup> August, 2018

Copy forwarded to:-

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. All Divisional Commissioners in Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
4. The PSO to Chief Minister, Khyber Pakhtunkhwa Peshawar.
5. The PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
6. The Director General, LG,E&RDD, Khyber Pakhtunkhwa Peshawar.
7. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
8. All Head of Attached Departments in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. All District and Session Judges in Khyber Pakhtunkhwa.
12. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
13. The Manager Government printing press, Peshawar for publication in the next Government Gazettee Notification. 40 copies of the Notification may be sent to this Department.
14. The PS to Secretary LG,E&RDD Peshawar.
15. The Office Order file.



(HAJI MUHAMMAD)  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224



**OFFICE OF THE DIRECTORATE GENERAL  
LOCAL GOVERNMENT & RURAL DEVELOPMENT  
DEPARTMENT KHYBER PAKHTUNKHWA**

No. DG (LG) 3-1/Establishment/2018-19/12685  
Dated Peshawar, the 09<sup>th</sup> Aug, 2018

To

The Chief Secretary, Govt. of Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar.

Through: PROPER CHANNEL

Subject: REPRESENTATION AS PER SECTION-22 OF CIVIL SERVANT ACT-VIII, 1973 READ WITH APT RULES, 1989 AGAINST THE IMPUGNED NOTIFICATION OF LOCAL GOVT: NO.SO(LG-I)2-188/SSRC/2018 DATED 01/08/2018 FOR PRESCRIBING ASSISTANT DIRECTORS AND PLANNING OFFICERS FOR PROMOTION TO THE POSTS OF DIRECTORS.

Dear Sir,

It is submitted with respect and to state that being the Appointing Authority of the Appellant as per APT Rules, 1989, the representation is being made against the impugned Notification No. SO(LG-I)2-188/SSRC/2018\_dated 01/08/2018 (Impugned Notification Attached) on the following legal grounds to remove irregularities:-

- i. In the said impugned Notification the Planning Officers which were recruited as Planning Officer are treated as Assistant Directors. They were contract employee's upto 2003 before their termination.
- ii. The Assistant Directors alongwith a Planning Officer deliberately excluded more than 12 years service of Accounts Officer rendering to make juniors as seniors to the Undersigned.
- iii. Earlier a project employee of the Federal Govt: was also regularized and placed in the seniority of the Officers of the Local Govt: & Rural Development Department, being illegal. It was also legally objected.
- iv. The Establishment Department, Local Govt: Department, Finance Department, Law Department and the members of SSRC deliberately ignored Sections of the Civil Servant Act-VIII, 1973, Constitution of Islamic Republic of Pakistan and the Judgments of the Supreme Court of Pakistan regarding promotion which is violation of article-190 of Islamic Republic of Pakistan and Section-54 of Law of evidence, 1984.
- v. The Appellant/Undersigned is appointed through Proper Channel via Public Service Commission on the basis of MBA Finance. This qualification is highly regarded than MA Political, Journalism, Economics and Agriculture etc. etc.
- vi. Majority of Assistant Directors/Planning Officers are not appointed through the Selection of Public Service Commission and regularized/promoted in dubious manner to Basic Pay Scale-17 in 2012 when the Appellant/Undersigned was not repatriated to local Govt. Department.

It is ,therefore, requested that the service designation of the Appellant/Undersigned may be notified through SSRC of the Department to remove the illegality of the impugned Notification and pave the way for elevation of the Appellant/Undersigned.

Thanking You,  
Faithfully Your's

ATTESTED

(SYED SHEHAN SHAH)

Accounts Officer  
Dte. LG&RDD

**VAKALAT NAMA**

NO. \_\_\_\_\_/2018

IN THE COURT OF Service Tribunal Peshawar

Syed Shahin Shah (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Govt of KPK (Respondent)  
(Defendant)

I/We, Syed Shahin Shah

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, 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 \_\_\_\_\_/2018

S. S. Shah  
(CLIENT)

**ACCEPTED**

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

Taimur Ali Khan  
**Taimur Ali Khan**  
Advocate High Court

Asad Mahmood  
**Asad Mahmood**  
Advocate

Syed Nauman Ali Bukhari  
**Syed Nauman Ali Bukhari**  
Advocate

**OFFICE:**  
Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

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

**Service Appeal No.1443/2018**

Syed Shahinshah, Deputy Director  
(Finance & Accounts) Directorate General,  
LG&RDD .....Appellant

Versus

- 1) The Government of KPK through  
Chief Secretary, Peshawar
- 2 The Chief Secretary, Khyber Pakhtunkhwa
- 3 The Secretary Establishment KPK
- 4 The Secretary, LG,F&RDD
- 5 The Secretary, Finance
- 6 The SSRC through its Chairman / Secretary,  
Establishment Department ..... Respondents

**JOINT PARA-WISE COMMENTS OF RESPONDENTS**

**Respectfully Sheweth;**

**Preliminary objections:-**

- i. The appellant has got no cause of action to institute the instant appeal;
- ii. The appellant has not come to the Hon'ble Tribunal with clean hands;
- iii. The appeal is not maintainable in its present form;
- iv. The appellant has concealed the material facts;
- v. The appellant has been promoted to the post of Deputy Director (Finance & Accounts) BPS-18;
- vi. The appellant has not impleaded the necessary parties as respondents.
- vii. The appeal is time barred;
- viii. The appeal is liable to be dismissed;

**On Facts:-**

Para-1 Pertains to record.

Para-2 The appellant was appointed as Accounts Officer (BS-17) under the initial recruitment quota as prescribed in the Service Rules and was posted in Directorate General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar during 1996.

Para-3 In response to para-3, it is submitted that as a result of restructuring of the Department of LG&RD in devolution process, 2001, the Directorate General, LG&RDD and its allied offices in the settled districts alongwith posts were abolished.

Para-4 The appellant was adjusted as Accounts Officer in the office of District Coordination Officer, Peshawar vide order as annexed- "D" to the appeal.

Para-5 In reply to para-5, it is clarified that the appellant was repatriated by the District Coordination Officer, Peshawar after which he was adjusted against the vacant post of Accounts Officer in Directorate of Information, Khyber Pakhtunkhwa, Peshawar. Again the appellant was repatriated by the Information Department and as a result of which he was posted as Accounts Officer in District Government, Mardan by the Government of Khyber Pakhtunkhwa.

The Directorate General, LG&RDD was revived and the appellant was adjusted against the newly created post of Accounts Officer in Directorate General, LG&RDD accordingly.

Para-6 According to the Service Rules of the Department, the post of Deputy Director (Finance & Accounts ) BPS-18 was lying vacant under promotion quota, against which the appellant being his cadre post was promoted with the approval of Competent Authority.

Para-7 Incorrect. The appellant has already been promoted to the post of Deputy Director (Finance & Accounts) BPS-18 in Directorate General, LG&RDD on the basis of Service Rules notified by LG&RDD on 01-08-2018. As regard the Service

Rules referred by the appellant are pertaining to the cadre of Assistant Directors / Deputy Directors which is a separate cadre than the appellant's cadre.

Para-8 The departmental appeal filed by the appellant is not based on merit and rules regulating his services.

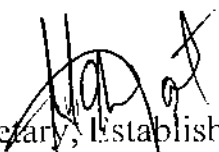
Para-9 Appeal of the appellant is not based on merit on the following grounds:

**On Grounds:-**


- A. Incorrect. That notification dated 01-08-2018 regarding framing of Service Rules for LG&RDD has been issued after completion of legal requirements which is strictly in accordance with law and policy of the Provincial Government in vogue.
- B. Incorrect. The appellant has already been promoted to the post of Deputy Director (Finance & Accounts) BPS-18 in Directorate General, LG&RDD on the basis of Service Rules notified by LG&RDD on 01-08-2018. As regard the Service Rules referred by the appellant are pertaining to the cadre of Assistant Directors / Deputy Directors which is a separate cadre than the appellant's cadre.
- C. As replied in Para-B above.
- D. Incorrect. The appellant has been treated strictly in accordance with the law and rules and the appellant has not been deprived from promotion as he has been promoted to the post of Deputy Director (Finance & Accounts) BPS-18 on 12-10-2018.
- E. Incorrect. The job description of Assistant Director as well as Planning Officer in the field offices is the same therefore, therefore, their cadre as well as the seniority position was the same.

F. Additional grounds, if produced by the appellant will be replied at the time of arguments.

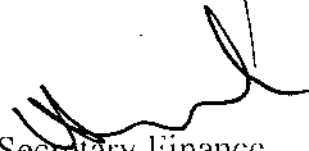
It is requested that the Hon'ble Service Tribunal may graciously dismiss appeal of the appellant with cost.



Secretary, Establishment  
(Respondent No.3)



Secretary, I.G, E&RDD  
(Respondent No.4)



Secretary Finance  
(Respondent No.5)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**

**Service Appeal No.1443 /2018**

Syed Shahin Shah, Deputy Director Finance & Accounts)  
Directorate General,

LG & RDD

.....Appellant.

VERSUS

- 1 The Government of KPK through Chief Secretary, Peshawar
- 2 The Chief Secretary, Khyber Pakhtunkhwar.
  
- 3 The Secretary Establishment KPK
- 4 The Secretary, LG, F&RDD
- 5 The Secretary, Finance
- 6 The SSRC through its Chairman / Secretary  
Establishment Department. ....Respondents.

**REJOINDER :**

Respectfully Sheweth:

Preliminary objection are baseless and no standing in the Eyes of Law.

**ON FACTS.**

- Para-1** The prayer in appeal is correct.
- Para-2** The prayer in appeal is correct.
- Para-3** The prayer in appeal is correct.
- Para-4** The prayer in appeal is correct.
- Para-5** The prayer in appeal is correct.
- Para-6** The prayer in appeal is correct.
- Para-7** The prayer in appeal is correct with further submission that there is joint seniority list issued vide notification No.SO(E)2-188/SSRC/2019 Dated 16.10.2019 of Assistants/Accountants/Senior Scale Stenographers etc. It is attached as Annex:-A It is also submitting the Notification of Establishment Department vide No.SOE-V/E&AD/13.02.2018 Dated 03.04.2018 regarding the service rules of Services Tribunal wherein there is a joint seniority of Additional Registrar/Superintendants (Accounts) etc etc. It is attached as Annex-B. Further submitting the notification of Establishment Department vide No .SOE-OO(ED/(14)2007 Dated 11.05.2007. Wherein there is joint seniority Superintendants/Private Secretaries. It is attached as Annex-C
- Para-8** The prayer in appeal is correct.
- Para-9** The prayer in appeal is correct, being the Citizen of Pakistan, Civil Servant of the Province facing High level discrimination.



services of the Province facing high level discrimination.

- 8919-2 The budget in arrears is correct being the citizen of Pakistan Civil
- 8919-8 The budget in arrears is correct
- Jointly superintendents/private secretaries. It is attached as Annex-C No. 20E-00(ED)(14)5003 Dated 13.02.2003. Wherein there is joint further submitting the notification of Establishment Department vide Register/superintendents (Accounts) etc etc. It is attached as Annex-B, services Tribunal wherein there is a joint jointly of additional W/88VD\13.02.2003 Dated 03.01.2003 regarding the service rules of notification of Establishment Department vide No.20E-218081999 etc. It is attached as Annex-A. It is also submitting the Dated 18.10.2003 of Assistant/Accounts/senior scale joint jointly list issued vide notification No.20(E)2-188\22KC\2003
- 8919-3 The budget in arrears is correct with further submission that there is
- 8919-2 The budget in arrears is correct.
- 8919-2 The budget in arrears is correct.
- 8919-4 The budget in arrears is correct.
- 8919-3 The budget in arrears is correct.
- 8919-5 The budget in arrears is correct.
- 8919-7 The budget in arrears is correct.

ON FACTS:

Preliminary objection are raised and no standing in the eyes of law.

Respectfully submitted:

SIGNATURES:

- Establishment Department ..... Register/superintendents
- 1 The SSC through its Chairman / secretary
- 2 The secretary, Finance
- 4 The secretary, GC, E&RDD
- 3 The secretary Establishment KPK
- 5 The Chief secretary, Khyber Pakhtunkhwa
- 7 The Government of K.P.K through Chief secretary, Peshawar

LEB202

GC & RDD ..... Assistant  
 Directorate General  
 Syed Shahin Shah, Deputy Director Finance & Accounts

8103\ENF.L.O\1699A 921712

BEFORE THE KHAYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

GROUNDS.

- A. The prayer in appeal is correct.
- B. The prayer in appeal is correct. The reply is incorrect.
- C. The prayer in appeal is correct.
- D. The prayer in appeal is correct. The reply is incorrect.
- E. The prayer in appeal is correct. The reply is incorrect.
- F. That the appellant seeks permission to advance other grounds and proves at the time of hearing.

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

APPELLANT

Syed Shahin Shah

THROUGH:



(M. Asif Yousafzai)  
Advocate Supreme Court .



(TAIMUR ALI KHAN)  
Advocate High Court.

- A. The prayer in appeal is correct.
- B. The prayer in appeal is correct. The reply is incorrect.
- C. The prayer in appeal is correct.
- D. The prayer in appeal is correct. The reply is incorrect.
- E. The prayer in appeal is correct. The reply is incorrect.
- F. That the appellant seeks permission to advance other grounds and proves at the time of hearing.

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

APPELLANT

Syed Shahin Shah

THROUGH

(M. Asif Yousafzai)  
Advocate Supreme Court.

(TAMUR ALI KHAN)  
Advocate High Court.



**Government Of Khyber Pakhtunkhwa  
Local Government, Elections & Rural  
Development Department**

**Annex A**

**NOTIFICATION**

**Dated Peshawar, the 16<sup>th</sup> October, 2019**

**No. SO(E)LG/2-188/SSRC/2019.-**

In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government, Elections and Rural Development Department Khyber Pakhtunkhwa, in consultation with the Establishment & Administration Department and the Finance Department hereby directs that in this Department's Notification No. DG(RWP)7(2)/73, dated 26.01.1978, the following further amendments shall be made, namely:

**AMENDMENTS**

In the Appendix,-

- a) Against Serial No. 2, in column No. 6, for the existing entries, the following shall be substituted, namely:
- i) "Fifty per cent by initial recruitment through Khyber Pakhtunkhwa Public Services Commission on the pattern of syllabus prescribed for the Officers in Provincial Management Service.";
  - ii) Forty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Progress Officers with at least three years service as such; and
  - iii) Ten percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers and Assistants with at least three years service as such.";
- Note:** For purpose of promotion to the post of Assistant Director against ten percent quota, there shall be maintained a joint seniority list of Senior Scale Stenographers and Assistants.";
- b) against Serial No. 3, in column No.6, for the existing entries, the following shall be substituted, namely:
- i) "Fifty (50) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents with at least three years service as such; and
  - ii) Fifty (50) per cent by initial recruitment.";
- c) against Serial No.5, in column No. 6, for the existing entries, the following shall be substituted, namely:
- i) "Twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst diploma holder Sub-Engineers with at least ten years service as such and have passed the prescribed Departmental Examination;
  - ii) Ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst Sub-Engineers with at least five years service as such and who possess Bachelor's Degree in Engineering or its equivalent qualification from a recognized University; and
  - iii) Seventy per cent by initial recruitment.";

- d) against Serial No. 6, in column No.6, for the words, colon and slash "Assistants/Accountants/Senior Scale Stenographer", the word "Accountants" shall be substituted;
- e) against Serial No. 15A, in column No.6, for the word, figure and brackets "ten (10)", the word, figure and brackets "five (05)" shall be substituted; and
- f) against Serial No. 16, in column No.6 for the existing entry, the following shall be substituted, namely:
- i) Twenty (20) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasids and Chowkidars in the Village Council / Neighborhood Council with seniority at Tehsil level, having Secondary School Certificate in Second Division from a recognized Board or Institute and six months Diploma in IT from recognized Board / Institute with three (03) years service as such; and
  - ii) Eighty (80) per cent by initial recruitment:

Provided that the candidate shall be preferably a bonafide resident of the same Village / Neighborhood Council. If such candidate is not available in the same Village Council / Neighborhood Council then the candidate from adjacent Village Council / Neighborhood Council;

Provided further that in case of non-availability of candidate from adjacent Village Council / Neighborhood Council then from any other Village Council / Neighborhood Council in that Tehsil."

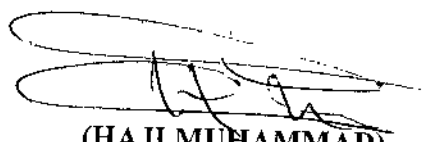
**SECRETARY TO GOVERNMENT OF KHYBER  
PAKHTUNKHWA LG,E&RD DEPARTMENT**

No. SO(E)LG/2-188/SSRC/2019.-

Dated Peshawar, the 16<sup>th</sup> October, 2019

Copy forwarded to:-

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. All Divisional Commissioners in Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
4. The PSO to Chief Minister, Khyber Pakhtunkhwa Peshawar.
5. The PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
6. The Director General, LG,E&RDD, Khyber Pakhtunkhwa Peshawar.
7. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
8. All Head of Attached Departments in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. All District and Session Judges in Khyber Pakhtunkhwa.
12. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
13. The Manager Government printing press, Peshawar for publication in the next Government Gazettee Notification. 100 copies of the Notification may be sent to this Department.
14. The PS to Senior Minister for LG,E&RD Khyber Pakhtunkhwa.
15. The PS to Secretary LG,E&RDD Peshawar.
16. The Office Order file.

  
(HAJI MUHAMMAD)  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224

Annex "B"

Khyber Pakhtunkhwa Service Tribunal

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)

Diary No. 388

Dated 06/04/18

NOTIFICATION

Dated 03-04-2018

No. SOE-V/E&AD/13-02/2018:

In pursuance of the provisions contained in Sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and supersession of this Department Notification No. SOR-I(S&GAD)4-2/82, dated 08-06-1988, Establishment Department, in consultation with the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the following Appendix which shall be applicable to the posts in the office of Services Tribunal Khyber Pakhtunkhwa, specified in column 2 of the Appendix with immediate effect.

APPENDIX

S #	NOMENCLATURE OF POST	MINIMUM QUALIFICATION FOR APPOINTMENT BY INITIAL RECRUITMENT	AGE	METHOD OF RECRUITMENT
	2	3	4	5
	Registrar (BS-18)	.....	.....	By promotion on the basis of seniority-cum-fitness, from amongst the Additional Registrars, Superintendents and Budget & Accounts Officers (BPS-17), with at least five years service as such:  Provided that if no suitable officer is available for promotion, then by transfer.  <b>Note:</b> A joint seniority list of Additional Registrars, Superintendents and Budget & Accounts officers shall be maintained for the purpose of promotion to the post of Registrar.
2.	Additional Registrar (BS-17)	.....	.....	By promotion on the basis of seniority-cum-fitness, from amongst the Assistant Registrars and Law Drafters (BPS-16), with at least five years service as such:  Provided that if no suitable

				officer is available for promotion, then by transfer. <b>Note:</b> A joint seniority list of Assistant Registrars & Law Drafters shall be maintained for the purpose of promotion to the post of Additional Registrar.
3.	Superintendent (BPS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant (BPS-16), with at least five years service as such.
4.	Budget & Accounts Officer (BS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Cashier-cum-Assistant (BPS-16), with at least three years service as such:  Provided that if no suitable officer is available for promotion, then by transfer.
5.	Private Secretary (BS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Personal Assistants (BPS-16) with at least two years service as such.
6.	Manager (MIS) (BPS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators (BPS-16), with at least five years service as such.
7.	Assistant Registrar (BS-16)	At least Second Class Bachelor Degree from a recognized University.	21 to 30 Years	By initial recruitment.
8.	Office Assistant (BS-16)	At least Second Class Bachelor's Degree from a recognized University	20 to 32 Years	a) Seventy Five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks (BPS-14), with at least five years service as such; and b) Twenty Five per cent by initial recruitment.
9.	Cashier Cum Assistant (BS-16)			By promotion, on the basis of seniority-cum-fitness, from amongst the Store Keepers (BPS-14) with at least five

				years service as such. Provided that if no suitable person is available for promotion, then by transfer.
10.	Personal Assistant (BS-16)			By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers (BPS-16) with at least three years service as such.
11.	Senior Scale Stenographer (BPS-16)	(a) At least Second Class Bachelor's Degree from a recognized university; (b) A speed of seventy (70) words per minute in shorthand in English and forty five (45) words per minute in typing in English; and (c) Knowledge of Computer in using MS Word and MS Excel.	20 to 32 Years	By promotion, on the basis of seniority-cum-fitness, from amongst Junior Scale Stenographers (BS-14), with three years service as such:  Provided that if no suitable person is available for promotion, then by initial recruitment.
12.	Law Drafter (BS-16)	At least Second Class L.L.B from a recognized University.	25 to 32 Years	By initial recruitment.
13.	Computer Operator (BPS-16)	(a) At least Second Class Bachelor's Degree in Computer Science / Information Technology (BCS/BIT four years) from a recognized University; or (b) At least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	18 to 32 Years	By initial recruitment.
14.	Senior Clerk (BPS-14)			By promotion, on the basis of Seniority-cum-fitness, from amongst Junior Clerks (BPS-11), with at least two years service as such.
15.	Store Keeper (BPS-14)	At least Diploma in Commerce or Business Administration in Second Division from a recognized.	18 to 30 Years	By initial recruitment.




22.	Photostat Operator (BPS-04)	At least Second Class Secondary Certificate or equivalent qualification from a recognized board with one year experience as Photocopier.	18 to 40 Years	By initial recruitment.
23.	Naib Qasid (BPS-03)	Literate		
24.	Process Server (BPS-03)	Literate	18 to 40 Years	By initial recruitment.
25.	Chowkidar (BPS-03)	Literate with sound physique	18 to 40 Years	By initial recruitment.
26.	Sweeper (BPS-03)	Literate	18 to 40 Years	By initial recruitment.

**Ends: of Even No. & Date:-**

**SECRETARY ESTABLISHMENT  
GOVT: OF KHYBER PAKHTUNKHWA**

Copy forwarded to the:-

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
5. Registrar, Services Tribunal, Khyber Pakhtunkhwa, Peshawar.
6. Deputy Director I.T, Establishment & Administration Department for uploading on the official website of Establishment & Administration Department.
7. Manager, Govt: Printing Press, Peshawar for publication in the Govt: Gazette. He is requested to furnish 30 copies of the printed Notification to this Department and 10 copies to Law Department.
8. PS to Secretary, Establishment Department.
9. PS to Special Secretary (Estt), Establishment Department.
10. PA to Additional Secretary (Reg), Establishment Department.
11. PA to Deputy Secretary (Estt), Establishment Department.

  
(Akhtar Nawaz)  
SECTION OFFICER (E-V)

22.	Photostat Operator (BPS-04)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized board with one year experience as Photocopier.	18 to 40 Years	By initial recruitment.
23.	Naib Qasid (BPS-03)	Literate	18 to 40 Years	By initial recruitment.
24.	Process Server (BPS-03)	Literate	18 to 40 Years	By initial recruitment.
25.	Chowkidar (BPS-03)	Literate with sound physique	18 to 40 Years	By initial recruitment.
26.	Sweeper (BPS-03)	Literate	18 to 40 Years	By initial recruitment.

SECRETARY ESTABLISHMENT  
GOVT: OF KHYBER PAKHTUNKHWA

Endst: of Even No. & Date:-

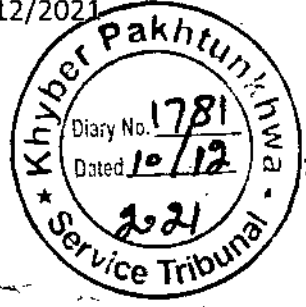
Copy forwarded to the:-

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Registrar, Peshawar High Court, Peshawar.
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(Akhtar Nawaz)

SECTION OFFICER (E-V)

Dated Peshawar :- 10/12/2021



The Chairman  
Service Tribunal Peshawar  
Khyber Pakhtunkhwa

**Subject; - Fixing all Relevant Cases to Relevant Bench.**

Kindly refer to the subject and to bring in your kind notice that the learned bench of this Tribunal has repeatedly directed that all relevant similar cases against the department may be fixed. Owing to this several months have elapsed. There are three relevant cases against the LG department. These are as: -

S.No	Service Appeal	Date
1	S.A 12170/20	15-12-2021
2	✓ S.A 153/17	-do-
3	✓ S.A 1443/18	-do-

It is requested that concerned officials may be directed to fix the cases to learned bench on 15-12-2021. It would be batter in public interest as well as in the interest of justice to have all cases to a single bench.

*Put up to the worthy chair-man  
with relevant appeals.*

*Revised*

*10/12/21*

Thanking You  
(Syed Shahin Shah)

Appellant.

0334-9006361

Annex C

**1015**  
**North-West Frontier Province**  
**Provincial Management Service Rules, 2007**

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE  
ESTABLISHMENT DEPARTMENT

**NOTIFICATION**

Dated Peshawar the 11.05.2007.

No. SOE.II(ED)2(14)2007.---In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servant Act, 1973 (N.-W.F.P. Act XVIII of 1973), the Chief Minister North-West Frontier Province is pleased to make the following rules, namely:

**NORTH-WEST FRONTIER PROVINCE PROVINCIAL MANAGEMENT SERVICE RULES, 2007**

**Short title and commencement.**---(1) These rules may be called the North-West Province Provincial Management Service Rules, 2007.

(2) These rules shall come into force at once.

**Definitions.**---In these rules, unless the context otherwise requires, the following words shall have the meanings hereby respectively assigned to them, that is to say-

(a) "appointing authority" means the appointing authority as specified in rule 5 of these rules;

(b) "Commission" means the North-West Frontier Province Public Service Commission;

(c) "Department" means the Establishment and Administration Department;

(d) "Departmental Examination" means the prescribed examination to be conducted by the Department for confirmation within probationary period or for promotion to higher post, as the case may be;

(e) "Departmental Training" means any training prescribed by Government, the successful completion whereof is necessary for promotion to BS-18 and BS-19;

(f) "Schedule" means the Schedule appended to these rules;

(g) "Service" means the Provincial Management Service;

(h) "Secretariat" means the North-West Frontier Province Civil Secretariat as defined in rule 2(r) of the North-West Frontier Province Government Rules of Business, 1985; and

(i) "share" means the share specified for distribution between All Pakistan Unified Group and Provincial Officers as per Schedule-III.

**Nomenclature of the posts.**---The Service shall consist of the posts as specified

4. **Method of recruitment.**---(1) The method of recruitment, minimum age limit and other matters related thereto for the Service shall be as given in Schedule-I.

(2) Fifty per cent of posts in BPS-17 shall be filled in by initial recruitment and remaining by promotion. Ten percent of Secretariat posts in BPS-17 shall be reserved for officers of technical departments on reciprocal basis. Government may reserve 5 per cent posts for leave, deputation and training etc in each pay scale.

(3) Posts specified in Schedule-II shall be filled in by Officers borne on Provincial Management Service and All Pakistan Unified Group in the ratio prescribed in Schedule-III.

<sup>1</sup>[4-A. **Training.**--- On appointment to the post borne on the service in BPS-17 by initial recruitment or by promotion, every officer so appointed shall successfully complete half year's mandatory training including one year training at the Provincial Service Training Module specified in Schedule-IV and six months training attachment as specified in Schedule-V. Training will be followed by Departmental Examination to be conducted by the Provincial Academy as specified in Schedule-VI.

5. **Appointing Authority.**---The Chief Minister, N.-W.F.P. shall be the appointing authority for posts borne on the Provincial Management Service specified in Schedule-III.

6. **Saving.**---In all other matters not expressly provided for in these Rules, members of the Service shall be governed by the North-West Frontier Province (Appointment, Promotion and Transfer) Rules, 1989, and any other rules pertaining to the conditions of service made or deemed to have been made under the North-West Frontier Province Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973).

7. **Transitional.**---The condition of graduation as laid down in paragraph 5 of column-5 against serial No. 1 of Schedule-I shall not apply for a period of seven years commencing from the date of coming into force of these rules to the existing incumbents for promotion against BS-17.

8. **Repeal.**---The North-West Frontier Province Provincial (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of the incumbents of both the cadres. Separate seniority list of both the cadres shall be prepared under the existing rules and they shall be promoted at the ratio of 50: 50:

<sup>2</sup>[Provided that for the purpose of promotion of both the Secretariat Group and Executive Group of the said service in different pay scales, -

- (i) the incumbents shall continue to be governed by the said service rules till the retirement of the last such incumbent; and
- (ii) the last incumbent of either Group shall rank senior to the first incumbent of the other Group in the Provincial Management Service.]

1. Rule 4-A added vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/12.11.2007

2. Amended vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/12.11.2007

N.W.F.P. Management Service Rules, 2007

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SCHEDULE-I

Nomenclature of posts	Minimum qualification for appointment by Initial recruitment	Age limit for initial recruitment	Method of recruitment
2	3	4	5
<p>PMS(BS-17) as per detail at Schedule-II.</p>	<p>2<sup>nd</sup> Division Bachelor Degree from a recognized University.</p>	<p>21-30 year</p>	<p>1) Fifty per cent by initial recruitment on the recommendations of the Commission based on the result of competitive examination to be conducted by it in accordance with the provisions contained in Schedule - VII.</p> <p>2) Subject to rule 7, by promotion in the following manner:</p> <p>(a) twenty per cent from amongst Tehsildars, who are graduates, on the basis of seniority-cum-fitness, having five years service as Tehsildar and have passed the prescribed Departmental Examination; and</p> <p>(b) twenty per cent from amongst Superintendents/Private Secretaries on seniority-cum-fitness basis, who are graduate, and have undergone a training course of 9-weeks at the Provincial Management Academy/Provincial Staff Training Institute. A joint seniority list of the Superintendents and Private Secretaries shall be maintained for the purpose of promotion on the basis of their continuous regular appointment to the respective posts.</p> <p>3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-VII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stanographers, Stanographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have atleast five years service under Government.</p>
<p>PMS(BS-18) as</p>	<p>NIL</p>	<p></p>	<p>By promotion, on seniority-cum-fitness basis</p>

The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007  
 The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

N.W.F.P. Management Service Rules, 2007

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Name of posts	Basic Scale	No. of posts	Total No.
Development Corporation.			
Director General cum-Secretary Provincial Earthquake Rehabilitation & Reconstruction Authority.	20	1	
Director General Special Development Unit.	20	1	
Director General Provincial Management Unit.	20	1	
Projector Coordinator Provincial Infrastructure Project.	20	1	
Additional Secretary	19	34	75
Chief of Section	19	5	
Member, Governor Inspection Team.	19	1	
Member, Provincial Inspection Team	19	1	
Executive District Officer(Finance & Planning)	19	24	
Deputy Director, Provincial Services Academy	19	1	
Presiding Officer, Revenue Appellate Court	19	3	
Director General, Prosecution.	19	1	
Director Food.	19	1	
Director, Civil Defence.	19	1	
Registrar, Cooperative Societies.	19	1	
Secretary Provincial Election Commission	19	1	
Deputy Relief Commissioner	19	1	
Political Agents.	18	7	171
Settlement officers.	18	2	
Secretary Public Service Commission.	18	1	
Secretary Board of Revenue.	18	2	
Director Land Record.	18	2	
Administrator Afghan Refugees Organization	18	2	
Deputy Secretary.	18	71	
Assistant Chief, Planning & Development	18	8	
Director Anti Corruption Establishment.	18	1	
Deputy Director Staff Training Institute	18	2	
District Officer (Revenue & Estate)	18	24	
Assistant Coordination Officer.	18	24	
District Officer (Finance)	18	24	
Secretary Provincial Transport Authority.	18	1	
Section Officer	17	200	478
Assistant Political Agents.	17	25	
Deputy District Officer (Revenue.)	17	50	
Deputy District Officer (Judicial)	17	30	
Human Resource Development Officer.	17	24	
Secretary District Public Safety Commission	17	24	
Deputy District Officer (Finance)	17	48	
Tehsil Municipal Officer.	17	54	
Secretary District Regional Transport Authority	17	24	

I. The share of other services of the Province in the Secretariat posts will be 100% in BPS-17 to BS-19 on reciprocal basis which mean that the officers of PMS will also be entitled for posting against equivalent posts @ 10% as reserved for the officers of other services in Secretariat.

II. The Government may reserve 20% of posts in BS-17 and above for deputation/training/leave.

Government may resize the Schedule from time to time.

**SCHEDULE - III**

The share for distribution between APUG & PMS Officers is as under:

GRADE/BPS	APUG	PROVINCIAL OFF.
B-21	65%	35%
B-20	60%	40%
B-19	50%	50%
B-18	40%	60%
B-17	25%	75%

Schedule IV [Please see Establishment Department Notification No. 5/2007/(PMS) Dated 12.11.2007]

Schedule V [Please See Establishment Department Notification No. 5/2007/(PMS) Dated 12.11.2007]

Schedule VI [Please See Establishment Department Notification No. SOE-I (E&AD) Dated 12.11.2007]

Schedule VII [Establishment Department Notification No. SOE-III (E&AD) Dated 12.11.2007 & Establishment Department Notification No. SOE-III(E&AD)3-5/24.11.2007]

1. Note III added vide Establishment Department Notification No. SOE-III(E&AD)3-5/24.11.2007