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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Engineer Aiman AfridiPetitioner

VERSUS

Chief Secretary and others Respondents

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Through

Appellant



Zia ur Rehman Tajik

Advocate, Supreme Court of Pakistan.
LL.B, L.L.M, Diploma in Sharia Law.


Jabir Khan

Advocate BS (LLB Hons).

7

Date: 29.12.2022

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Engineer Aiman Afridi Planning Officer, Planning & Monitoring Cell, Irrigation Department,
Khyber Pakhtunkhwa.

.....Petitioner

VERSUS

1. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Secretary Irrigation, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Govt. of KPK through its Chief Secretary, Civil Secretariat, Peshawar.
4. Department Promotion Committee through is Chairman, Irrigation Department,
Peshawar.
5. Engineer Inam Ullah Khan, Assistant Engineer, Officer, Chief Engineer (North),
Peshawar.
6. Engineer Shahid Ali Khan, SDD, Irrigation, Sub-Division, Saidu Sharif, Swat.
7. Engineer Rizwan, SDD, Canal Sub-Division, Paharpur, District D.I.Khan.
8. Engineer Javed Ullah Khan, SDD, Warsak Left Canal, Peshawar.
9. Engineer Wajahat Hussain, SDD, Irrigation, Sub-Division _____.

..... Respondents

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF
RESPONDENT NO. 2 DATED 26.08.2022 WHEREBY ANTEDATED PROMOTION
WAS GRANTED TO THE PRIVATE RESPONDENTS AND APPEAL OF THE
APPELLANT DATED 06.09.2022 WAS NOT CONSIDERED.**

Prayer:

On acceptance of instant Service Appeal, the impugned antedated promotion order dated 26.08.2022 may kindly be modified and private respondents may be promoted from the date of DPC dated 19.07.2022 with prospective effect.

Respectfully Sheweth:

1. That the appellant was appointed as Assistant Engineer on 24.09.2021 and posted as Paining & Monitoring Cell, Irrigation Department on 13.10.2021 on the recommendation of KP Public Service Commission through recommendation letter dated 09.07.2021. **(Copy of appointment, posting, recommendation letter/order is annexed as "A", "B" & "C").**
2. That the appellant is performing his duties regularly, devotedly and to the entire satisfaction of official respondents without any complaint from any quarter from the date of his appointment.
3. That Departmental Promotion Committee of the respondent department refused promotion to the post of Assistant Engineer to the private respondents along with other employees and the private respondents had challenged their non-recommendation before this Tribunal and their appeal allowed by this Hon'ble Tribunal on 15.04.2022 with the direction to the official respondents to consider the private respondents for promotion against the vacant post. **(Copy of the judgment of this Hon'ble Tribunal is attached as annexure "D").**

4. That after decision of this Hon'ble Tribunal, DPC meeting was held on 19.07.2022 in which the private respondents were recommended for antedate promotion with the effect from 23.06.2021 and through Notification, antedated promotion was granted by respondent No. 2 on 26.08.2022 to the private respondents. **(Copy of antedated promotions are attached as annexure "E")**.
5. That the appellant being aggrieved from antedated promotion order of private respondents, had filed appeal before the respondents No. 1 & 2 on 06.09.2022 but was not considered. **(Copy of the departmental appeal is attached as annexure "F" : : ")**.

Now the appellant being aggrieved from the impugned antedated promotion order of private respondents, approached this Hon'ble Tribunal for redressal of his grievances, inter-alia, on the following grounds:

GROUNDS

- A. That the impugned antedated promotion order issued in favour of private respondents is illegal, against the law, and the directions issued by this Hon'ble Tribunal because, in Para-29 of the judgment of this Hon'ble Tribunal, the official respondents were only directed to consider the private respondents for promotion against the vacant post and no direction for antedated promotion was issued by this Hon'ble Tribunal, hence the antedated promotion is against the question of law decided by Hon'ble Supreme Court of Pakistan in a case of Federation of Pakistan vs. M.Y.Labaib ur Rehmat and others:

"We have perused the earlier judgment of this Court and found that this Court only send back the matter to the appellant department for considering respondents case in view of the seniority list and the rules on the subject and nowhere in the judgment, it was directed that the respondents be given antedated promotion.

1554
'2021 SCMR (Para-6)'

- B. That the antedated promotion given to the private respondents is illegal and against the law because the private respondents have not performed their duties on the said posts and thus the said promotion on the cast of affecting the appellant seniority is unconstitutional and hit by Rule-17(A) of Appointment, Promotion and Transfer Rules, 1989 because after issuance of the impugned Notification, the seniority of the appellant was also affected and against the said impugned Seniority List, departmental appeal of the appellant is pending before the official respondents and it was held by the august Supreme Court of Pakistan in a case of Secretary Labour Department, Punjab, Lahore and others vs Raja Muhammad Pasha Jonejo and others "Seniority, Civil Servants duly appointed on regular basis, much earlier than others, could not be relegated to the junior position.

2005 SCMR 1142 (Para-4)

- C. That the appellant was appointed regularly on the recommendation of KPPSC much earlier to the meeting of present DPC on the basis of which, the impugned antedated promotion order was issued by granting promotion to the private respondents with retrospective

effect and such antedated promotion with retrospective effect had affected legal and vested rights of the appellant and has also not been treated in accordance with command of constitution provided by the Article-4 of the Constitution.

- D. That promotion can neither be claimed as a matter of right nor with retrospective effect, hence, the grant of antedated promotion is against the principle laid down by the Hon'ble supreme Court of Pakistan in a case of 'Abid Hussain Shirazi vs. Secretary M/O Industries and Production, Govt. of Pakistan, Islamabad.

"Promotion-Principle-Promotion is neither a vested right nor it can be claimed with retrospective effect whenever there is a change of grades or posts for the better, there is an element of selection involved which is promotion and it is not earned automatically but under an order of the competent authority to be passed after consideration of comparative suitability and the entitlement of those incumbents promotion or proforma promotion by civil servants can be claimed under the law which can be considered when question of promotion is taken up, civil servant cannot call upon the service tribunal to direct the department to fill the promotion posts forthwith or on the particular date and not to keep the post vacant or under consideration.

(6)

E. That the promotion takes effect from the date on which a civil servant assumes the charge of higher posts and because of this reason, the impugned antedated promotion is illegal and in the case of 'Chief Secretary Sindh vs. Riaz Ahmad Masin and others' it was held by the August Supreme Court of Pakistan, that promotion takes effect from the date on which, the civil servants assumed the charge of higher posts.

'2016 SCMR 1784'

F. That the appellant is discriminated and the antedated promotion order is against the rules of propriety, principle of fair-play and natural justice.

G. That one Engineer Bakhtiar was promoted to the post of Assistant Engineer on the basis of recommendation of DPC meeting dated 13.01.2022, and was promoted w.e.f 28.03.2022 and was placed junior in the seniority list as compared to the appellant in the final seniority list dated 29.11.2022 but the private respondents due to malafide, ulterior motives and inimical towards the appellant had disturbed their seniority. (Copy of *Seniority List* dated *20-01-2022* and seniority list dated 29.11.2022 are attached as annexure "D. 9/91

H. That any other ground will be adduced at the time of arguments with the kind permission of this Hon'ble Tribunal.

(7)

It is, therefore, most humbly prayed that on acceptance of instant Service Appeal, the official respondents may kindly be directed:

- i. To modify the impugned antedated promotion order dated 26.08.2022 and grant promotion to the private respondents from date of Departmental Promotion Committee i.e. 19.07.2022.
- ii. All the benefits on the basis of antedated promotion may be withdrawn from the private respondents being against the law because the said antedated promotion order affected seniority of the appellant.
- iii. Any other relief not specifically prayed for which the appellant is entitled in the facts and circumstances of the case may also be granted.

Through

Appellant

Zia ur Rehman Tajik

Advocate, Supreme Court of Pakistan.
L.L.B, L.L.M, Diploma in Sharia Law.

Jabir Khan

Advocate BS (LLB Hons).

Date: 29.12.2022

CERTIFICATE:

It is certify that, no such like Service Appeal has earlier been filed by the petitioner(s) in this Hon'ble Court.

ADVOCATE

8

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Engineer Aiman AfridiPetitioner

VERSUS

Chief Secretary and others Respondents

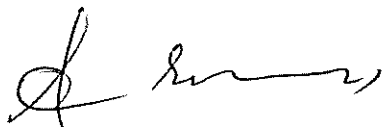
AFFIDAVIT

I, Engineer Aiman Afridi Planning Officer, Planning & Monitoring Cell, Irrigation Department, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:



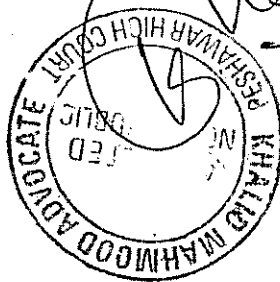
Zia ur Rehman Tajik
Advocate, Supreme Court of Pakistan.



DEPONENT

CNIC No: 17301-3612892-8

Cell No. 0344-9119966



30 12 22



Annex - A (9)
GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

Dated Peshawar the 24th September, 2021

NOTIFICATION

No. SO(E)/IRRI/4-14/73/PSG/Vol-V: The Competent Authority on the recommendations of the Khyber Pakhtunkhwa Public Service Commission and in pursuance of the provisions contained in Sub Section (2) of Section 19 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 Civil Servants (Amendment) Act, 2005 (Khyber Pakhtunkhwa Act No. IX of 2005) and further amended by the Khyber Pakhtunkhwa, Civil Servants (Amendment) Act, 2013, the Government of Khyber Pakhtunkhwa in the Irrigation Department is pleased to offer the appointment to the following candidates as Assistant Engineers/Sub Divisional Officers BPS-17 (Rs. 30370-2300-76370) with usual allowances admissible under the rules in the Irrigation Department, subject to the terms & conditions mentioned below: -

S. #.	Name with Father's Name	Domicile/Zone	Address
1	Mr. Sadq Ali S/o Javed Khan	Mardan/2	Mohallah Barbuki, Village Machi P.O Rustam Tehsil & District Mardan.
2	Mr. Saif Ur Rehman S/o Said Janan	Orakzai Agency/1	Ziarat Stop, Town Pabbi District Nowshera.
3	Mr. Zeeshan Ullah S/o Farman Ullah	Mardan/2	House # 2, By pass road Sarwar Abad Muqam Mandi Mardan.
4	Mr. Faisal Pervez S/o Muhammad Pervez	Charsadda/2	Village Sarwani P.O Shabqadar Fort, Tehsil & District Charsadda.
5	Mr. Salman Ahmad S/o Imtiaz Ahmad	Swabi/2	Village Gohati Mohallah Mehmood Abad, Irrigation Colony Tehsil & District Swabi.
6	Mr. Naveed Ullah S/o Naseeb Ur Rehman	Karak/4	Dad (W) Field Office Askari-6 Phase-II, Nasir Bagh Road, Peshawar.
7	Mr. Amjad Ali S/o Jehan Sardar	Dir Lower/3	Post Office Bishegram Gumbat Banda Tehsil Lal Qilla District Lower Dir.
8	Syed Atiq Ahmad S/o Syed Tahmeed Gul	Charsadda/2	Mohallah Mankaly Village & P.O Sherpao Tehsil Tangi District Charsadda.
9	Mr. Noor Yaseen S/o Salah Ud Din	SW Agy/1	Room No. 169, Iqbal Hall UET Lahore.
10	Mr. Manzoor Elahl S/o Jehan Zeb Khan	Peshawar/2	Civil Engineering Department UET Peshawar Civil office.
11	Mr. Siddique Umar S/o Anwar Khan	Kohat/4	Village Ghorzai Payan Town Senl Gumbat Tehsil & District Kohat.
12	Mr. Farhan Alam S/o Tajul Alam	Malakand/3	House No. 374, Street 14, Sector F7 Phase-VI, Hayatabad, Peshawar
13	Mr. Babar Saanl S/o Atiq Ullah	Charsadda/2	Village Amirabad Rajjar, Tehsil & District Charsadda
14	Muhammad Suhall Khan S/o Muhammad Naeem Khan	Dir Lower/3	Village & P.O Markhanai Tehsil Lal Qilla Mardan Dir

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15	Mr. Riaz Ud Din S/o Asam Ud Din	Kurram Agy/1	Amin Medicose 1 st Floor Khushal Medical Center Dabgari Gardan Peshawar
16	Muhammad Mustajab Khan S/o Khanzada Khan	Haripur/5	Village & P.O Kholian Bala Tehsil & District Haripur.
17	Muhammad Wajahat Ali Khan S/o Ahmad Ali	Haripur/5	House # C-33, Snober Colony, Tarbela Dam, Tehsil Ghazi District Haripur
18	Miss. Shazia Batool D/o Jawad Ali	Kurram Agy/1	House No. 2 adjacent to Army Public School & College Warsak Road, Peshawar
19	Miss. Hafsa Wadood D/o Fazli Wadood	Malakand/3	House No. CA-1 near Masjid Bilal University Campus Peshawar.
20	Miss. Aiman Afridi D/o Naeem Afridi	Khyber Agency/1	House No. 2 Baba Jee Road Academy Town, Peshawar.
21	Mr. Arif Gul S/o Fazal Gul	Swat/3	Mehboob Super Store Village Rasha Gatta Tehsil Babozai District Swat.

TERMS & CONDITIONS:

- i. They will get at the minimum pay of BPS-17 including usual allowances as admissible under the Rules. They will also be entitled to annual increment as per existing policy.
- ii. The above posts, for all intents and purposes, shall be within the definition of Civil Servants.
- iii. They will be governed by the Khyber Pakhtunkhwa Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules framed there-under.
- iv. They will initially be on probation for a period of one year under rule-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- v. Their services shall be liable to termination at any time without assigning any reason, before the expiry of the period of probation, if their work or conduct during this period is found unsatisfactory. In such an event, they will be given one month's prior notice of termination from service or one month's pay in lieu thereof. In case they wish to resign at any time, one month's notice shall be necessary or in lieu thereof one month's pay shall be forfeited.
- vi. They will undergo for 4-months pre-service training. Training schedule will be issued separately.
- vii. Their appointment will be subject to the verification of their domicile and testimonial from the concerned authorities/Institutions.
- viii. They will not be entitled to any TA/DA on their first appointment as Assistant Engineer/Sub Divisional Officer. They will join duty at their own expenses.

2. In case the above terms and conditions are acceptable, an **UNDERTAKING** to the effect on a Stamp Paper worth Rs. 100/- signed & duly attested by the Oath Commissioner, should be produced to the Irrigation Department Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar within a month time without fail.

3. In case of failure of response to the above offer within stipulated period as mentioned above, the offer shall stand cancelled subject to the extension for the acceptance by the Government.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department


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(11)

Endst. No. & date even.

Copy forwarded for information & necessary action to:-

1. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Chief Engineer (South) Irrigation Department, Peshawar.
4. The Chief Engineer (North) Irrigation Department, Peshawar.
5. The Director General, Small Dams, Peshawar.
6. The Chief Engineer, Merged Areas, Irrigation Department.
7. All Superintending Engineers of Irrigation Department.
8. The Director (Tech:), Planning & Monitoring Cell, Irrigation Department.
9. All Project Directors in Irrigation Department.
10. The Director Recruitment, Khyber Pakhtunkhwa Public Service Commission, Peshawar w/r to letters No. PSC/SR-II/008565 dated 06.07.2021 and No. PSC/SR-II/010005 dated 11.08.2021.
11. The PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
12. The Manager, Government Printing Press, Peshawar.
13. The Section Officer (General), Irrigation Department.
14. PS to Secretary Establishment Department, Peshawar.
15. PS to Secretary Irrigation Department.
16. PA to Additional Secretary Irrigation Department.
17. The Candidates concerned.
18. Office Order File/Personal Files.
19. Master file.


(Abdul Rauf)
Section Officer (Estt:)

24/9/2021

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section) **Annex-B**

(12)

Dated Peshawar the 13th October, 2021

NOTIFICATION

No. SO(E)/IRRI/4-14/73/PSC/Vol-V:

The Competent Authority is pleased to authorize the following newly appointed Assistant Engineers/Sub Divisional Officers (BS-17) Irrigation Department to draw their monthly salaries and allowances with effect from the date of arrival reports against the vacant posts noted against each during pre-service training, in the best public interest, till further orders: -

S. #.	Name with Father's Name	Date of arrival report	Against the post
1	Mr. Sadiq Ali S/o Javed Khan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
2	Mr. Salf Ur Rehman S/o Said Janan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
3	Mr. Zeeshan Ullah S/o Farman Ullah	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
4	Mr. Faisal Pervez S/o Muhammad Pervez	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
5	Mr. Salman Ahmad S/o Imtiaz Ahmad	27.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
6	Mr. Naveed Ullah S/o Naseeb Ur Rehman	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
7	Mr. Amjad Ali S/o Jehan Sardar	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer, Merged Areas Irrigation Department.
8	Syed Atiq Ahmad S/o Syed Tahmeed Gul	24.09.2021	Against the vacant post of SDO-II, Gomal Zam Irrigation Division, D.I. Khan.
9	Mr. Noor Yaseen S/o Salah Ud Din	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
10	Mr. Manzoor Elahi S/o Jehan Zeb Khan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
11	Mr. Siddique Umar S/o Anwar Khan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
12	Mr. Farhan Alam S/o Tajul Alam	24.09.2021	Against the vacant post of Sub Divisional Officer (BS-17), Irrigation Sub Division, Chitral (Upper)
13	Mr. Babar Saani S/o Atiq Ullah	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation

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	Muhammad Suhail Khan S/o Muhammad Naeem Khan	01.10.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer, Merged Areas Irrigation Department.
15	Mr. Riiaz Ud Din S/o Asam Ud Din	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation
16	Muhammad Mustajab Khan S/o Khanzada Khan	27.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation
17	Muhammad Wajahat Ali Khan S/o Ahmad Ali	27.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation
18	Miss. Shazia Batool D/o Jawad Ali	24.09.2021	Against the vacant post of Monitoring Officer (BS-17), Planning & Monitoring Cell, Irrigation Department.
19	Miss. Hafsa Wadood D/o Fazli Wadood	24.09.2021	Against the vacant post of Sub Divisional Officer (BS-17), Head Works Irrigation Sub Division, Malakand.
20	Miss. Aiman Afridi D/o Naeem Afridi	24.09.2021	Against the vacant post of Planning Officer (BS-17), Planning & Monitoring Cell, Irrigation Department.
21	Mr. Arif Gul S/o Fazal Gul	24.09.2021	Against the vacant post of Sub Divisional Officer (BS-17), Irrigation Sub Division, Shangla.

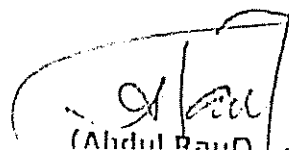
**Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department**

Endst. No. & date even.

Copy forwarded for Information & necessary action to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer (South) Irrigation Department, Peshawar with the request to arrange pre-service training for newly recruited Assistant Engineers as per rules under Intimation to this Department.
3. The Chief Engineer (North) Irrigation Department, Peshawar.
4. The Director General, Small Dams, Peshawar.
5. The Chief Engineer, Merged Areas, Irrigation Department.
6. All Superintending Engineers of Irrigation Department.
7. The Director (Tech:), Planning & Monitoring Cell, Irrigation Department.
8. The Section Officer (General), Irrigation Department.
9. The District Accounts Officer concerned.
10. PS to Secretary Irrigation Department.
11. PA to Additional Secretary Irrigation Department.
12. PA to Deputy Secretary (Admn:), Irrigation Department.
13. The Officers concerned.
14. Personal Files of the officers.
15. Master file.

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(Abdul Rauf)

Phone: 091-9213551
Ext : 110
Website : www.kppsc.gov.pk



IMMEDIATE

Annex - C
KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-Fort Road, Peshawar Cantt.
No. PSC/SR-II/ 018095

For Secy Irrigation Dated: 11/08/2021
Copy No. 5428
Date 11-8-21

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.

Subject: **RECRUITMENT OF TWENTY (20) ASSISTANT ENGINEER / SDO (CIVIL) (UPS-17) (GENERAL: FIFTEEN (15), FEMALE QUOTA: THREE (03), MINORITY QUOTA: ONE (01) AND DISABLE QUOTA ONE (01) IN IRRIGATION DEPARTMENT, ADVT: NO. 10/2019, S.NO. 90 (a,b,c,d)**

Dear Sir,

In continuation of this office No.PSC/SR-II/008878 dated. 09.07.2021 on the subject noted above and to state that the recommendation of Mr. Muhammad Anees S/O Muhammad Naqeeb District Peshawar/2 and Mr. Muhammad Abdulah Ilyas S/O Muhammad Ilyas of District Haripur/5 is here by withdrawn with immediate effect and their recommendation may be returned to this office immediately. Further more the Commission recommends Mr. Babar Sani S/O Aitq Ullah of District Charsadda/2 and Mr. Muhammad Wajid Ali Khan S/O Ahmad Ali of District Haripur/5 to the govt for appointment. The revised allocation shall be as under:-

2nd BLOCK:

Vacancy Rotation	Allocation	Merit Order	Name with Father's Name	District / Zone
10 th	Zone-2	01	Zeeshan Ullah S/O Farman Ullah	Mardan/2
11 th	Zone-3	05	Amjad Ali S/O Jehan Sardar	Dir Lower/3
12 th	Zone-4	04	Naveed Ullah S/O Naseeb Ur Rehman	Karak/4
13 th	Merit	02	Faisal Pervez S/O Muhammad Pervez	Charsadda/2
14 th	Zone-5	19	Muhammad Mustajab Khan S/O Khanzada Khan	Haripur/5
15 th	Zone-1	07	Noor Yaseen S/O Salah Ud Din	SW Agy/1
16 th	Zone-2	03	Salman Ahmad S/O Imtiaz Ahmad	Swabi/2
17 th	Merit	06	Syed Aliq Alumad S/O Syed Tahmeed Gul	Charsadda/2
18 th	Zone-3	10	Farhan Alam S/O Tajul Alam	Malakand/3
19 th	Zone-4	09	Siddique Umar S/O Anwar Khan	Kohat/4
20 th	Zone-5	31	Muhammad Wajahat Ali Khan S/O Ahmad Ali	Haripur/5
21 st	Merit	08	Manzoor Elahi S/O Jehan Zeb Khan	Peshawar/2
22 nd	Zone-1	14	Riaz Ud Din S/O Asam Ud Din	Kurram Agy/1
23 rd	Zone-2	11	Babar Sani S/O Aitq Ullah	Charsadda/2
24 th	Zone-3	13	Muhammad Suhail Khan S/O Muhammad Naqem Khan	Dir Lower/3

2. Female Quota and Disable Quota are both intact.

FEMALE QUOTA (04) POSTS)

Merit Order	Name with Father's Name	District / Zone
56	Shazia Batool D/O Jawad Ali	Kurram Agy/1
62	Hafsa Wadood D/O Fazli Wadood	Malakand/3
63	Aiman Afridi D/O Naqem Afridi	Khy Agy/1

DISABLE QUOTA

Merit Order	Name with Father's Name	District / Zone
64	Arif Gul S/O Fazal Gul	Swat/3

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to be true
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Secretary Irrigation

P.T.O

Fol.

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3. Recommendation in favour of the above recommendees is provisional subject to their medical fitness and verification of all essential documents by the department, before appointment.

4. Upto date zonal state will be as under:

	Merit	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total
Share	12	08	08	08	06	06	48
Adjusted	12	08	08	08	06	06	48
Balance	--	--	--	--	--	--	Nil

5. Revised inter-se seniority of the above selectees is as under:-

Inter Se-Merit Order	Name With Father Name	Domile
1.	Zeeshan Ullah S/O Farman Ullah	Mardan/2
2.	Faisal Pervez S/O Muhammad Pervez	Charsadda/2
3.	Salman Ahmad S/O Imtiaz Ahmad	Swabi/2
4.	Naveed Ullah S/O Naseeb Ur Rehman	Karak/4
5.	Amjad Ali S/O Jehan Sardar	Dir Lower/3
6.	Syed Atiq Ahmad S/O Syed Tahmeed Gul	Charsadda/2
7.	Noor Yaseen S/O Salah Ud Din	SW Agency/1
8.	Manzoor Elahi S/O Jehan Zeb Khan	Peshawar/2
9.	Siddique Umar S/O Anwar Khan	Kohat/4
10.	Farhan Alam S/O Tajul Alam	Malakand/3
11.	Babar Saani S/O Atiq Ullah	Charsadda/2
12.	Muhammad Suhail Khan S/O Muhammad Naeem Khan	Dir Lower/3
13.	Riaz Ud Din S/O Asam Ud Din	Kurrum Agy/1
14.	Muhammad Mustajab Khan S/O Khanzada Khan	Haripur/5
15.	Muhammad Wajid Ali Khan S/O Ahmad Ali	Haripur/5
16.	Shazia Batool D/O Jawad Ali (F/Q)	Kurrum Agy/1
17.	Hafsa Wadood D/O Fazli Wadood (F/Q)	Malakand/3
18.	Alman Afridi D/O Naeem Afridi (F/Q)	Khy Agy/1
19.	Arif Gul S/O Fazal Gul (D/Q)	Swat/3

6. One post reserved for Minority Quota remained unfilled which will be re-advertised after suitable interval.

7. Original applications (with enclosures) of the above two (02) recommendees are enclosed herewith for your record.

Yours faithfully,


(Ilyas Shah)

Director Recruitment

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Annex D

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Service Appeal No 7659/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwan vs Government of KP & others", Service Appeal No 7661/2021 titled "Wajid Hussain vs Government of KP & others", Service Appeal No 7662/2021 titled "Jawadullah vs Government & others", and Service Appeal No 7663/2021 titled "Jawadullah and Government of KP & others", decided on 11.04.2022 by Division Bench comprising Mr. Kaleem Arshad Khan, Chairman and Mr. Rozina Rejman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

BEFORE: **KALEEM ARSHAD KHAN, CHAIRMAN**
ROZINA REJMAN, MEMBER(J)
Service Appeal No: 7659/2021

Shahid Ali Khan (Sub Divisional Officer, Shahbaz Garhi Irrigation Subdivision, District Mardan) son of Jehan Safdar.....(Appellant)

Versus

1. Government of KhyberPakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate...For appellant.
Mr. Muhammad Riaz Khan Painsa Khel,
Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021
Date of Hearing.....14.04.2022
Date of Decision.....15.04.2022

2. Service Appeal No.7660/2021

Rizwanullah (Sub Divisional Officer, Flood Irrigation Subdivision No.II, District DIKhan) son of Abdul Rehman.....(Appellant)

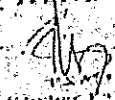
Versus

1. Government of KhyberPakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate...For appellant.
Mr. Muhammad Riaz Khan Painsa Khel,
Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021
Date of Hearing.....14.04.2022
Date of Decision.....15.04.2022

ATTESTED:

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Service Appeal No. 761/2021 titled "Durrat ul Jahan vs. Government of KP & others", Service Appeal No. 1466/2021 titled "Feroza vs. Government of KP & others", Service Appeal No. 7661/2021 titled "Wajidul Haque vs. Government of KP & others", Service Appeal No. 1167/2021 titled "Javedullah vs. Government of KP & others", and Service Appeal No. 7662/2021 titled "Javedullah vs. Government of KP & others", decided on 15.04.2022 by the Hon'ble Chief Justice, Khyber Pakhtunkhwa High Court, Peshawar. Member Justice, Khyber Pakhtunkhwa High Court, Peshawar.

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3. Service Appeal No. 7661/2021

Wajahat Hussain (Sub Divisional Officer, Irrigation and Hydel Power Subdivision, Orakzai) son of Malik ur Rehman... (Appellant)



Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate... For appellant.
 Mr. Muhammad Riaz Khan Pinda Khel, Assistant Advocate General..... For respondents.

Date of Institution..... 18.10.2021
 Date of Hearing..... 14.04.2022
 Date of Decision..... 15.04.2022

4. Service Appeal No. 7662/2021

Javedullah (Assistant Engineer OPS, Irrigation and Hydel Power Subdivision, Jamrud and Landi Kotal, District Khyber) son of Asad Malook Khan..... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate... For appellant.
 Mr. Muhammad Riaz Khan Pinda Khel, Assistant Advocate General..... For respondents.

Date of Institution..... 18.10.2021
 Date of Hearing..... 14.04.2022
 Date of Decision..... 15.04.2022

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[Signature]
 Assistant Advocate General
 Peshawar

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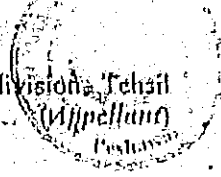
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Service Appeal No 7659/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No 7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No 7661/2021 titled "Wajahat Hussain versus Government of KP & others", and Service Appeal No 7663/2021 titled "Muhammad Riaz Khan versus Government of KP & others" decided on 15.04.2022 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mr. Faraz Batool, Member, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

5. Service Appeal No. 7663/2021

Muhammad (Sub Divisional Officer, Irrigation Subdivision, Tehsil Shangla District Swat) son of Purdil Khan.....



Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate...For appellants.

Mr. Muhammad Riaz Khan Pinda Khel, Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021

Date of Hearing.....14.04.2022

Date of Decision.....15.04.2022

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APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE DECISION/RECOMMENDATION OF THE DEPARTMENTAL PROMOTION COMMITTEE, IN ITS MEETING DATED 23.06.2021, REGARDING AGENDA ITEM NO.III, ON THE BASIS OF WHEREOF, CASE OF PROMOTION OF THE APPELLANTS OF ALL THE APPEALS AS ASSISTANT ENGINEER/SUB-DIVISIONAL OFFICERS (BS-17) WAS DEFERRED

CONSOLIDATED JUDGEMENT

KALIM ARSHAD KHAN CHAIRMAN. Through this

single Judgment the instant Service Appeal No.7659/2021 titled

ATTESTED

"Shahid Ali Khan vs Government of KP & others", Service Appeal

Signature of the Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

No.7660/2021 titled "Rizwan versus Government of KP & others",

Service Appeal No.7661/2021 titled "Wajahat Hussain versus

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Service Appeal No.7662/2020 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No.7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No.7661/2021 titled "Wajidul Hussain versus Government of KP & others", Service Appeal No.7662/2021 titled "Javedullah versus Government & others", and Service Appeal No.7663/2020 titled "Inamullah and Government of KP & others", decided on 13.04.2021 by District Bench comprising Mr. Khatim Arshad Khan, Chairman and Mr. Raftan Rehman, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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Government of KP & others, "Service Appeal No.7662/20201 titled "Javedullah versus Government & others" and Service Appeal No.7663/20201 titled "Inamullah and Government of KP & others" are decided because all are similar in nature and outcome of the same decision.

2. Facts, surrounding the appeals, are that the appellants were serving as Sub-Engineers in BPS-14 (upgraded to BPS-16 on 07.03.2018) in the Irrigation Department; that they passed departmental examination Grade-A & Grade-B and became eligible for promotion to the post of Assistant Engineer (BS-17), as per the rules in vogue; that the respondents initiated the cases of the appellants along with others for promotion and prepared working paper, alongwith panel of eligible Graduate Sub engineers, for consideration against 12% quota reserved for the holders of BSc Engineering Degree; that synopses of the appellants were placed before the Departmental Promotion Committee (DPC), in its meeting held on 23.06.2021, under Agenda Item No.III, but the appellants were not recommended for promotion rather the Agenda Item No.III was deferred on the pretext to seek guidance from the Establishment Department, on the following:

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ATTESTED
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

- i. As per amended service rules of Irrigation Department notified on 25.06.2012, twelve posts of Assistant Engineer (BS-17) come under 12% share quota of Graduate Sub Engineers, along with passing of departmental grade B and A examination against which

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Service Appeal No. 763/2021 titled "Shri. A. K. S. vs. Government of K.P. & others", Service Appeal No. 764/2021 titled "M. S. vs. Government of K.P. & others", Service Appeal No. 765/2021 titled "P. S. vs. Government of K.P. & others", Service Appeal No. 766/2021 titled "S. S. vs. Government of K.P. & others", Service Appeal No. 767/2021 titled "J. S. vs. Government of K.P. & others", dated on 13.01.2022 by Division Bench comprising Mr. Justice A. K. S. and Mr. Justice B. S. Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

30

six officers are working on regular basis while seven officers, included in the panel at serial No.1 to 6 & 9 are working as Assistant Engineer (BS-17) on acting charge basis since 2011.

ii. Before 25.06.2012 the passing of grade B&A examination was not mandatory for promotion to the post of Assistant Engineer and the above mentioned seven Graduate Sub Engineers were appointed to the post of Assistant Engineer (BS-17) on acting charge basis in 2011.

iii. The departmental B&A examination is conducted after every two years. The last examination was held in 2020 and the next will be held in 2022. The officers of panel at serial No.1 to 6 & 9 (except No.4 B&A passed) have passed their mandatory grade B examination and will appear in the A examination in 2022.

15/4/22

3. The DPC in paragraph 8 of the minutes sought advice of the establishment through a separate letter that:

a. As to whether the amended rules notified on 25.06.2012 are applicable to the above employees who were appointed in the year 2011 on acting charge basis or the present Service Recruitment rules will be applicable in the instant case.

b. If the present service rules are applicable upon the officers appointed on acting charge basis then before

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ESTABLISHMENT
(Khyber Pakhtunkhwa
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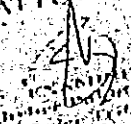
Service Appeal No. 2443/2021 titled "Dhawal Ashok Khane vs. Government of K.P. & others", Service Appeal No. 2444/2021 titled "Ramesh Kumar Government of K.P. & others", Service Appeal No. 2445/2021 titled "Wijayarathnam vs. Government of K.P. & others", Service Appeal No. 2446/2021 titled "Aravindhan vs. Government of K.P. & others", and Service Appeal No. 2447/2021 titled "Aravindhan vs. Government of K.P. & others", decided on 13.07.2021 by Division Bench consisting of J.J. Kameshwar Kumar, Chief Justice and J.J. Rajesh Kumar, Member, Andhra Pradesh High Court, Hyderabad.

21

completion of mandatory examination of these officers, the officers junior to them can be promoted to the post of Assistant Engineer on regular basis or otherwise.

4. It was then all the appellants preferred departmental appeals on 13.07.2021 to Respondent No.1 against the decision dated 23.06.2021 of the DPC, which, according to them, was not responded within statutory period, compelling them to file these appeals.
5. It was mainly urged in the grounds of all the appeals that the appellants had been deprived of their right of promotion without any deficiency; that the department had no right to keep the promotion case pending for indefinite period; that the appellants were not treated in accordance with law; that the DPC departed from the normal course of law, which was malafide on their part; that the appellants were deferred for no plausible reasons.
6. On receipt of the appeals and their admission to full hearing, the respondents were directed to file reply/comments, which they did.
7. In the replies it was admitted that the appellants had passed Grade B&A examinations and had also completed 5 years' service for promotion as Assistant Engineer subject to considering their eligibility by the DPC and availability of posts as per service rules; that the agenda item for promotion was dropped due to non-availability of vacancies under 12% quota for promotion of Graduate Sub-Engineers to the rank of Assistant Engineers BS-17

15/7/21

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 [Name of the attesting officer]

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Service Appeal No. 7059/0011 titled "Abdul Ali Khan vs. Government of KP & others", Service Appeal No. 7667/0011 titled "Nizwan versus Government of KP & others", Service Appeal No. 7641/2001 titled "Wajid Hussain versus Government of KP & others", Service Appeal No. 1047/2001 titled "Javed Ali versus Government & others", and Service Appeal No. 7063/2001 titled "Imamullah versus Government of KP & others", decided on 13.01.2012 by Division Bench comprising Mr. Khalid Anwar Khan, Chairman and Mr. Nosim Rehman, Member Judicial, Ayfer Paltanulla, Seralo, Dohand, Peshawar.

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- (i.e. 6 Nos Sub Engineers are working on regular basis while 7 Nos Sub Engineers are working on Acting Charge basis against 12 posts in the share quota of Graduate Sub Engineers which already exceeds by one number).
8. We have heard learned counsel for the appellants and learned Assistant Advocate General for the respondents and have also gone through the record.
 9. Learned counsel for the appellants reiterated the facts and grounds detailed in the appeal and referred to above and submitted that the appellants had a genuine case to be considered for promotion and they had legitimate expectancy for the same. He prayed for acceptance of the appeals.
 10. On the contrary the learned Assistant Advocate General opposed the arguments advanced by the learned counsel for the appellants and supported the stance taken by the respondents.
 11. There is no dispute that the working paper, for promotion from the post of Sub Divisional Officers (BPS-16) to the post of Assistant Engineer (BPS-17), was prepared on proforma-I, wherein the details of the posts were given. According to the working paper six posts were shown vacant for making promotion under 12% Graduate quota. Along with the working paper, a panel of Graduate Engineers for consideration was also annexed on proforma-II (Annexure-J). The officers at serial number 1 to 3, 5 to 7, 9, 12 to 14 were shown in the panel to be not eligible while the appellants' names figure at serial No. 8, 10, 11, 13 and 15 of the panel. The panel bears

1574/2012

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 (Signature)
 Khwaja Pathan
 Service Tribunal
 Peshawar

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Service Appeal No. 7819/2021 titled "Abdullah Ali Khan, ex. Government of K.P. & others", Service Appeal No. 7660/2021 titled "Muzaffar Hussain Government of K.P. & others", Service Appeal No. 7441/2021 titled "Hafizullah Khan Government of K.P. & others", Service Appeal No. 7441/2021 titled "Hafizullah Khan Government of K.P. & others", and Service Appeal No. 7441/2021 titled "Hafizullah Khan Government of K.P. & others", decided on 11.04.2022 by Director General, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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signature of the Additional Secretary, Irrigation Department, at the end of list and the appellants were shown in the working paper to be eligible for promotion. Similarly, the officer at serial No.4 named Doktor was also shown to be eligible for promotion. The DPC held on 23.06.2021 recorded the minutes of the proceeding, which have been detailed in the preceding paragraphs and sought clarification from the Establishment Department vide letter No.SO(E)/Irr/4-3/DPC/2019/Vol-IX dated 04.10.2021, which was responded by the Establishment Department vide letter No.SOR-V(E&AD)/7-1/Irrig: dated 23.11.2021, instead seeking the clarification from the Secretary Government of Khyber Pakhtunkhwa, Irrigation Department on the following observations:

15/11/21


- i. Why the employees were appointed on acting charge basis under APT Rules, 1987
- ii. Why the matter remained linger on for more than ten years?
- iii. For how many times the departmental B&A exams for these employees in the intervening period were arranged by the Administrative Department and whether they appeared, availed opportunity of appearing the examination or deliberately avoid the opportunity of appearing in the subject examination or failed these examination?

ATTESTED

 Director General
 Khyber Pakhtunkhwa
 Service Tribunal

12. Additional documents were placed during the pendency of the appeals, whereby working paper was prepared for considering one

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Service Appeal No. 7659/2021 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Wajid Hussain versus Government of KP & others", Service Appeal No. 7662/2021 titled "Javedullah versus Government of KP & others", and Service Appeal No. 7663/2021 titled "Inamullah and Government of KP & others", decided on 13.01.2022 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mrs. Razmi Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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Mr. Bakhtiar (at serial No.4 of the panel for consideration, wherein the names of the appellants also figured) for promotion, who was also deferred with the appellants. The DPC was stated to be held on 13.01.2022 and vide Notification No.SO(E)/IRRI:/4-3/DPC/2019/Vol-IX: dated. 28.03.2022, Mr. Bakhtiar was promoted.

13. At this juncture it seems necessary to observe regarding the above referred advice sought by the DPC. As regards first query, whether the amended rules notified on 25.06.2012 were applicable to the employees who were appointed in the year 2011 on acting charge basis or the present Service Recruitment rules will be applicable in the instant case, it is observed that the administrative rules cannot be given retrospective effect. As regards the second query whether the junior officers could be promoted when the seniors already appointed on acting charge basis could not qualify either of departmental B&A examinations, it is in this respect found that the basic qualification for eligibility to be considered for promotion to the post of Assistant Engineer (BPS-17), is passing of departmental B&A examinations and when the seniors could not get through the both or any of them, they are not eligible and obviously next in the line were to be considered.

15/1/22

14. As to the observation of the Establishment Department:-

- (i) Why the employees were appointed on acting charge basis under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989?

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Service Appeal No. 7658/2021 filed "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7660/2021 filed "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 filed "Wajid Hussain versus Government of KP & others", Service Appeal No. 7662/2021 filed "Jawadullah versus Government & others", and Service Appeal No. 7663/2021 filed "Imamullah and Government of KP & others", decided on 13.01.2022 by Division Bench comprising Mr. Kallim Arshad Khan, Chairman and Mr. Roshan Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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- (ii) Why the matter remained linger on for more than ten years?
- (iii) For how many times the departmental B&A examinations for these employees in the intervening period were arranged by the Administrative Department and whether they appeared, availed opportunity of appearing in the examination or deliberately avoided the opportunity of appearing in the examination or deliberately avoided the opportunity of appearing in the subject examination or failed these examination.

it is observed that no reply of the Administrative Department in this respect is found placed on the record. Whereas without replying the queries the Administrative Department promoted one Bakhtiar, referred to above.

15. There seems lot of conflict in the working paper and minutes of the meeting of the DPC held on 23.06.2021 and that of the replies submitted by the respondents. In the working paper and the minutes six posts were shown vacant for filling, of which the DPC was convened and lengthy exercise of preparation of working paper, panel of officers for consideration and holding of DPC was undertaken, whereas in the replies the respondents took a U-turn and contended that the posts were not vacant. If the posts were not vacant then why the lengthy exercise of preparing working paper, panel of officers and above all holding of DPC was done? This is a question which could not have been answered by the respondents in their replies or for that matter during the course of arguments. It was

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Service Appeal No. 7659/2021 filed "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No. 7660/2021 filed "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 filed "Wajehat Hussain versus Government of KP & others", Service Appeal No. 7662/2021 filed "Javedullah versus Government & others", and Service Appeal No. 7663/2021 filed "Jumailah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kallio Arshad Khan, Chairman and Mrs. Rasmea Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Service Appeal No. 7660/2021 filed "Wajehat Hussain versus Government & others", and decided on 13.04.2022 by Division Bench consisting Mr. Kallio Arshad Khan, Chairman and Mrs. Rasmea Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

the stance of the respondents in the replies that the Agenda Item No. III was dropped due to non-availability of vacancies under 12% quota for promotion of Graduate Sub Engineers to the rank of Assistant Engineers BS-17 (i.e. 6 Nos. Sub Engineers are working on regular basis while 7 Nos. Sub Engineers are working on Acting Charge basis against 12 posts in the share quota of Graduate Sub Engineers which already exceeds by one number). This stance is in clear negation to the working paper, panel list of the officers and minutes of the DPC wherein these 6 posts are shown vacant and were intended to be filled in by promotion. So far as contention of the respondents that the seats were occupied by the officers on acting charge basis, so those were not vacant, it is observed in this regard that rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 (the Rules) is quite clear and is reproduced below for facile reference:-

a department, and regulated by Civil Servants empowers the acting charge required to be vacant eligible of service, charge basis departmental of the afore-acting charge 6 months months. r post on ment and 5 months, to be on purposes regular re basis which ment is Civil r that igher 8-A, arge

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- "9. Appointment on Acting Charge or current Charge Basis. (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis; Provided that no such appointment shall be made, if the prescribed length of service is short by more than [three years].
- [(2). Sub rule (2) of rule-9 deleted vide by Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011.
- (3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.
- (4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge

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Signature of the attesting officer

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Service Appeal No. 763/2011 titled "Shabbir Ali Khan vs. Government of KP & others", Service Appeal No. 764/2011 titled "Razaon versus Government of KP & others", Service Appeal No. 1651/2011 titled "Waqar Hussain versus Government of KP & others", Service Appeal No. 1661/2011 titled "Javedullah versus Government & others", and Service Appeal No. 765/2011 titled "Jumrullah and Government of KP & others", decided on 13.04.2011 by Division Bench comprising Mr. Khalid Anshad Khan, Chairman and Mr. Farooq Pehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis."

(Underlining is ours)

16. Sub rule (2) of the above rule was deleted vide Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011. The deleted sub-rule is also reproduced as under:

"(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.)"

17. Before deletion of sub rule (2) of the rules, a junior officer to a senior civil servant, so long as he (the senior) holds the acting charge appointment, could not be considered for regular promotion to a higher post. The provisions of Rule 9 of the rules though empowers the Appointing Authority to make appointment of a senior civil servant on acting charge basis but, even after deletion of sub rule (2) of the ibid rules, that will not disentitle a junior officer to be considered for regular promotion to a higher post.

15/11/21

18. Regarding the acting charge appointment, the august Supreme Court of Pakistan has a consistent view that such posts being a stopgap arrangement, could not be a hurdle for promoting the deserving officers on their availability. Reliance in this respect is placed on PLC 2015 (CS) 151 titled "Province of Sindh and others versus Ghulam Fareed and others", wherein the august Supreme Court was pleased to hold as under:

"17. At times officers possessing requisite experience to qualify

NEESENED
S. M. H. KHAN
Secretary
Government of Punjab

Attested

to be filed
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Service Appeal No 1449/2021 titled "Shahid Ali Khan vs. Government of P.F. & others", Service Appeal No 1000/2021 titled "Khalid vs. Government of P.F. & others", Service Appeal No 7661/2021 titled "Munir Hussain vs. Government of P.F. & others", Service Appeal No 1000/2021 titled "Sajid Hussain vs. Government of P.F. & others" and Service Appeal No 1000/2021 titled "Khalid vs. Government of P.F. & others", decided on 14.01.2022 by the Hon'ble Bench comprising Mr. Justice Chaudhry, Mr. Justice Khan and Mr. Justice Farooq. **Justice Dilawar Farooqi**

for regular appointment may not be available in a department. However, all such exigencies are taken care of and regulated by statutory rules. In this respect, Rule 8-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, empowers the Competent Authority to appoint a Civil Servant on acting charge and current charge basis. It provides that if a post is required to be filled through promotion and the most senior Civil Servant eligible for promotion does not possess the specific length of service, appointment of eligible officer may be made on acting charge basis after obtaining approval of the appropriate Departmental Promotion Committee/Selection Board. Sub-Rule (4) of the afore-referred Rule 8 further provides that appointment on acting charge basis shall be made for vacancies lasting for more than 6 months and for vacancies likely to last for less than six months. Appointment of an officer of a lower scale on higher post on current charge basis is made as a stop-gap arrangement and should not under any circumstances, last for more than 6 months. This acting charge appointment can neither be construed to be an appointment by promotion on regular basis for any purposes including seniority, nor it confers any vested right for regular appointment. In other words, appointment on current charge basis is purely temporary in nature or stop-gap arrangement, which remains operative for short duration until regular appointment is made against the post. Looking at the scheme of the Sindh Civil Servants Act and Rules framed thereunder, it is crystal clear that there is no scope of appointment of a Civil Servant to a higher grade on OPS basis except resorting to the provisions of Rule 8-A, which provides that in exigencies appointment on acting charge basis can be made, subject to conditions contained in the Rules."

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19. The august Supreme Court of Pakistan in another judgment reported as 2022 SCMR 448 titled "Bashir Ahmed Badini, D&SJ, Dera Allah Yar and others Versus Hon'ble Chairman and Member of Administration Committee and Promotion Committee of hon'ble High Court of Balochistan and others", vis-à-vis the 'stopgap', 'ad hoc' and temporary nature, graciously observed that:

"This stopgap arrangement as a temporary measure for a particular period of time does not by itself confer any right on the incumbent for regular appointment or to hold it for indefinite period but at the same time if it is found that incumbent is qualified to hold the post despite his appointment being in the nature of precarious tenure, he would carry the right to be considered for permanent appointment through the process of selection as the length of time would create an impression in the mind of the employee that he was being really considered to be retained on regular basis. The ad hoc appointment by its

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Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others", Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others", Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others", Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others", Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others", Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others", Service Appeal No. 2016/2125 titled "Secretary to Government of Punjab vs. Government of Punjab & others".

very nature is transitory which is made for a particular period and creates no right in favour of incumbent with lapse of time and the appointing authority may in his discretion if necessary, make ad hoc appointments but it is not open for the authority to disregard the rules relating to the filling of vacancies on regular basis in the prescribed manner. In the case of Tariq Aziz-ul-Dir and others: (in re: Human Rights Cases Nos. 8340,9504-G, 13936-G, 13635-P and 14306-G to 143309-G of 2009) (2010 SCMR 1301), this Court held that in case where the appointing authority is satisfied that no suitable officer is available to fill the post and it is expedient to fill the same, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the cadre or service as the case may be. It is the duty and obligation of the competent authority to consider the merit of all the eligible candidates while putting them in juxtaposition to isolate the meritorious amongst them. Expression 'merit' includes limitations prescribed under the law. Discretion is to be exercised according to rational reasons which means that; (a) there be finding of primary facts based on good evidence; and (b) decisions about facts be made for reasons which serve the purposes of statute in an intelligible and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and misuse of power (Director Food, N.W.F.P. v. Messrs Madina Flour and General Mills (Pvt.) Ltd. (PLD 2001 SC 1)."

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20. Similarly, in 2016 SCMR.2125 titled "Secretary to Government of the Punjab, Communication and Works Department, Lahore, and others Versus Muhammad-Khalid Usmani and others" the august Supreme Court was pleased to have observed as follows:

"15. As is evident from the tabulation given in the earlier part of this judgment, we have also noted with concern that the respondents had served as Executive Engineers for many years; two of them for 21 years each and the two others for 12 years each. The concept of officiating promotion of a civil servant in terms of rule 13 of the Rules is obviously a stopgap arrangement where posts become available in circumstances specified in Rule 13(i) of the Rules and persons eligible for regular promotion are not available. This is why Rule 13(iii) of the Rules provides that an officiating promotion shall not confer any right of promotion on regular basis and shall

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Service Appeal No. 7634/2021 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Majid Hussain versus Government of KP & others", Service Appeal No. 7662/2021 titled "Javedhullah versus Government & others", and Service Appeal No. 7663/2021 titled "Jusmullah and Government of KP & others", decided on 15.04.2022 by Division Bench comprising Mr. Kollin Arshad Khan, Chairman and Mrs. Rozina Behman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

be liable to be terminated as soon as a person becomes available for promotion on regular basis."

The august Apex Court in paragraphs 20, 21 & 22 ruled as under:

"20. The record produced before us including the working paper produced before the DPC held on 11.08.2008 shows that the sanctioned strength of XENs in the appellant- Department at the relevant time was 151; out of which 112 were working on regular basis and 47 on officiating basis. It is also evident that 39 Executive Engineers' posts were available for regular promotion. This clearly shows that 39 Executive Engineers were working on officiating basis against regular vacancies. We have asked the learned Law Officer to justify such a practice. He has submitted that this modus operandi is adopted by most Government Departments to ensure that corruption and unprofessional conduct is kept under check. We are afraid the justification canvassed before us is not only unsupported by the law or the rules but also lends ample support to the observations made in the Jafar Ali Akhtar's case reproduced above. Further, keeping civil servants on officiating positions for such long periods is clearly violative of the law and the rules. Reference in this regard may usefully be made to *Survar Ali Khan v. Chief Secretary to Government of Sindh* (1994 PLC (CS) 411), *Punjab Workers' Welfare Board v. Mehr Din* (2007 SCMR 13), *Federation of Pakistan v. Amir Zaman Shinwari* (2008 SCMR 1138) and *Government of Punjab v. Sameena Parveen* (2009 SCMR 1).

21. During hearing of these appeals, we have noted with concern that the device of officiating promotion, ad hoc promotion/appointment or temporary appointment etc. is used by Government Departments to keep civil servants under their influence by hanging the proverbial sword of Damocles over their heads (of promotion 'on officiating basis' liable to reversion). This is a constant source of insecurity, uncertainty and anxiety for the concerned civil servants for motives which are all too obvious. Such practices must be seriously discouraged and stopped in the interest of transparency, certainty and predictability, which are hallmarks of a system of good governance. As observed in *Zahid Akhtar v. Government of Punjab* (PLD 1995 SC 530) "a tamed subservient bureaucracy can neither be helpful to the Government nor it is expected to inspire public confidence in the administration"

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Service Appeal No. 7681/2021 titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No. 7682/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7683/2021 titled "Wajidat Hussain versus Government of KP & others", Service Appeal No. 7684/2021 titled "Jawadillah versus Government & others", and Service Appeal No. 7685/2021 titled "Jawadillah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mrs. Rozina Rehman, Member-Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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22. This issue was earlier examined by this Court in *Federation of Pakistan v. Rais Khan* (1993 SCMR 609) and it was held that "it is common knowledge that in spite of institution of ad hoc appointments unfortunately being deeply entrenched in our service structure and the period of ad hoc service in most cases running into several years like the case of the respondent (8 years' ad hoc service in BPS-17), ad hoc appointees are considered to have hardly any rights as opposed to regular appointees though both types of employees may be entrusted with identical responsibilities and discharging similar duties. Ad hoc appointments belong to the family of "officiating", "temporary" and "until further orders" appointments. In *Jafar Ali Akhtar Yousafzai v. Islamic Republic of Pakistan* (PLD 1970 Quetta 115) it was observed that when continuous officiation is not specifically authorized by any law and the Government/competent authority continues to treat the incumbent of a post as officiating, it is only to retain extra disciplinary powers or for other reasons including those of inefficiency and negligence, e.g. failure on the part of the relevant authorities to make the rules in time, that the prefix "officiating" is continued to be used with the appointment and in some case for years together. And in proper cases, therefore, Courts (at that time Service Tribunals had not been set up) are competent to decide whether for practical purposes and for legal consequences such appointments have permanent character and, when it is so found, to give legal effect to it." In *Pakistan Railways v. Zafarullah* (1997 SCMR 1730), this Court observed that, "appointments on current or acting charge basis are contemplated under the instructions as well as the Rules for a short duration as a stop-gap arrangement in cases where the posts are to be filled by initial appointments. Therefore, continuance of such appointees for a number of years on current or acting charge basis is negation of the spirit of instructions and the rules. It is, therefore, desirable that where appointments on current or acting charge basis are necessary in the public interest, such appointments should not continue indefinitely and every effort should be made to fill posts through regular appointments in shortest possible time."

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By way of the stated valuable judgment referred to above, the august Supreme Court maintained the decision of the Punjab Service Tribunal, Lahore, whereby the appeals filed by the

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Service Appeal No. 2662/2007 filed "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 2660/2007 filed "Buzon versus Government of KP & others", Service Appeal No. 2661/2007 filed "Wajid Hussain versus Government of KP & others", Service Appeal No. 2662/2007 filed "Javed Iqbal versus Government of KP & others", and Service Appeal No. 2663/2007 filed "Anwarul Haq and Government of KP & others", decided on 3.01.2012 by Division Bench comprising Mr. Justice Arshad Khan, Chairman and Mr. Justice Raza Raza, Member Justice, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

respondents were allowed and the order, impugned before the Service Tribunal dated 25.08.2008 passed by the Secretary, Communication and Works Department, Government of the Punjab, Lahore, reverting them to their original ranks of Assistant Engineers, was set aside to their extent. As a consequence, all the respondents were deemed to have been promoted as Executive Engineers on regular basis with effect from the respective dates on which they were promoted 'on officiating basis' with all consequential benefits. It was further held that the condition of 'on officiating basis' contained in promotion orders of all the respondents shall stand deleted but it was a case where the persons promoted 'on officiating basis' were duly qualified to be regularly promoted against the promotion posts, therefore, wisdom is derived that in a case, like one in hand, where the persons promoted 'on acting charge basis' did not possess the requisite qualification or other prescribed criteria for promotion, should remain 'on acting charge basis' i.e. that made for stopgap arrangement till their qualifying for their eligibility and suitability for regular promotion or till the availability of the suitable and qualified officers. The officers promoted 'on acting charge basis' could not, unfortunately pass the requisite either grades B&A both examinations or any of the two grades' examination, therefore, they were not found eligible as per the working paper, And as they were 'on acting charge basis' for more than a decade, the

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Service Appeal No 2688/2021 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Wajid Hussain versus Government of KP & others", Service Appeal No. 7662/2021 titled "Javedullah versus Government & others", and Service Appeal No. 7663/2021 titled "Ismatullah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kulus, Arshad Khan, Chahman and Mr. Ravshan Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

department seems reluctant to fill the vacancies, (occupied by them 'on acting charge basis') by regular promotion despite availability of suitable and qualified officers.

21. The honourable High Court of Sindh in a case reported as 2019 PLC (CS) 1157 titled "Attanullah Khan Chandio versus Federation of Pakistan through Secretary Establishment and another" observed as under:

"16. Admittedly, the Petitioner was encadred in Police Service of Pakistan on 19.10.2010 and his seniority would be reckoned from that date. We are mindful of the fact that acting charge promotion is virtually a stopgap arrangement, where selection is made pending regular promotion of an officer not available at the relevant time of selection and creates no vested right for promotion against the post held."

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22. Proceeding ahead; Rule 3 of the rules pertains to method of appointment. Sub rule (2) of rule 3 of the rules empowers the department concerned to lay down the method of appointment, qualifications and other conditions applicable to a post in consultation with the Establishment and Administration Department and the Finance Department.

23. While Rule 7 of the rules is regarding appointment by promotion or transfer. Sub rule (3) of rule 7 of the rules states that:

"(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be."

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Service Appeal No. 2659/2011 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 2660/2011 titled "Risham versus Government of KP & others", Service Appeal No. 2661/2011 titled "Waqar Hussain versus Government of KP & others", Service Appeal No. 2662/2011 titled "Lashkari versus Government of KP & others", and Service Appeal No. 2663/2011 titled "Inayatullah and Government of KP & others", decided on 13.01.2022 by Division Bench comprising Mr. Kallan Arshad Khan, Chairman and Mr. Rozina Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

This means only the persons possessing the qualifications and fulfilling such conditions as laid down for the purpose of promotion shall be considered for promotion because it does not leave room for the persons, who do not possess such qualification and fulfilling such conditions, to be also considered for such promotion. Vide Notification No.SO(E)/IRR:/23-5/73 dated 17.02.2011, the Irrigation Department of the Khyber Pakhtunkhwa, in consultation with the Establishment & Administration Department and Finance Department, laid down, the method of recruitment, qualification and other conditions specified in columns No.3 to 5 of Appendix (pages 1 to 5) to the above notification, made applicable to the posts in column No.2 of the Appendix. At serial No.4 of the Appendix the post of Assistant Engineer/Sub-Divisional Officer/Assistant Director (BPS-17) is mentioned. The qualification for appointment is prescribed to be BE/BSc Degree in Civil/Mechanical Engineering from a recognized University. Sixty-five percent of the posts were to be filled in through initial recruitment. Ten percent by promotion on the basis of seniority cum fitness from amongst the Sub Engineers who acquired, during service, degree in Civil or Mechanical Engineering from a recognized University. Five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineers who joined service as degree holders in Civil/Mechanical Engineering. Vide Notification

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Service Appeal No. 7A59/2021 titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Wajidul Hasnain versus Government of KP & others", Service Appeal No. 7662/2021 titled "Jawaidullah versus Government & others", and Service Appeal No. 7663/2021 titled "Ismatullah and Government of KP & others", decided on 13.01.2022 by Division Bench comprising Mr. Kallim Arshad Khan, Chairman and Mr. Fazlana Rahman, Member Adjudicating, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

No. SOE/IRRI/23-5/2010-11 dated 25.06.2012, the notification of 2011 was amended. The amendments, relevant to these appeals, are reproduced as under:

Amendments

In the Appendix,

i. Against serial No.4, in column No.5, for the existing entries, in clause (b), (c) and (d), the following shall be respectively substituted, namely:

(b) twelve percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized University and have passed departmental grade B&A examination with five years' service as such.

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Note:- For the purpose of clause (b), a joint seniority list of the Sub Engineers having degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their appointment as Sub Engineer.

24. The working paper also contained the requirement of the rules and in view of the same, the panel of officers was prepared on proforma-II, which clearly shows that all the appellants were eligible and the officers, who were allegedly holding acting charge

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Service Appeal No. 766/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 766/2021 titled "Nisran versus Government of KP & others", Service Appeal No. 768/2021 titled "Wajabat Hussain versus Government of KP & others", Service Appeal No. 768/2021 titled "Javedullah versus Government & others", and Service Appeal No. 768/2021 titled "Inamullah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mrs. Razina Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

of the posts, were not eligible. Neither any deficiency of any of the appellants could be pointed out in the replies nor argued before us rather in paragraph 6 of the replies, the eligibility and fitness of the appellants was admitted in unequivocal terms. The only reason which was stated in the replies, the non-availability of the posts because the vacant posts, detailed in the working paper and in the minutes of the DPC, were occupied by the ineligible officers on acting charge basis since 2011 in utter violation of the rules and the method laid down by the department concerned.

25. In a recent judgment reported as 2022 SCMR 448 titled "Bashir Ahmed Badini, D&SJ, Dera Allah Yar and others Versus Hon'ble Chairman and Member of Administration Committee and Promotion Committee of hon'ble High Court of Balochistan and others", the august Supreme Court of Pakistan has held as under:

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"13. According to Section 8 of the Civil Servants Act, 1973, for proper administration of a service, cadre or post, the appointing authority is required to make out a seniority list of the members, but no vested right is conferred to a particular seniority in such service, cadre or post. The letter of the law further elucidates that seniority in a post, service or cadre to which a civil servant is appointed shall take effect from the date of regular appointment to that post, whereas Section 9 is germane to the promotion which prescribes that a civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a higher post under the rules for departmental promotion in the service or cadre to which he belongs. However, if it is a Selection Post then promotion shall be granted on the basis of selection on merit and if the post is Non-Selection Post then on the basis of seniority-cum-fitness. A quick look and preview of Rule 8-B of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 ('1973 Rules') shows that an Acting Charge Appointment can be made against the posts which are likely to fall vacant for a period of six months or

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Service Appeal No 1630/2021 titled "Shahid Ali Khan vs Government of P.F. & others", Service Appeal No. 1622/2021 titled "Government of P.F. & others vs Shahid Ali Khan", Service Appeal No. 1621/2021 titled "Wajid Hussain vs Government of P.F. & others", Service Appeal No. 1627/2021 titled "Javedullah vs Government of P.F. & others", and Service Appeal No. 1624/2021 titled "International Government of P.F. & others" decided on 11 Feb 2022 by Justice Benazir Jabeen, Chief Justice, Islamabad High Court, Islamabad. Member, Justice, Federal Public Service Commission, Islamabad. Justice, Islamabad High Court, Islamabad.

more which appointment can be made on the recommendations of Departmental Promotion Committee or the Selection Board. The acting charge appointment does not amount to an appointment by promotion on regular basis for any purpose including seniority and also does not confer any vested right for regular promotion to the post held on acting charge basis. Under Rule 18, the method of making Ad-hoc Appointments is available with the procedure that if any post is required to be filled under the Federal Public Service Commission (Function) Rules, 1978, the appointing authority shall forward a requisition to the Commission immediately. However, in exceptional cases ad-hoc appointment may be made for a period of six months or less with prior clearance of the Commission as provided in Rule 19 wherein if the appointing authority considers it to be in public interest to fill a post falling within the purview of Commission urgently pending nomination of a candidate, it may proceed to fill it on ad-hoc basis for a period of six months. The reading of Balochistan Civil Servants Act, 1974 also reveals that the provisions made under Section 8 are similar to that of Civil Servants Act, 1973. Here also in Section 8, it is clarified that the seniority in the post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post and the criteria for promotion is also laid down with like prerequisites for the selection post and or non-selection post as provided in Civil Servants Act, 1973. So far as ad-hoc and temporary appointments are concerned, Rules 16 to 18 of Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009 also enlightened that in case a post is required to be filled through Commission, the Administrative Secretary of the Department shall forward a requisition in the prescribed form to the Commission, however, when an Administrative Department considers it to be in public interest to fill in a post falling within the purview of Commission urgently, it may, pending nomination of a candidate by the Commission, with prior approval of the competent authority, proceed to fill such post on ad-hoc basis for a period not exceeding six months by advertising the same. The Acting Charge appointment is encapsulated under Rule 8 with the rider that appointment on acting charge basis shall neither amount to a promotion on regular basis for any purpose including seniority, nor shall it confer any vested right for regular promotion to the post held on acting charge basis."

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Service Appeal No 7630/2021 titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No 7680/2021 titled "Hizron versus Government of KP & others", Service Appeal No 7601/2021 titled "Wajidat Hussain versus Government of KP & others", Service Appeal No 7661/2021 titled "Arwechillah versus Government & others", and Service Appeal No 7663/2021 titled "Jumailah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kullam Arshad Khan, Chairman and Mrs. Ruzsa Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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26. Last but not the least, it seems quite astonishing that, while negating their own stance that there was no vacancy available so that the appellants could be promoted, the respondents, vide Notification No. SO(E)/IRRI/4-3/DPC/2019/Vol-IX dated 28.03.2022, promoted Engr. Bakhtiar, (only one of the eligible) Graduate Sub-Engineer/Assistant Engineer BS-17 (ACB means acting charge basis), to the post of Assistant Engineer (BS-17) on regular basis. This action of the respondents not only speaks volumes about their malafide but also proves the stance taken by the appellants that they were being discriminated and were not being dealt with equally or in accordance with law.

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27. Before parting with the judgment we deemed it appropriate to address a possible question and that is whether the minutes of the meeting of the DPC, deferring the Agenda item-III pertaining to promotion, whereby the appellants were, in a way, ignored from promotion on the pretext discussed hereinabove, could be termed as 'final order' enabling the appellants to file appeal before this Tribunal. In this respect we will refer and derive wisdom from the judgment of the august Supreme Court of Pakistan reported as PLD 1991 SC 226 titled "Dr Sabir Zameer Siddiqui versus Mian Abdul Malik and 4 others". It was found by the honourable Supreme Court that:

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"5. There is no requirement of law provided anywhere as to how a final order is to be passed in a departmental proceeding. In the present case, not only the representative of the competent authority considered the comments offered in the High Court to be the final

Service Appeal No. 7639/2021 titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No. 7640/2021 titled "Huzan versus Government of KP & others", Service Appeal No. 7641/2021 titled "Wajidul Hussain versus Government of KP & others", Service Appeal No. 7642/2021 titled "Javedullah versus Government of KP & others", and Service Appeal No. 7643/2021 titled "Ismatullah and Government of KP & others", decided on 15.01.2022 by Division Bench comprising Mr. Kallim Arshad Khan, Chairman and Mrs. Farhat Balwan, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

order but the High Court itself acted on such representation thereby inducing the appellant to seek further relief in accordance with law. The appellant could, in the circumstances, approach the Service Tribunal for the relief.

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28. We also refer to the judgment of the honourable High Court of Sindh reported as 2000 PLC CS 206 titled "Mian Muhammad Mohsin Raza versus Miss Riffat Shiekh First Senior Civil Judge and others", wherein the honourable High Court of Sindh, while dealing with the term 'final order' observed as under:


"It would not be out of place to mention that appeals before the Service Tribunal are provided by section 4 of the Sindh Service Tribunals Act, 1973, against any "final order". The term "order" cannot be given any restricted connotation and as held in Muhammad Anis Oureshi v. Secretary Ministry of Communication 1986 PLC (C.S.) 664, the word "order" as used in section 4 of the Service Tribunals Act, 1973, is used in a wider sense to include any communication which adversely affects a civil servant."

(Underlining is ours)

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For the foregoing reasons, we hold that the minutes of the meeting of the DPC dated 23.06.2021, deferring the Agenda item No.III relating to promotion would amount to depriving/ignoring the appellants from promotion and is thus a communication adversely affecting them, therefore, it would be considered a 'final order' within the meaning of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

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29. In the given circumstances, we allow these appeals and direct the respondents to consider the appellants for promotion against the

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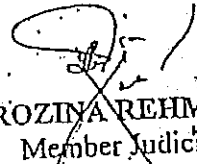
Service Appeal No. 7659/2021 filed "Shahid Ali Khan, vs Government of KP & others", Service Appeal No. 7660/2021 filed "Bilwan vs Government of KP & others", Service Appeal No. 7661/2021 filed "Wajahat Hussain vs Government of KP & others", Service Appeal No. 7662/2021 filed "Jawadullah vs Government & others", and Service Appeal No. 7663/2021 filed "Inamullah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mrs. Rozina Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

vacant posts. The DPC shall be held at the earliest possible, but not later than a month of receipt this judgment. Copies of this judgment be placed on all the connected appeal files. Consign.

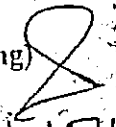
30. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 15th day of April, 2022.


KALIM ARSHAD KHAN
Chairman





ROZINA REHMAN
Member Judicial


(Approved for Reporting)


15/4/22

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EXCISE OFFICER,
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

Annex-E

Dated Peshawar the 26th August, 2022

NOTIFICATION:

No. SO(E)/IRR/4-3/DPC/Vol-X:

In light of the Khyber Pakhtunkhwa Service Tribunal Judgement dated 15.04.2022 and recommendations of Departmental Promotion Committee (DPC), in its meeting held on 19.07.2022, the competent authority is pleased to promote the following Graduate Sub Engineers (BS-12) to the post of Assistant Engineer/Sub Divisional Officer (BS-17) in Irrigation Department on regular basis with effect from 23.06.2021.

- i. Mr. Inamullah Khan,
- ii. Mr. Shahid Ali Khan
- iii. Mr. Rizwan
- iv. Mr. Javed Ullah Khan
- v. Mr. Wajahat Hussain

2. The officers on promotion will remain on probation for a period of one year extendable for further one year in terms of Section 6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Section 15 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules, 1989.

3. Consequent upon their promotion on regular basis as Assistant Engineer/Sub Divisional Officer (BS-17), they are allowed to continue duties against their already occupied posts.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst. No. & date even.

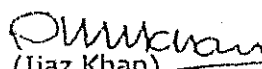
Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineers (North/South/Merged Areas) Irrigation Department.
3. The Director General, Small Dams, Irrigation Department, Peshawar.
4. All Superintending Engineers of Irrigation Department.
5. All Project Directors, Irrigation Department.
6. The officers concerned.
7. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Establishment Department, Peshawar.
9. The District Accounts officer (concerned).
10. PS to Secretary Irrigation Department, Khyber Pakhtunkhwa.
11. Master file.
12. Personal files of the officers.

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(Ijaz Khan)
Section Officer (Estt:) 26/8/22

Annex-F

Date: 06-09-2022

(42)

To

The Secretary Irrigation Department,
Govt of Khyber Pakhtunkhwa Peshawar.

Subject: APPEAL REGARDING CORRECTION OF REGULARIZATION DATE OF THE 5 NO'S GRADUATE SUB ENGINEERS PROMOTING TO THE ASSISTANT ENGINEERS (BS-17) ON REGULAR BASIS AS PER SERVICE TRIBUNAL JUDGEMENT DATED 15.04.2022.

Sub Head: GRIEVANCE ON NOTIFICATION NO. SO(E)/IRR/4-3/DPC/VOL-X DATED PESHAWAR THE 26TH AUGUST, 2022 ISSUED BY ESTABLISHMENT SECTION, IRRIGATION DEPARTMENT KPK.

Reference: The copy of each of the following is attached for ready reference please:

- I. Service Appeal No. 7659/2021 to 7663/2021, Pronounced in open court at Peshawar and given under our hand and the seal of the Tribunal on this 15th day of April, 2022.
- II. Notification No. SO(E)/IRR/4-3/DPC/VOL-IX DATED PESHAWAR THE 28TH MARCH, 2022
- III. Notification No. SO(E)/IRR/4-3/DPC/VOL-X DATED PESHAWAR THE 26TH AUGUST, 2022

It is submitted with great regards in your honor that The Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department, Establishment section has recently issued notification, vide notification No. SO(E)/IRR/4-3/DPD/Vol-X, dated Peshawar the 26th August, 2022 regarding promotion of 5 Graduate Sub Engineers (BS-12) to the post of Assistant Engineer/ Sub Divisional Officer (BS-17) in Irrigation Department on regular basis with effect from 23.06.2021, in light of the Khyber Pakhtunkhwa Service Tribunal Judgement dated 15.04.2022 and its recommendation for DPC held on 19.07.2022. Before proceeding further, the following is submitted please:

1. It is humbly submitted that the Graduate Sub Engineers submitted their appeals on 13.07.2021 regarding the deferring of agenda Item No. III of DPC in its meeting held on 23.06.2021 but the appeals were not submitted within statutory period.
2. The appellants filed appeals in the court of Service Tribunal for their right of promotion and the respondents were directed by the Hon'ble Court to file reply/comments in admission of full hearing.

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3. It is submitted in the reply/comments of the respondent, that in this case the Agenda Item No. III for promotion was dropped due to non-availability of vacancies under 12% share quota of Graduate Sub Engineers for their promotion to the rank of Assistant Engineers (HS-17) i.e. 6 Nos Sub Engineers are working on regular basis while 7 Nos Sub Engineers are working on Acting Charge Basis against 12 posts in the share quota of Graduate Sub Engineers which already exceeds by one number.
4. For DPC held on 23.06.2021, the working paper for promotion was prepared on Proforma-I, wherein the details of the posts were given. According to the working paper, 6 Nos posts were shown vacant for making promotion under 12% Graduate quota. Along with the working paper, a panel of Graduate Engineers from serial No. 1 to 15 for consideration was also annexed on Proforma-II.
5. The DPC held on 23.06.2021 recorded the minutes of the proceeding, and sought clarification from the Establishment Department vide letter No. SO(E)/IR/4-3/DPC/2019/Vol-IX dated 04.10.2021, which was responded by the Establishment Department vide letter No. SOR-V(E&AD)/7-1/IRIG dated 23.11.2021 as desired from the Secretary Government of Khyber Pakhtunkhwa Irrigation Department.
6. After that, the additional documents were placed during the pendency of the appeals, where by the fresh working paper was prepared for Mr. Bakhtiar listed at Serial No. 4 of the panel list for promotion. In light of the reply from the Establishment Department, the DPC was stated to be held on 13.01.2022 and Mr. Bakhtiar was promoted to the vacant post of Assistant Engineer (HS-17) vide notification No. SO(E)/IR/4-3/DPC/2019/Vol-IX dated 28.03.2022 (copy attached)
7. The others at serial No. 1 to 3, 5 to 7, 9, 12 and 14 did not clear Departmental B & A exam upto DPC held on 13.01.2022 and officers at serial no. 4, 8, 10, 11, 13 and 15 cleared departmental B & A exam. From the above the 7 Nos Graduate Sub Engineers were working on Acting Charge Basis since 2011 but as per amended rules of Irrigation Department notified on 25.06.2012 stated as "(b) twelve percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed Departmental Grade B & A Examination with five years' service as such" Graduate Sub Engineers should be considered eligible for promotion to the post of

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Assistant Engineer (BS-17) if they fulfil above requirements, and subject to considering their eligibility by the DPC and availability of vacant post as per Service Rules.

8. Hon'ble Court directed in para 26 of Service Tribunal Judgment, that appellants should be dealt equally in accordance with law as Engr. Bakhtiar Graduate Sub Engineer working on Acting Charge Basis promoted to the post of Assistant Engineer (BS-17) on regular basis vide notification no. SO(E)/IRR/4-3/DPC/2019/Vol-IX dated 28.03.2022.

9. Para 28 of the Service Tribunal Judgment 15.04.2022, which stated that "It would be considered a 'final order' within the meaning of the section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974".

10. The Hon'ble Court of Service Tribunal has given a Final Order in para 29 of the Judgment (copy attached at serial No. 1) that "In the given circumstances, we allow these appeals and direct the respondents to consider the appellants for the promotion against the vacant posts. The DPC shall be held at the earliest possible, but not later than a month of receipt this judgment. Copies of this judgment be placed on all the connected appeal files. Consign."

11. As per Final Order of the Hon'ble Court of Service Tribunal quoted above stated that the fresh DPC should be held for the deprived eligible 5 Nos of officer mentioned at serial No. 8, 10, 11, 13 and 15. The deprived officers should also be dealt equally in accordance with law as per para 26 of Service Tribunal Judgment dated 15.04.2022, and these 5 appellants should also be promoted to the post of Assistant Engineers (BS-17) as dealt with Engr. Bakhtiar, who promoted to Assistant Engineer (BS-17) on regular basis vide notification no. SO(E)/IRR/4-3/DPC/2019/Vol-IX dated 28.03.2022.

12. In light of the above Judgment the fresh DPC was held on dated 19.07.2022 and the appellants 5 Nos officers were promoted to the post of Assistant Engineer (BS-17) on regular basis but with effective from 23.06.2021, it is quite astonishing that they are regularized from the date 23.06.2021 which negates the para 26, 29 of the Final Order of Hon'ble court of Service Tribunal Judgment. It is pertinent to mention hereby that the Final Order of Hon'ble Court states that these 5 No's Graduate Sub Engineers should be regularized to the post of Assistant Engineer (BS-17) with the DPC held not later than a

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month time as dealt with Mr. Bakhtiar vide notification No. Notification No. SO(E)/IRR/4-3/DPC/VOL-IX dated Peshawar the 28TH MARCH, 2022

It is therefore humbly requested in your honor that the Notification No. SO(E)/IRR/4-3/DPC/Vol-X on dated 26th August, 2022 should be corrected according to the Judgment of the Hon'ble Court of Service Tribunal on dated 15.04.2022, and corrigendum should be issued for the Notification No. SO(E)/IRR/4-3/DPC/Vol-X, Dated Peshawar the 26th August, 2022, and the effective date should be replaced by "WITH IMMEDIATE EFFECT" instead of "23.06.2021" as dealt with Mr. Bakhtiar vide notification No. SO(E)/IRR/4-3/DPC/VOL-IX dated Peshawar the 28TH MARCH, 2022. We respect the Decision of Hon'ble Court of Service Tribunal, and its Final Order should be followed in true spirit. The 5 Nos deprived officers shall be regularized from the immediate effect after the DPC held on 19.07.2022 as per direction of Hon'ble Court of Service Tribunal Judgment on 15.04.2022, as it deprived our rights in the seniority lists of the Irrigation Department Khyber Pakhtunkhwa.

Copy for information and forwarded for your necessary action please:

1. Chief Engineers (South, North, Merged Areas) and Director General Small Dams
2. PSO to Hon'ble Chief Minister, Govt of Khyber Pakhtunkhwa.
3. PS to Chief Secretary Govt of Khyber Pakhtunkhwa Peshawar.
4. PS to Minister for Irrigation, Govt of Khyber Pakhtunkhwa.
5. PS to Secretary Establishment Department, Govt of Khyber Pakhtunkhwa Peshawar.
6. SOE Irrigation Department Peshawar.

Yours Sincere Officers
Assistant Engineer/SDO (BPS-17)
Irrigation Department Khyber Pakhtunkhwa

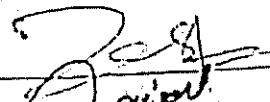
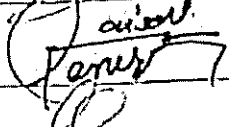


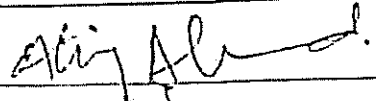

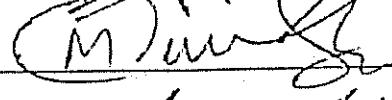
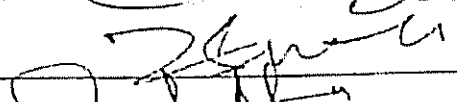

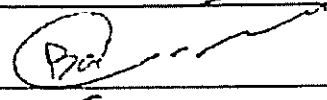
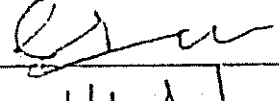
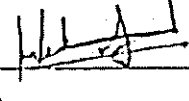
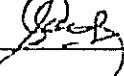

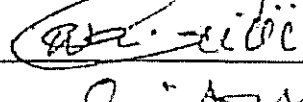
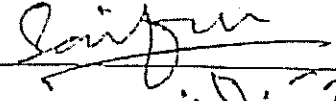
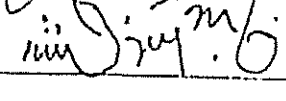

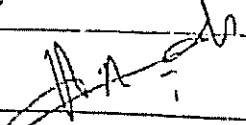
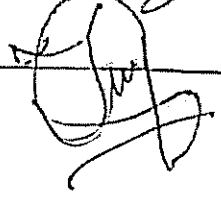
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S. No.	Name of Officer	Signature
1	Engr. Zeeshan Ullah	
2	Engr. Faisal Pervez	
3	Engr. Salman Ahmad	
4	Engr. Naveed Ullah	
5	Engr. Amjad Ali	
6	Engr. Syed Atiq Ahmad	
7	Engr. Noor Yaseen	
8	Engr. Manzoor Elahl	
9	Engr. Siddique Umar	
10	Engr. Farhan Alam	
11	Engr. Babar Saani	
12	Engr. Muhammad Suhail Khan	
13	Engr. Riaz Ud Din	
14	Engr. Sadiq Ali	
15	Engr. Muhammad Mustajab Khan	
16	Engr. Muhammad Wajahat Ali Khan	
17	Engr. Salf Ur Rehman	
18	Engr. Shazia Batool	
19	Engr. Hafsa Wadood	
20	Engr. Aiman Afridi	
21	Engr. Arif Gul	

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IRRIGATION DEPARTMENT

No. SO(E)/Irr:/2-1/2006/Seniority/Vol-IX
Dated Peshawar the 29th November, 2022

(47)

To

1. The Chief Engineer (South),
Irrigation Department,
Peshawar.
2. The Chief Engineer (North),
Irrigation Department,
Peshawar.
3. The Chief Engineer (Merged Areas),
Irrigation Department,
Peshawar.
4. The Director General (Small Dams),
Irrigation Department,
Peshawar.

Annex G

Subject: FINAL/UN-DISPUTED SENIORITY LIST OF ASSISTANT ENGINEERS (BS-17) (GRADUATE, B-TECH AND D.A.E) IRRIGATION DEPARTMENT AS STOOD ON 27.10.2022.

I am directed to refer to the subject noted above and to enclose herewith a copy of Final/un-disputed seniority list of Assistant Engineers/Sub Divisional Officer/Assistant Director (BS-17) (Graduate, B-Tech and D.A.E) Irrigation Department as stood on 27.10.2022 for information and record, please.

Encl: as above

(Maqsood Khan)
Section Officer (Estt:)

Endst: Even No. and Date.
Copy forwarded for information to: -

1. PS to Secretary Irrigation Department.
2. PA to Additional Secretary, Irrigation Department.
3. PA to Deputy Secretary (Admn) Irrigation Department.

Section Officer (Estt:)

3806	30/11
SG	S.B
SWO	J.A
SG	SR
	30/11/22

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ESTABLISHMENT SECTION)

Dated Peshawar the 29th November, 2022

NOTIFICATION

NO. SOLE/IRR/2-1/2006/VOL-IX. In pursuance of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule- 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Final/Un-disputed Seniority list of Assistant Engineers/ Sub Divisional Officers/Assistant Directors (BS-17) (Graduate) as stood on 27.10.2022, Irrigation Department, Khyber Pakhtunkhwa is hereby circulated/ notified for general information.

S.#.	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of Ist Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre		Method of recruitment	Remarks
					Date	BPS		
1	Engr. Amir Mohammad, B.E (Civil)	26.11.1963 Lalji Marwat	27.11.2023	12.12.1990	25.03.2003	17	By Promotion Working as XEN (OPS)	
2	Engr. Khushal Khan, B.E (Civil)	12.04.1965 South Waziristan	11.04.2025	10.01.1989	01.11.2004	17	By promotion -do-	
3	Engr. Masood Ahmad, B.E (Civil)	23.07.1979 Lalji Marwat	22.07.2039	18.02.2010	18.02.2010	17	By initial recruitment -do-	
4	Engr. Sohail Khan, B.E (Civil)	03.03.1982 Swabi	02.03.2042	02.02.2010	02.02.2010	17	By initial recruitment -do-	
5	Engr. Imtiaz Khan, M.Sc (Civil)	25.09.1984 Kohat	24.09.2044	06.02.2010	06.02.2010	17	By initial recruitment -do-	
6	Engr. Ali Ahmad, B.E (Civil)	03.03.1985 Chitral	02.03.2045	01.02.2010	01.02.2010	17	By initial recruitment -do-	
7	Engr. Tabinda Nousheen, B.E (Civil)	05.01.1987 Charsadda	04.01.2047	09.02.2010	09.02.2010	17	By initial recruitment Working as S.O (Operation), Irrigation Department	
8	Engr. Taimoor Zahid, B.E (Mech)	11.02.1985 Swabi	10.02.2045	08.02.2010	08.02.2010	17	By initial recruitment Working as XEN (OPS)	
9	Engr. Fazil Maula, B. Sc (Civil)	20.01.1969 Malakand	19.01.2029	19.01.1995	15.08.2011	17	By promotion -do-	
10	Engr. Anwar Ullah Khan, B.E (Civil)	05.01.1979 North Waziristan	04.01.2039	17.05.2012	17.05.2012	17	By initial recruitment -do-	

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S. #.	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of 1st Entry into Govt Regular Basis.	First Regular Appointment to the Service/Cadre			Remarks
					Date	BPS	Method of recruitment	
11.	Engr. Syed Ahmad Amin Shah, B. Sc (Civil)	12.03.1988 Charsadda	11.03.2048	17.05.2012	17.05.2012	17	By initial recruitment	-do-
12.	Engr. Mamriz Khan, B. Sc (Civil)	03.03.1986 Peshawar	02.03.2046	17.05.2012	17.05.2012	17	By initial recruitment	-do-
13.	Engr. Ayisha Amir, B. Sc (Civil)/MS	26.05.1988 Peshawar	25.05.2048	17.05.2012	17.05.2012	17	By initial recruitment	Section Officer (Dev), Irrigation Department.
14.	Engr. Mustafa Ali, B.E (Civil)	10.04.1987 Kurram	09.04.2047	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)
15.	Engr. Hassan Khan, B. Sc (Civil)	03.04.1988 Swabi	02.04.2048	17.05.2012	17.05.2012	17	By initial recruitment	-do-
16.	Engr. Mazhar Hussain, B. Sc (Civil)	14.04.1985 Kohat	13.04.2045	17.05.2012	17.05.2012	17	By initial recruitment	-do-
17.	Engr. Sherin Khan, B. Sc (Civil)	10.02.1989 Mohmand	09.02.2049	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)
18.	Engr. Qamar Shehzad Hussain, B. Sc (Civil)	15.04.1983 Abbotabad	14.04.2043	17.05.2012	17.05.2012	17	By initial recruitment	-do-
19.	Engr. Syed Suliman, B.E (Civil)	25.02.1988 Swat	24.02.2048	17.05.2012	17.05.2012	17	By initial recruitment	-do-
20.	Engr. Rajab Ali, B. Sc (Civil)	11.03.1985 Swat	10.03.2045	17.05.2012	17.05.2012	17	By initial recruitment	-do-
21.	Engr. Rabia Abbasi, M. Sc (Environmental Engineering)	01.03.1989 Manshara	28.02.2049	17.05.2012	17.05.2012	17	By initial recruitment	-do-
22.	Engr. Abdul Shakoor, B.E (Civil)	01.06.1981 Abbotabad	31.07.2041	17.05.2012	17.05.2012	17	By initial recruitment	Working as SDO
23.	Engr. Abdul Sadiq, B.E (Civil)	02.01.1969 Dir	01.01.2029	26.03.1992	05.05.2020	17	By promotion	Working as XEN (OPS)
24.	Engr. Aftab Alam, B.E (Civil)	01.01.1981 Charsadda	31.12.2040	17.11.2006	01.10.2020	17	By promotion	Working as XEN (OPS)
25.	Engr. Inamullah, BSc (Civil)	15.01.1982 Swat	14.01.1942	19.11.2011	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.

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S.#.	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of 1st Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre		BPS	Method of recruitment	Remarks
					Date				
26.	Engr. Shahid Ali Khan, BSc (Civil)	14.03.1983 Dir Lower	13.03.2043	16.09.2013	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
27.	Engr. Rizwan, BSc (Civil)	12.03.1988 D.I.Khan	11.03.2048	16.09.2013	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
28.	Engr. Javed Ullah Khan, BSc (Civil)	09.08.1984 Bannu	08.08.2044	19.10.2010	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
29.	Engr. Wajahat Hussain, BSc (Civil)	14.08.1990 Hangu	13.08.2050	19.10.2010	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
30.	Engr. Zeeshan Ullah, B.S (Civil)	16.10.1994 Mardan	15.10.2054	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
31.	Engr. Faisal Pervez, B.S (Civil)	01.04.1995 Charsadda	31.03.2055	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
32.	Engr. Salman Ahmad, B.S (Civil)	04.09.1996 Swabi	03.09.2056	27.09.2021	27.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
33.	Engr. Naweed Ullah, M.S (Construction & Engineering Management)	21.04.1990 Karak	20.04.2050	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
34.	Mr. Amjad Ali, B.S (Civil)	01.09.1995 Dir Lower	31.08.2055	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
35.	Engr. Syed Atiq Ahmad, B.Sc (Civil)	20.08.1994 Charsadda	19.08.2054	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
36.	Engr. Noor Yaseen, B.Sc (Civil)	01.01.1997 South Waziristan	31.12.2056	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
37.	Engr. Manzoor Elahi, M.Sc (Civil)	01.04.1992 Peshawar	31.03.2052	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
38.	Engr. Siddique Umar, B.S (Civil)	05.04.1997 Kohat	04.04.2057	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	
39.	Engr. Farhan Alam, B.S (Civil)	04.04.1995 Malakand	03.04.2055	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.	

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S.F.	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre			Remarks
					Date	BPS	Method of recruitment	
40.	Engr. Babar Saani, B.E (Civil)	07.03.1996 Charsadda	06.02.2056	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
41.	Engr. Muhammad Suhail Khan, M.Sc (Civil)	05.08.1992 Dir Lower	04.08.2052	01.10.2021	01.10.2021	17	By Initial recruitment	-do-
42.	Engr. Riaz Ud Din, B.E (Civil)	12.03.1995 Kurram	11.03.2055	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
43.	Engr. Saadiq Ali, B.Sc (Mechanical)	02.04.1996 Mardan	01.04.2056	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
44.	Engr. Muhammad Mustajab Khan, B.Sc (Civil)	25.04.1998 Haripur	24.04.2058	27.09.2021	27.09.2021	17	By Initial recruitment	-do-
45.	Engr. Muhammad Wajahat Ali Khan, B.S (Civil)	16.03.1995 Haripur	15.03.2055	27.09.2021	27.09.2021	17	By Initial recruitment	-do-
46.	Engr. Saif Ur Rehman, B.Sc (Mechanical)	04.03.1993 Orakzai	03.03.2053	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
47.	Engr. Shazia Batool, B.E (Civil)	28.10.1993 Kurram	27.10.2053	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
48.	Engr. Hafsa Wadood, B.Sc (Civil)	28.12.1994 Malakand	27.12.2054	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
49.	Engr. Aman Afridi, B.S (Civil)	12.11.1997 Khyber	11.11.2057	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
50.	Engr. Afi Gul, B.E (Civil)	01.11.1992 Swat	31.10.2052	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
51.	Engr. Balhwar BSc (Civil)	07.05.1964 Swat	06.05.2024	19.03.1992	28.03.2022	17	By Promotion	Working as XEN (OPPS)

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department


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Encl: No. SOLE/IRR/2-1/2006/Vol-VII

Copy of the above is forwarded to: -

1. The Chief Engineers (South/North/Merged Areas) Irrigation Department.
2. The Director General, Small Dams, Peshawar.
3. The Director General, Jabba Dam Project, Khyber.
4. The Project Director, Ground Water, Peshawar.
5. The Project Director, Raising of Baran Dam, Bannu.
6. All Superintendent Engineers of Irrigation Department, Peshawar.
7. All Executive Engineers of Irrigation Department, Peshawar.
8. The Web Developer, Irrigation Department.
9. PS to Secretary Irrigation Department, Peshawar.
10. PA to Additional Secretary, Irrigation Department.
11. PA to Deputy Secretary (Admin) Irrigation Department.


(Magsood Khan)
Section Officer (Estt:)

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT**

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No. SO(E)/Irr:/2-1/2006/Seniority/Vol-VII
Dated Peshawar the 20th January, 2021

To

Annex - G/1

1. The Chief Engineer (North/South), Irrigation Department.
2. The Chief Engineer (Merged Areas), Irrigation Department.
3. The Director General, (Small Dams/ Jabba Dam), Irrigation Department.
4. All the Project Directors, Irrigation Department.

Subject: TENTATIVE SENIORITY LISTS OF SUPERINTENDING ENGINEERS (BS-19), EXECUTIVE ENGINEERS (BS-18), CANAL COLLECTOR (BS-18), ASSISTANT ENGINEERS (BS-17), DEPUTY COLLECTOR (BS-17) AND ADMINISTRATIVE OFFICER (BS-17) OF IRRIGATION DEPARTMENT.

Dear Sir,

I am directed to refer to the subject noted above and to inform that tentative seniority lists of SuperIntending Engineers (BS-19), Executive Engineers (BS-18), Canal Collector (BS-18), Assistant Engineer (BS-17), Deputy Collector (BS-17) and Administrative Officer (BS-17) of Irrigation Department with the request that the certificate given below has been uploaded on official website of Irrigation Department (<http://irrigation.gkp.pk/>).

In view of the above, it is requested to kindly direct all the Irrigation officers working under your kind control, to download the same from above mentioned website and thoroughly examine their particulars and return certificate given below duly signed, indicating error/ omission, if any, for the purpose of rectification along with attested supporting documents up-to **03.02.2022**.

In case of receipt of no response by the due date, it would be considered that particulars have been found correct.

Section Officer (Estt.)

CERTIFICATE

Subject: - TENTATIVE SENIORITY LIST OF (BS-) IRRIGATION DEPARTMENT.

It is certified that I have gone through my particulars mentioned at Sr. No. _____ of the tentative seniority list of BS-____ of the Irrigation Department and found them correct, except at the following columns:-

S. No.	Column No.	Present entry	To be replaced by	Remarks

The following discrepancies are also brought in to the notice:-

- 1.
- 2.

Name _____
BPS _____
Designation _____
Dated _____
Qualification _____
(must be indicated)

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SIGNATURE

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Annex-G/1



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ESTABLISHMENT SECTION)

Dated Peshawar the 20th January, 2022

TENTATIVE SENIORITY LIST OF ASSISTANT ENGINEER (BS-17) (DEGREE HOLDERS), IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA.

S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre		BPS	Method of recruitment	Remarks
				Date				
1.	Mr. Amir Mohammad, B.E (Civil)	26.11.1963 Lakki Marwat	12.12.1990	25.03.2003	17	By Promotion	Working as XEN (OPS)	
2.	Mr. Khushal Khan, B.E (Civil)	12.04.1965 S. Waziristan	10.01.1989	01.11.2004	17	By promotion	-do-	
3.	Mr. Masood Ahmad, B.E (Civil)	23.07.1979 Lakki Marwat	18.02.2010	18.02.2010	17	By initial recruitment	-do-	
4.	Mr. Sohail Khan, B.E (Civil)	03.03.1982 Swabi	02.02.2010	02.02.2010	17	By initial recruitment	-do-	
5.	Mr. Imdad Khan, B.E (Civil)	25.09.1984 Kohat	06.02.2010	06.02.2010	17	By initial recruitment	-do-	
6.	Mr. Ali Ahmad, B.E (Civil)	03.03.1985 Chitral	01.02.2010	01.02.2010	17	By initial recruitment	-do-	
7.	Miss Tabinda Nousheen, B.E(Civil)	05.01.1987 Charsadda	09.02.2010	09.02.2010	17	By initial recruitment	Working as S.O (Operation), Irrigation Department	
8.	Mr. Taimoor Zahid, B.E (Mech)	11.02.1985 Swabi	08.02.2010	08.02.2010	17	By initial recruitment	Working as XEN (OPS)	
9.	Mr. Fazli Maula, B. Sc (Civil)	20.01.1969 Malakand	19.01.1995	15.08.2011	17	By promotion	-do-	

[Signature]

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to be true

[Signature]

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S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre		BPS	Method of recruitment	Remarks
				Date				
1		2	3	4	5	6	7	
10.	Mr. Anwar Ullah Khan, B.E (Civil)	05.01.1979 N. Waziristan	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
11.	Syed Ahmad Amin Shah, B. Sc (Civil)	12.03.1988 Charsadda	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
12.	Mr. Mamruz Khan, B. Sc (Civil)	03.03.1986 Peshawar	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
13.	Miss. Ayisha Amir, B. Sc (Civil)/MSI	26.05.1988 Peshawar	17.05.2012	17.05.2012	17	By initial recruitment	Section Officer (Dev'l), Irrigation Department.	
14.	Mr. Mustafa Ali, B.E (Civil)	10.04.1987 Kurram	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)	
15.	Mr. Hassan Khan, B. Sc (Civil)	03.04.1988 Swabi	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
16.	Mr. Mazhar Hussain, B. Sc (Civil)	14.04.1985 Kohat	17.05.2012	17.05.2012	17	By initial recruitment	Working as SDO	
17.	Mr. Sherin Khan, B. Sc (Civil)	10.02.1989 Mohmand	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)	
18.	Mr. Qamar Shehzad Hussain, B. Sc (Civil)	15.04.1983 Abbottabad	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
19.	Syed Suliman, B.E (Civil)	25.02.1988 Swat	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
20.	Mr. Rajab Ali, B. Sc (Civil)	11.03.1985 Swat	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
21.	Miss. Rabia Abbasi, M. Sc (Environmental Engineering)	01.03.1989 Manshehra	17.05.2012	17.05.2012	17	By initial recruitment	-do-	
22.	Mr. Abdul Shakoor, B.E (Civil)	01.08.1981 Abbottabad	17.05.2012	17.05.2012	17	By initial recruitment	Working as SDO	
23.	Mr. Abdul Sadiq, B.E (Civil)	02.01.1969 Dir	28.03.1992	05.05.2020	17	By promotion	-do-	
24.	Mr. Aftab Alam, B.E (Civil)	01.01.1981 Charsadda	17.11.2006	01.10.2020	17	By promotion	Working as XEN (OPS)	



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S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre			Remarks
				Date	BPS	Method of recruitment	
1		2	3	4	5	6	7
25.	Mr. Zeeshan Ullah, B.S (Civil)	<u>16.10.1994</u> Mardan	13.10.2021	13.10.2020	17	By Initial recruitment	Working as SDO
26.	Mr. Faisal Pervez, B.S (Civil)	<u>01.04.1995</u> Charsadda	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
27.	Mr. Salman Ahmad, B.S (Civil)	<u>04.09.1996</u> Swabi	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
28.	Mr. Naveed Ullah, M.S (Construction & Engineering Management)	<u>21.04.1990</u> Karak	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
29.	Mr. Amjad Ali, B.S (Civil)	<u>01.09.1995</u> Dir Lower	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
30.	Syed Atiq Ahmad, B.Sc (Civil)	<u>20.08.1994</u> Charsadda	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
31.	Mr. Noor Yaseen, B.Sc (Civil)	<u>01.01.1997</u> S. Waziristan	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
32.	Mr. Manzoor Elahi, M.Sc (Civil)	<u>01.04.1992</u> Peshawar	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
33.	Mr. Siddique Umar, B.S (Civil)	<u>05.04.1997</u> Kohat	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
34.	Mr. Farhan Alam, B.S (Civil)	<u>04.04.1995</u> Malakand	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
35.	Mr. Babar Saani, B.E (Civil)	<u>07.02.1996</u> Charsadda	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
36.	Muhammad Suhail Khan, B.E (Civil)	<u>05.08.1992</u> Dir Lower	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
37.	Mr. Riaz Udd Din, B.E (Civil)	<u>12.03.1995</u> Kurram	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
38.	Mr. Saadiq Ali, B.Sc (Mechanical)	<u>02.04.1996</u> Mardan	13.10.2021	13.10.2020	17	By Initial recruitment	-do-

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Signature

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S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre		BPS	Method of recruitment	Remarks
				Date				
1		2	3	4	5	6	7	
39.	M. Mustajab Khan, B.Sc (Civil)	25.04.1998 Haripur	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	
40.	M. Wajahat Ali Khan, B.S (Civil)	16.03.1995 Haripur	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	
41.	Mr. Saif Ur Rehman, B.Sc (Mechanical)	04.03.1993 Orakzai	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	
42.	Miss. Shazia Batool, B.E (Civil)	28.10.1993 Kurram	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	
43.	Miss. Halsa Wadood, B.Sc (Civil)	28.12.1994 Malakand	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	
44.	Miss. Aiman Afridi, B.S (Civil)	12.11.1997 Khyber	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	
45.	Mr. Arif Gul, B.E (Civil)	01.11.1992 Swat	13.10.2021	13.10.2020	17	By Initial recruitment	-do-	



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