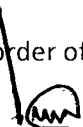



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1303/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/09/2022	<p>The appeal of Mr. Tahir Khan presented today by Mr. Muhammad Amin Ayub Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR </p>

SCANNED
KPST
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1303/2022

Tahir Khan Appellant

Versus

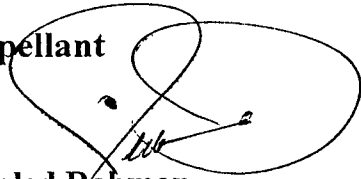
The Govt. of KPK and others Respondents

INDEX


S.No.	Description of Documents	Date	Annex	Pages
1.	Memo of Service Appeal with Affidavit			1-10
2.	Notification/Rules	02.09.2021	A	11 - 12
3.	Final Seniority List		B	13 - 16
4.	Letter to appellant by Respondent No.3 with directions to take-up the verification/attestation case of his Degree with HEC for removal of deficiencies	25.01.2022	C	17
5.	Ticket No.2548257 issued by HEC	03.03.2022	D	18
6.	Complaint against appellant	31.03.2022	E	19
7.	Order on Inquiry	24.05.2022	F	20
8.	Working Paper	01.02.2022	G	21
9.	Impugned Notification <i>departmental appeal</i>	15.03.2022	H	22-24
10.	Wakalat Nama			25

Through


Appellant


Khaled Rahman
Advocate, Supreme Court

&


Muhammad Amin Ayub

&


Muhammad Ghazanfar Ali
Advocates, High Court
4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0313-9040434

Dated: 31/08/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2022

Tahir Khan

Sub-Engineer,

O/o District Director

On Farm Water Management, Charsadda. **Appellant**

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**
through Chief Secretary,
Civil Secretariat, Peshawar.
2. **The Secretary**
Govt. of Khyber Pakhtunkhwa Agriculture, Livestock &
Cooperation Department,
Civil Secretariat, Peshawar.
3. **The Director General**
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.
4. **Mr. Mazhar Iqbal,**
Water Management Officer (BPS-17)
office of the District Officer, On-Farm Water Management, Karak.
5. **Mr. Muhammad Arif,**
Assistant Director (Training) (BPS-17)
Office of the Deputy Director (Training),
Training Centre, Hazara Division,
On-Farm Water Management, Mansehra.
6. **Mr. Muneer Iqbal**
Water Management Officer (BPS-17)
office of the District Director, On-Farm Water Management, Haripur.
7. **Mr. Muhammad Riaz,**
Water Management Officer (BPS-17)
office of the Director, Merged Areas (NMAs),
On-Farm Water Management, Peshawar.
8. **Mr. Asghar Ali,**
Water Management Officer (BPS-17)
office of the District Director, On-Farm Water Management, Mansehra.
9. **Mr. Muhammad Shoaib,**
Water Management Officer (BPS-17)
office of the District Director, On-Farm Water Management, Malakand.
10. **Mr. Asad Ali,**
Assistant Director (Training) (BPS-17)

office of the Deputy Director (Training),
Training Centre, Malakand Division,
On-Farm Water Management, Swat.

11. **Mr. Samiullah,**
Water Management Officer (BPS-17)
office of the District Director, On-Farm Water Management, Laki Marwat.
12. **Mr. Habibullah,**
Water Management Officer (BPS-17)
office of the District Director, On-Farm Water Management, Bajaur.
13. **Mr. Iqbal Muhammad,**
Water Management Officer (BPS-17)
office of the District Director,
On-Farm Water Management, Mohmand..... **Respondents**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST IMPUGNED NOTIFICATION DATED 15.03.2022 COMMUNICATED TO APPELLANT ON 23.05.2022 WHEREBY RESPONDENTS NO.4-13 WERE PROMOTED FROM THE POST OF SUB-ENGINEERS (BPS-16) TO THE POST OF ASSISTANT DIRECTOR/WATER MANAGEMENT OFFICER (BPS-17) AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL ON 30.05.2022 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned Notifications dated 15.03.2022 may kindly be set aside and the appellant be promoted to the post of Assistant Director/Water Management Officer (BPS-17) on the basis of seniority with effect from the due date with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant joined the Department as a Sub-Engineer on 07.06.2005. From the very inception of his service he was not indulged into the departmental proceedings and served the Department to the entire satisfaction of the high-ups.

2. That by virtue of Notification dated 02.09.2021 (*Annex:-A*), Service Rules for promotion were amended by the Department wherein it was held that promotion to the post of Assistant Director/Water Management Officer (BPS-17) has to be made from amongst Sub-Engineers (BPS-16) on the basis of 20% promotion quota.
3. That pursuant to Rules *ibid*, the concerned quarter requisitioned the list of eligible Sub-Engineers having Bachelor Degree in Engineering or B.Tech. for promotion to the post of Assistant Director/Water Management Officer (BPS-17). It is pertinent to aver here that the appellant qualified the requisite Degree before the joining the Department/Service.
4. That a Final Seniority List (*Annex:-B*) dated 26.01.2022 of Su-Engineers (BPS-16) of On Farm Water Management Department, Khyber Pakhtunkhwa, having Bachelor Degree in Engineering or B.Tech. from recognized University, was issued by the Respondent Department wherein appellant was placed at Serial No.1 by mentioning in the *remarks column* "*subject to verification/confirmation of B.Tech (Hons) Degree awarded by Al-Khair University AJK from HEC*". At this juncture, it is added that at the present modern time, the credentials of an employee can be verified online.
5. That a letter dated 25.01.2022 (*Annex:-C*) was addressed to appellant by Respondent No.3 wherein he was directed to take-up the verification/attestation case of his Degree with the HEC for removal of deficiencies mentioned in the letter, therefore, appellant visited the HEC and got verified the said Degree by allotting proper Ticket No.2548257 dated 03.03.2022 (*Annex:-D*). It is further submitted that a Complaint was lodged against the appellant on 31.03.2022 (*Annex:-E*) regarding authenticity of his Degree before the Anti-Corruption Establishment, Peshawar by a colleague. In this regard a detailed inquiry was conducted by the Director Anti-Corruption Establishment, Khyber Pakhtunkhwa which culminated in as "*closed/filed*" on 24.05.2022 (*Annex:-F*).
6. That appellant was kept engaged with the process of verification as well as Complaint before the Anti-Corruption Establishment. Working Paper was prepared and placed before the Departmental Promotion Committee on 01.02.2022 (*Annex:-G*) for promotion of Sub-Engineers (BS-16) to the post of Assistant Director/Water Management Officer (BS-1) but the appellant was not

considered for promotion inspite of the fact that he was at Serial No.1 in the Seniority List and he also got verified his Degree from the HEC on 03.03.2022.

7. That eventually Respondents No.4 to 13 junior Sub-Engineers to appellant were promoted to the post of Assistant Director/Water Management Officer (BS-17) vide impugned Notification dated 15.03.2022 (**Annex:-H**) communicated to appellant on 23.05.2022 against which appellant availed the remedy of Rule-3 of the Khyber Pakhtunkhwa Appeal Rules, 1986 and filed Departmental Appeal on 30.05.2022 before Respondent No.1 but the same was not taken into consideration within the statutory period of 90 days, hence appellant being aggrieved of the impugned Notification dated 15.03.2022 the files instant Service Appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification dated 15.03.2022 whereby juniors to appellant were promoted to the post of Assistant Director/Water Management Officer (BPS-17), which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the Respondent/Department did not adhere to requisite law while promoting juniors to the appellant against the next higher grade. Section-9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-7(3) of the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules-1989 bestowed that a civil servant possessing such minimum qualification as may be prescribed shall be considered for promotion against the next higher grade. Moreover, appellant had got verified his Degree from the Higher Education Commission well before the issuance of the impugned Notification dated 15.03.2022, therefore, the acts and omissions and the impugned Notification is not only against the principle of natural justice but also vested rights of the appellant for promotion against the next higher grade.
- C. That it is enunciated principle of law that albeit promotion is not a vested right of a civil servant but consideration for promotion is a vested right, therefore, under the law, the appellant had to be considered for the subject promotion. It is

further alleged that the sole purpose of the Seniority List is to promote a civil servant against the next higher grade, although seniority-cum-fitness is also an essential aspect for promotion but the acts and omission and the impugned Notification would reveal that appellant was malafide not promoted against the next higher grade inspite of his senior position, therefore, Respondent Department by way of impugned Notification has inflicted upon appellant a major punishment by not promoting him against the next higher grade rendering him junior to his juniors and that too without furnishing a fair opportunity of personal hearing.

- D. That it is crystal clear from the Seniority List of the Sub-Engineers (BS-16) wherein appellant was placed at Serial No.1 subject to condition of verification of his B.Tech. Degree from the HEC which was promptly provided to the Department after due verification. Moreover, the Complaint was also closed/filed in favour of the appellant which left no room to any confusion for the Respondent Department regarding promotion of appellant against the next higher grade.
- E. That appellant is eligible senior, over and above qualified for promotion to next higher grade but for no valid and justified reasons he was not promoted which caused financial loss to appellant on the one hand and damaged his career progression on the other. The unlawful omission on the part of the Respondents cannot be justified under any canon of law, justice and fair play. Reliance is placed on Judgment 2013 PLC (CS) 786, 1985 SCMR 1158, 2000 PLC (CS) 697, 2021 PLC (CS) 362:

2021 PLC (CS) 362

---S. 7(2), proviso---Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974, R. 8(2), Explanation---Batch of 'promotees'---Seniority---Scope---Where civil servants were selected for promotion in a "batch" or as a "group of persons" then the date of promotion of all the persons in the batch or the group shall be the date when anyone of them was first promoted to the post and they shall retain their inter se seniority---Word "batch" used in S. 7 of Punjab Civil Servants Act, 1974 ('the Act') had been interchangeably used as "group of persons" in R. 8 of Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974---Promotees in the same grade, when considered and recommended for promotion for the next grade in the same Departmental Promotion Committee (DPC) passed for a "batch" or "group of persons" and therefore as would be considered to have been promoted from the date when the first amongst the batch was promoted and would also retain their inter se seniority of the lower post.

2000 PLC (CS) 697

---Rr.13.18 & 13.20---Punjab Service Tribunals Act (IX of 1974), S.4-- Constitution of Pakistan (1973), Art.4---Anti-dated promotion/ confirmation---Entitlement---Civil servant despite being senior was ignored whereas juniors to him were granted anti-dated confirmation/promotion-- Service record of junior officers was not better than the civil servant and Authority had not given any valid reason or justification to give the civil servant a different treatment except that powers under Rr.13.18 & 13.20 of Punjab Police Rules, 1934 were discretionary and that Authority in his discretion did not find it fit case to permit period of officiating service to be counted towards period of probation---Powers of exercising discretion vesting in Authority, must be bounded by rules of equity, fairplay and justice and could not be exercised arbitrarily and capariciously---Failure to treat all like persons in like situations without any reasonable distinction would tantamount to discrimination which was not allowed by law arid discrimination in like situation would offend against Art. 4 of the Constitution of Pakistan (1973) and also would be violative of principles of Sharia.

- F. That almost all the formalities regarding the promotion have been fulfilled but inspite of the same appellatant was not promoted against the next higher grade. Thus appellatant was illegally deprived from his lawful right of promotion against the subject vacancy. Had the case of the appellatant been considered for promotion in due time then he would definitely been promoted but utter discrimination has been meted out towards the appellatant which is not sustainable in the eye of law. Reference is made to 1991 SCMR 1040, 2018 PLC (CS) Note 86, 2004 PLC (CS) 1234 and 2003 PLD Peshawar 27.

1991 SCMR 1040

---Art. 25(1)---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 a reasonable classification ---Reasonable classification---Basis or criterion for classification as to avert violation of Art. 25(1).

2018 PLC (CS) Note 86 (Peshawar)

Equal protection of law means that no person of or class of person shall be denied the same protection of law which is enjoyed by other person or other class of persons in like circumstances. Similarly, reasonable classification amongst different groups of persons is admissible; however, to justify the validity of a classification, it must be shown that it is based on reasonable distinction or that it is on reasonable basis or rest on real or substantial difference of distinction. [para 9 of the judgment]

2004 PLC (CS) 1234 (Peshawar)

---Arts. 25 & 199---Constitutional petition---Police Order (22 of 2002), Arts.7 & 8---Civil Service---Discrimination---Persons in comparable situation, must be treated alike, thus differently treating them would be direct discrimination---Discrimination can arise only through application of different rules to comparable situations of the application of the same rules to different situations---Eventually, the separation of the two units from one another would not be a step

justified in law and would be against the spirit and commandants of the provisions of Police Order, 2002 as well as the Constitution.

2003 PLD Peshawar 27

-----"Discrimination"---Connotation---Discrimination occurs only when two or more persons, who are similarly placed, in similar situation and in similar ambient circumstances, are treated differently.

- G. That Article-3 of the Constitution, 1973 provides that *"the State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle from each according to his ability to each according to his work.* Similarly, Article-2A of the Constitution narrates as follows:-

"The principles and provisions set out in the objectives Resolution reproduced in the annex are hereby made substantive part of the Constitution and shall have effect accordingly."

Therefore, under the law Respondent Institution was supposed to treat appellant in accordance with law, rules and practices as set forth in the Constitution.

- H. That Article-25 of the Constitution of the Islamic Republic of Pakistan, 1973 considers all citizens are equal before law and entitled to equal protection of law. Similarly, the same Article allows the State to treat the citizens differently but on the basis of reasonable classification. The august Supreme Court of Pakistan in case *ibid*, while explaining classification as reasonable concluded as follows:-

(vii) That in order to make a classification reasonable, it should be based –

- i. On an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out.*
- ii. That the differentia must have reasonable nexus to the subject sought to be achieved by the classification.*

Likewise, Reference is made to the *Sheikh Riazat-ul-Haq case* that under Article-9 of the Constitution a civil servant has fundamental rights to be treated as per law. Reliance is placed on 2017 PLC(CS) Note 23 which is as under;-

"Article-25: Discrimination Similar treatment Scope Alike should be treated Alike."

Besides, this it was held in 2021 PLC (CS) Note.26 that:-

“Equality of State Subjects---Safeguard against discrimination in services---Scope---Respondent along with two others applied for appointment as Junior Clerk against the quota reserved for legal heirs of the police employees who had died during service---Selection Committee recommended the other two candidates and rejected the application of respondent on the ground that his father had died prior to the issuance of notification through which the quota was fixed: hence, without giving retrospective effect to the notification, respondent could not be appointed---Selection Committee, however, recommended another candidate whose father was had also died prior to the notification fixing quota---Discrimination was meted out to the respondent---Authority who had issued an order or done any act could not subsequently take the stance that the order issued or action taken by it was against the law---Respondent was entitled to the same treatment as met by the other candidate whose case was at par with his case---High Court was fully justified to issue direction for appointment of the respondent---Appeals was dismissed .”

I. That it has been held by the Provincial Government that when an Officer after his seniority has been correctly determined or after deficiencies removed then he shall be deemed to have been cleared for promotion alongwith the Officers Junior to him who were considered in the earlier meeting of the Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 whereby Officer selected for promotion to the higher post in one batch on their promotion to a higher post are allowed to retain their inter-se seniority in the lower post. Reliance is placed on **2021 SCMR 1266, 2017 PLC (CS) 1292, 2009 PLC (CS) 229.**

J. **That** it is clear from the record that appellant provided the HEC verified Degree to the Department before the impugned Notification dated 15.03.2022 but the matter was deliberately not taken into consideration without any legal justification by the concerned quarter, therefore, the same is clear contravention of the instructions of the Respondent Department. As it has been held in series of judgments that departure from the Department instructions would amount to misconduct, reference is made to **2021 PLC(CS) 777, 2017 PLC (CS) 191 and 2008 PLC(CS) 476:**

“---Administrative instructions and policy guidelines---Scope---Breach of administrative instructions and policy guidelines by public functionaries amounts not only to inefficiency but also misconduct and exposes delinquent official to disciplinary action.”

K. **That** Respondent Department has contravened the Provision of Rule-5 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules 1986 read with Section-

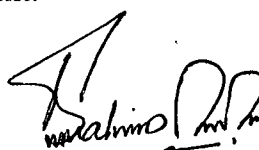
24A of the General Clauses Act, 1897 as the Departmental Appeal of the appellant has not been responded.

L. **That** appellant would like to offer some other additional grounds during the course of arguments when the stance of the Respondents is known to the appellant.


It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through



Appellant




Khaled Rahman
Advocate, Supreme Court

&



Muhammad Amin Ayub

&



Muhammad Ghazanfar Ali
Advocates, High Court

Dated: 01/09/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2022

Tahir Khan Appellant


Versus

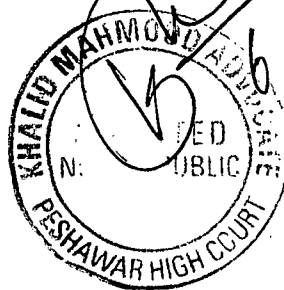
The Govt. of KPK and others Respondents

Affidavit


I, Tahir Khan, Sub-Engineer, O/o District Director On Farm Water Management, Charsadda, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

Identified by


Muhammad Amin Ayub
Advocate, Peshawar



Deponent


17301-7653381-9
0345-5505155

GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT
Peshawar, dated the 2nd September, 2021



NOTIFICATION

No. SOE(AD)RC/2129/Service Rules/OT/M/21/157 In pursuance of the provisions contained in the sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Agriculture, Livestock, Fisheries and Cooperative Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SOE(AD)22/129/2021, dated 29-04-2019, the following further amendments shall be made, namely:

AMENDMENTS

(a) after Serial No. 3, in Column No. 1 to 5, the following new entries shall respectively be inserted, namely:

1	2	3	4	5
"3A" Deputy Director (Admin & Accs) (BPS-18)				
By promotion on the basis of Seniority-cum-fitness, from amongst the holder of the posts of Accounts Officers and Assistant Directors (Admin) with at least five years service in BPS-17.				
Note: A joint seniority list of the Accounts Officers and Assistant Directors (Admin) shall be maintained for the purpose of promotion.				

(b) against Serial No. 4, in Column No. 4 and 5 for the existing entries, the following shall respectively be substituted, namely:

"21-32" Years.	4	5
(a) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers with at least ten years service as such;		
(b) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers having Bachelor Degree in Engineering or B.Tech from recognized University with at least ten years service as such;		
Provided that in case of non-availability of Sub-Engineers against Clause (b), for promotion, then the vacancy shall be filled by initial recruitment; and		
(c) sixty percent by initial recruitment.		

(d) against Serial No. 17, in Column No. 2 to 5 for the existing entries, the following shall respectively be substituted, namely:

ATTESTED

2	3	4	5
Junior Clerk (BPS-11).	(a) At least Second-Class Intermediate Certificate or its equivalent qualification from a recognized board; and (b) a speed of thirty words per minute in typing.	18-30 Years.	<p>(a) Forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Class-IV employees, with two years service as such who have passed the Intermediate examination or its equivalent qualification from a recognized Board; and</p> <p>(b) sixty percent by initial recruitment.</p> <p>Note: For the purpose of promotion, there shall be maintained a common seniority list of the Class-IV with reference to the dates of their acquiring the Intermediate qualification;</p> <p>Provided that-</p> <p>(1) If two or more officials have acquired the Intermediate qualification in the same session, the inter se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post; and</p> <p>(2) where a senior official does not possess the requisite qualification at the time of filling up a vacancy the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials:</p> <p>Provided further that the condition of Intermediate Examination or its equivalent qualification from a recognized Board, as laid down at clause (a), shall not apply for a period as per Establishment Department Notification No.SOE.IV(ESAD)/1-35/2011, dated 18th July, 2019."</p>

**SECRETARY,
GOVERNMENT OF KHYBER PAKHTUNKHWA,
AGRICULTURE, LIVESTOCK, FISHERIES
AND COOPERATIVE DEPARTMENT**

Endst. of even No. & Date

Copy forwarded for information and necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
5. The Director General, On Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
6. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar. He is requested that printed (preferable gazette) copies of the notification as and when published may be furnished to this department, ERA and Law Department along-with details of gazette in which it is published.
7. Web Administrator, for uploading on official website of Agriculture Department.
8. P.S to Minister for Agriculture, Khyber Pakhtunkhwa.
9. PS to Secretary Agriculture Department.
10. Master file.

ATTESTED


SECTION OFFICER (RESIT.)
AGRICULTURE DEPARTMENT

-13-
ANS B

ATTESTED

DIRECTORATE GENERAL ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR

FINAL SENIORITY LIST OF SUB ENGINEERS HAVING BACHELOR DEGREE IN ENGINEERING OR B.TECH FROM RECIGNIZED UNIVERSITY OF
ON FARM WATER MANAGEMENT DEPARTMENT KHYBER PAKHTUNKHWA
AS STOOD ON 24-01-2022

Notification

No. 219 /DG OFWM/Estt: dated Peshawar the 26/01 /2022

In pursuance of Section-8(1) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules 1989, final Seniority List of Sub Engieners having Bachelor degree in Engineering or B.Tech of On Farm Water Management as stood on 24/01/2022 is Notified / Circulated.

Sl. No.	Name of Official with Academic Qualification	Date of Birth/Domicile	Date of entry into Govt. Service	Passing Year of Bachelor Degree in Engineering or B.Tech	Date of Regular appointment/promotion to the present post			Present Posting	Remarks
					Date	BPS	Method of Recruitment		
1	Tahir Khan DAE+B.Tech (Hons) (Civil)	Peshawar 21/08/1984	07/06/2005	05/3/2010	07/06/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Peshawar	Subject to verification/ confirmation of B.Tech (hons) degree awarded by AL-Khair University AJK from HEC

ATTESTED

2

-14-

No.	Name of Official with Academic Qualification	Date of Birth/Domicile	Date of entry into Govt. Service	Passing Year of Bachelor Degree in Engineering or B-Tech	Date of Regular appointment/promotion to the present post			Present Posting	Remarks
					Date	BPS	Method of Recruitment		
2	Mazhar Iqbal DAE+B.Tech (Hons) (Civil)	Karak 04/04/1973	03/02/2005	10/12/2010	03/02/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Karak	Attested
3	Muhammad Atif DAE+B.Tech (Hons) (Civil)	Abbottabad 11/02/1984	02/02/2005	10-03-2011	02/02/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Abbottabad	Attested
4	Muneer Iqbal DAE Civil + B.Tech (Hons) (Civil)	Buner 17/10/1981	08/01/2005	15-04-2011	08/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Swabi	Attested
5	Muhammad Riaz DAE+ B.Sc Civil Engineering	Peshawar 21/02/1981	18/01/2005	27-06-2011	18/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Peshawar	Attested
6	Asghar Ali DAE+ B.Tech (Hons) (Civil)	Mardan 08/01/1978	31/01/2005	15-08-2011	01/02/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Mardan	Attested
7	Muhammad Shuaib DAE+B.Tech (Hons) (Civil)	Malakand 03/04/1979	07/01/2005	13-11-2011	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Malakand	Attested

-15-

ATTESTED

No.	Name of Official with Academic Qualification	Date of Birth/Domicile	Date of entry into Govt. Service	Passing Year of Bachelor Degree in Engineering or B.Tech.	Date of Regular appointment/promotion to the present post			Present Posting	Remarks
					Date	BPS	Method of Recruitment		
8	Asad Ali DAE Civil+ B.Tech (Hons) (Civil)	Malakand 16/12/1979	07/01/2005	13-11-2011	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Malakand	Attested
9	Samiullah DAE + B.Tech (Hons) (Civil)	Lakki Marwat 03/01/1977	25/01/2005	03-02-2012	25/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Lakki Marwat	Attested
10	Habib Ullah DAE Civil+B.Tech (Hons) (Civil)	Swat 30/03/1976	10/01/2005	13-03-2012	10/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Bajaur	Attested
11	Iqbal Muhammad DAE Civil + B.Tech (Hons) (Civil)	Swat 03/06/1977	07/01/2005	13-04-2013	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Shangla	Attested
12	Farhad Ali DAE Civil+B.Tch (Hons) (Civil)	Swat 01/04/1982	07/01/2005	15-09-2013	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Swabi	Attested
13	Mazhar Iqbal DAE Civil+B.Tech (Hons) Civil Tech:	Mansehra 04/06/1979	11/01/2005	15-02-2015	11/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Haripur	Attested
14	Anwar Ali DAE Civil+B.Tech (Hons) (Civil)	Swat 01/04/1977	07/01/2005	13-05-2015	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the Director General OFWM Khyber Pakhtunkhwa Peshawar	Attested

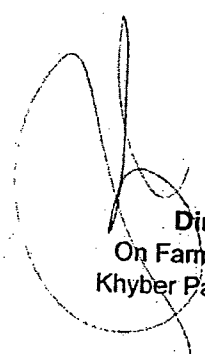
ATTESTED

S.No.	Name of Official with Academic Qualification	Date of Birth/Domicile	Date of entry into Govt. Service	Passing Year of Bachelor Degree in Engineering or B.Tech.	Date of Regular appointment/promotion to the present post			Present Posting	Remarks
					Date	BPS	Method of Recruitment		
15	Nasar Khan DAE Civil+B.Tech (Hons) (Civil)	Swat 27/01/1979	07/01/2005	13-04-2019	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Buner	Subject to verification/ confirmation of B.Tech (hons) degree awarded by Preston University Kohat from HEC.

Certified that the above list is final, circulated and undisputed.

Endst. Of Even No. & Date

- 1 All District Directors OFWM in Khyber Pakhtunkhwa.
- 2 All District Officers OFWM In Khyber Pakhtunkhwa.
- 3 All concerned Sub Engineers.


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar



ANNEX C - 17-

**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR**



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<https://twitter.com/dgofwmkp>
<https://www.facebook.com/dgofwmkp>
091-9224307-08/Fax 0919224370

No. 210 /DG/OFWM /Estt. dated Peshawar the, 25/1/2022
To

Mr. Tahir Khan Sub Engineer
o/o the District Director
On Farm Water Management
Peshawar

Subject: **VERIFICATION OF B.TECH (HONS) DEGREE**
Memo,

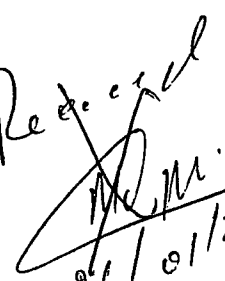
With reference to the subject noted above and to state that your Bachelor of Technology (Hons) Degree from Al-Khair University AJK was sent to HEC for verification / attestation. The Higher Education Commission examined and returned the same with the remarks that "*Bachelor of Technology (Hons) Degree of Mr. Tahir Khan from Al-Khair University, AJK is not attested by HEC against Attestation Ticket Number 2248478 and said ticket is allotted to someone else as per record of this Commission. However, please arrange to provide legible/readable copy of degree (showing Complete Registration Number) to further reexamine the case in detail*" (Annex-A).

Therefore, as per the above noted remarks of the HEC you are directed to take-up the verification/attestation case of your degree with the Higher Education Commission under intimation to this office.


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar

CC:

The District Director On Farm Water Management Peshawar for information.

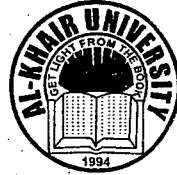
Received

26/01/22

ATTESTED

No. 35674

Registration No. AUSWT (TE)6506-2007

Al-Khair University Bhimber (AJK)



Session 2007-2009

This is to certify that

Tahir Khan S/O Saida Khan

has been awarded the degree of

B.Tech (Honors) Civil Construction & Highway Technology

In this University at the Examination held in January, 2010

ATTESTED

[Signature]

Controller of Examinations

[Signature]

Chancellor

Dated November 30, 2015



Directorate of
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

NO. 146 SA /CO/PESHAWAR. DATED 31/3/2022

ANNEX E-19-

To

The Director,
On Farm Water Management,
Peshawar.

Subject:- COMPLAINT NO. 2756/DACE DATED 22.3.2022 AGAINST MUHAMMAD TAHIR ENGINEER WATER MANAGEMENT DISTT: PESHAWAR AND OTHERS.

Kindly refer to the subject cited above & to state that the above complaint is under probe in this Establishment containing allegations of corruption, illegal appointment by providing bogus certificate and mis-use of official power by the subject engineer etc.

During the course of investigation, this Establishment needs to record the statement of the subject engineer.

It is therefore, you are requested that necessary directions may kindly be issued to officers/officials concerned to present before the undersign in person alongwith educational documents within 3 days in term of Rule 3(3) of the Khyber Pakhtunkhwa Anti-Corruption Rules, 1999 enabling this Establishment to proceed further in the matter, please.

Mr. Tahir SB
Brown

01/04/2022

ayees
Circle Officer,
Anti Corruption Establishment,
Peshawar.

Copy for information to the ADC/ACE/Peshawar.

ATTESTED



DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT
KHYBER PAKHTUNKHWA
PESHAWAR

No. 4238 3F /ACE/Peshawar.
Dated Peshawar the 24.05.2022.

To
The Assistant Director Crimes,
Anti-Corruption Establishment,
Peshawar.

ANW & F - 20-

Subject:- COMPLAINT NO. 2756 DATED 22.03.2022 AGAINST
MUHAMMAD TAHIR, ENGINEER, WATER MANAGEMENT,
DISTRICT PESHAWAR AND OTHERS.

Reference your report dated: 18.05.2022.

Consequent upon the conclusion of probe and opinion of concerned Assistant Director Legal Prosecutor, ACE, the competent authority i.e. Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa, closed/filed the subject complaint under Rule 8 (3&4) of Khyber Pakhtunkhwa ACE Rules, 1999.

Original complaint file is consigned to Record Branch, Directorate of ACE, Peshawar.

[Signature]
Assistant Director (Complaints)

ENDST OF EVEN NO. & DATE

Copy forwarded to SA, ACE, Peshawar (Allegations not proved).

[Signature]
Assistant Director (Complaints)

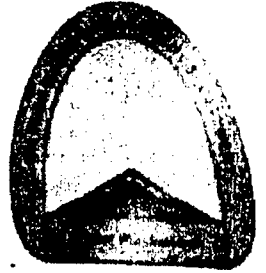
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-21-
DWS/9

**DIRECTORATE GENERAL
ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR**

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<https://www.facebook.com/dnofwmkp>
091-9224307-08/Fax 0919224370



No. 270 /DG/OFWM/Estt: dated the, 01/02 /2022
To,

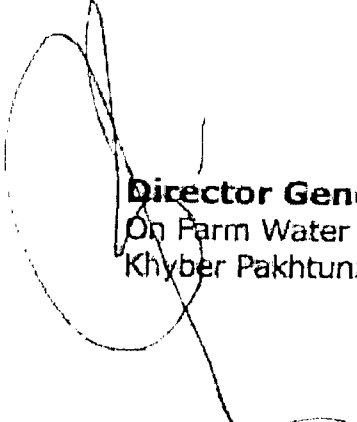
The Section Officer (Estt:)
Government of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar

Subject: - PROMOTION OF SUB ENGINEER (BS-16) HAVING BEACHELOR DEGREE IN ENGINEER OR B.TECH (HONS) TO THE POST OF WATER MANAGEMENT OFFICER (BS-17) IN ON FARM WATER MANAGEMENT WING OF AGRICULTURE DEPARTMENT.

Memo,

Enclosed please find herewith the above cited subject working paper along with relevant documents for promotion of Sub Engineers (BS-16) having Bachelor degree in Engineering or B.Tech (Hons) to the post of Water Management Officer (BS-17) In On Farm Water Management wing of Agriculture Department for favour of information & consideration of Departmental Promotion Committee please.

Encl. As stated


Director General
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK FISHERIES &
COOPERATIVE DEPARTMENT

Dated Peshawar the 15th March, 2022

Annex H-22

NOTIFICATION

No. SOE(AD)V-8/DPC/OFWM/22/416 On the recommendations of the Departmental Promotion Committee in its meeting held on 23.02.2022, the following ten (10) Sub-Engineers (BS-16) of On Farm Water Management wing of Agriculture Department are hereby promoted to the post of Assistant Director / Water Management Officer (BS-17) on regular basis with immediate effect:

Sl. No.	Name
01.	Mr. Mazhar Iqbal
02.	Muhammad Atif
03.	Mr. Muneer Iqbal
04.	Muhammad Riaz
05.	Mr. Asghar Ali
06.	Muhammad Shuaib
07.	Mr. Asad Ali
08.	Mr. Samiullah
09.	Mr. Habib Ullah
10.	Mr. Iqbal Muhammad

02. The above officers will be on probation for a period of one year extendable to another one year under Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989.

Sd/-
SECRETARY AGRICULTURE

Encl. No. & Date Even:

Copy forwarded for information and necessary action to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, On Farm Water Management, Khyber Pakhtunkhwa, Peshawar for necessary action and submission of adjustment / posting transfer proposal of the above officers.
3. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
4. P.A to Deputy Secretary (Admin) Agriculture, Livestock Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
5. Officers concerned.
6. Master File.

Received on
23/05/22

SECTION OFFICER-ESTT:

ATTESTED

PS/C.S Khyber Pakhtunkhwa

Diary No 1850

Date: 30.05.2022

To

The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar

Subject: Departmental Appeal/Representation against the impugned Notification dated 15.03.2022 communicated to appellant on 23.05.2022 whereby Sub-Engineer (BPS-16) juniors to him were promoted to the post of Assistant Director /Water Management Officer (BPS-17)

Respected Sir,

1. That appellant joined the Department as a Sub-Engineer on 07.06.2005 from the very inception of his service he was not indulged into the departmental proceedings and served the Department to the entire satisfaction of the high-ups.
2. That by virtue of Notification dated 02.09.2021; Service Rules for promotion were amended by the Department wherein it was held that promotion to the post of Assistant Director/Water Management Officer (BPS-17) has to be made from amongst Sub-Engineer (BPS-16) on the basis of 20% promotion quota.
3. That pursuant to Rules *ibid*, the concerned quarter requisitioned the list of eligible Sub-Engineers having Bachelor Degree in Engineering or B.Tech for promotion to the post of Assistant Director/Water Management Officer (BPS-17). It is pertinent to aver here that the appellant qualified the requisite Degree before the joining the Department/Service.
4. That a Final Seniority List of Sub-Engineer having Bachelor Degree in Engineering or B.Tech from recognized University of On Farm Water Management Department, Khyber Pakhtunkhwa was issued by Department on 26.01.2022 where appellant was dwelt at Serial No.1 by mentioning in the *remarks column* "*subject to verification/confirmation of B.Tech (Hons) Degree awarded by Al-Khair University AJK from HEC.* In this junction of the matter it is alleged that in the present modern time, the Credentials of any employee can be verified online.
5. That a letter dated 25.01.2022 was addressed to Petitioner by the Department wherein he was directed to take-up the verification/attestation case of his Degree with the HEC for removal of deficiencies mentioned in the letter, therefore, appellant visited the Higher Education Commission and got verified the said Degree by allotting proper Ticket No. 2548257. It is further submitted that a Complaint was lodged against the appellant on 31.03.2022 regarding authenticity of his Degree before the Anti-Corruption Establishment, Peshawar by a colleague. In this regard a detailed inquiry was conducted by the Director Anti-Corruption Establishment, Khyber Pakhtunkhwa which culminated as "*closed/filed*" on 24.05.2022.
6. That appellant was kept engaged with the process of verification as well as Complaint before the Anti-Corruption Establishment. Working Paper was prepared and placed before the Departmental Promotion Committee on 01.02.2022 for promotion of Sub-Engineer (BPS-16) to the post of Assistant Director / Water

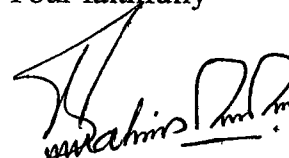
ATTESTED

Management Officer (BPS-17) but the appellant was not considered for promotion inspite of the fact that he was at Serial No. 1 in the Seniority List and he also got verified his Degree from HEC on 03.03.2022.

7. That eventually 10 junior Sub-Engineer (BPS-16) to appellant were promoted to the post of Assistant Director/Water Management Officer (BPS-17) vide impugned Notification dated 15.03.2022, communicated to appellant on 23.05.2022.
8. That the Department did not adhere to requisite law while promoting juniors to the appellant against the next higher grade. Section-9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-7(3) of the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules-1989 bestowed that a civil servant possessing such minimum qualification as may be prescribed shall be considered for promotion against the next higher grade.
9. That it is crystal clear from the Seniority List of the Sub-Engineer (BPS-16) wherein appellant was placed at Serial No. 1 subject to condition of verification of his B.Tech. Degree from the HEC which was promptly provided to the Department after due verification. Moreover, the Complaint was also closed/filed in favour of the appellant which left no room to any confusion for the Department regarding promotion of appellant against the next higher grade.
10. That it is enunciated principle of law that albeit promotion is not a vested right of a civil servant but consideration for promotion is a vested right, therefore, under the law, the appellant had to be considered for the subject promotion.

It is, therefore, humbly requested that on acceptance of this Departmental Appeal/Representation, the impugned Notification dated 15.03.2022 (communicated on 23.05.2022) may kindly be set aside and the appellant be promoted to the post of Assistant Director/Water Management Officer (BPS-17) on the basis of seniority with all back benefits.

Your faithfully



Tahir Khan
Sub-Engineer,
O/o District Director
On Farm Water Management,
Charsadda.
0345-5505155

Dated: 30/05/2022

ATTESTED

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Tahir Khan

Appellant(s)/Petitioner(s)

VERSUS

Gout of KPK and others

Respondent(s)

I/We Appellant do hereby appoint **Mr. Muhammad Amin Ayub & Mr. Muhammad Ghazanfar Ali**, Advocates High Court in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

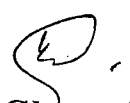
In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Signature of Executants


Muhammad Amin Ayub
Advocate, High Court

&


Muhammad Ghazanfar Ali
Advocate, High Court

Ishtiaq Rahim
Advocate ASC

0345 938 7312

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458