

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7593/2021

Date of Institution ... 14.10.2021

Date of Decision ... 21.01.2022

Taj Noor Son of Said Noor R/o Hero Shah Gandero Shah, Tehsil Dargai District
Malakand. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary Government of
Khyber Pakhtunkhwa at Civil Secretariat Peshawar and others.

... (Respondents)

Farhad Ali Shah
Advocate

... For Appellant

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant was appointed as Additional Government Pleader/Additional Public Prosecutor in law department vide order dated 28-11-1998, who later on was promoted to BPS-18 as Public Prosecutor, subsequently to BPS-19 but was left out in promotion to BPS-20, against which the appellant filed departmental appeal dated 18-07-2018, which was rejected. The appellant filed Writ Petition No. 1089-M/2018, which was disposed of vide judgment dated 01-12-2020, was treated as departmental appeal and was referred to respondents for necessary action as per law. The respondents rejected such departmental appeal vide order dated 25-06-2021. Feeling aggrieved, the appellant again filed Writ Petition No. 759-M/2021, which was disposed of vide judgment dated 28-09-2021 and was

referred to this tribunal being the proper forum for the issue in hand. The appellant has prayed that he may be granted notional promotion alongwith all back benefits including pensionary benefits from the date of entitlement i.e. 28-11-2015.

02. Learned counsel for the appellant has contended that filing/rejection of the departmental appeal of the appellant for notional promotion vide impugned order dated 25-06-2021 is illegal, unlawful and un-constitutional and in violation of Article-4, 10A, 25,38,260,264 alongwith other Articles of the Constitution; that promotion of the appellant to the post of BPS-20 was deferred due to non-availability of PER for the year 2016, the same however, were timely submitted to the respondent No 5 and documentary proof to this effect is available on record; that the appellant was entitled for promotion to BPS-20 in that time, but it was due to laxity on part of the respondents that the appellant was kept deprived of his legal right; that it was responsibility of the respondents to inform the appellant of the shortcomings in the forthcoming PSB, but the respondents kept the appellant ignorant of such situation; that negligence on part of the respondents shall not be attributed to the appellant and the appellant may not be punished for follies of the respondents; that the appellant during the course of litigation reached his age of superannuation dated 03-03-2019 and retired from service; that now the appellant is entitled to be given proforma/notional promotion with effect from the date of his entitlement i.e. 28-11-2015

03. Learned Deputy District Attorney for the respondents has contended that the appellant is praying for his promotion to BPS-20, whereas the appellant reached his age of superannuation on 03-03-2019, hence his appeal may be dismissed being infructuous; that the appellant was at serial No. 12 of the seniority list during the course of promotion, hence he was not the senior most amongst his colleagues; that departmental appeal of the appellant was properly examined but was found devoid of merit, hence was rejected; that the appellant

reached his age of superannuation, otherwise he would have been promoted in the forthcoming PSB.

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

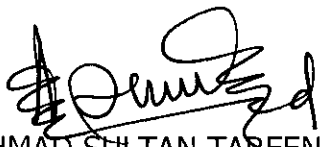
05. Record would reveal that the appellant fought a long legal battle for his promotion to BPS-20 but could not succeed during service. The appellant knocked at the door of Honorable High Court Peshawar for his promotion to BPS-20 and his petition was converted into departmental appeal, which was considered by the respondents but was rejected on the grounds that case of the appellant for promotion to BPS-20 was deferred by Provincial Selection Board (PSB) in its meeting held on 26-02-2018 due to non-availability of his PER for the year 2016 and until meeting of next PSB was convened, the appellant reached his age of superannuation, hence he was not entitled for notional promotion under promotion policy 2009. It is un-disputed that the appellant was considered for promotion but was deferred due to want of PER, but the appellant cannot in any way be held responsible for such deficiency and was wrongly denied promotion as providing PER of the petitioner to the promotion board was responsibility of the respondents, hence we see no reason why this appeal should not be accepted.


W M 06. Record would suggest that appellant was at serial No 12 and promotions were made including his colleagues as well as juniors but the appellant was deferred for a reason, which cannot be attributed to the appellant. As per practice in vogue, deficiency if any is met out well before meeting of the PSB. Record would show that the appellant had already submitted his PER to the office of respondent No 5 and it was his responsibility to make it available to PSB. Nothing is available on record to show that the appellant was not fit for promotion nor any other reason is assigned by the respondents in their comments.

07. We are of the considered opinion that the appellant has not been treated in accordance with law, as his case for promotion was deferred for want of PER, meaning thereby, that he was entitled for promotion at that point of time but was ignored for a reason beyond his control. The appellant having retired meanwhile, was entitled to all benefits, which would have accrued to him in case he had been promoted in the relevant year on the recommendation of promotion board.

08. In view of the forgoing discussion, the instant appeal is accepted. The appellant is held entitled to proforma promotion from the date, his other colleagues/juniors were promoted alongwith all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
21.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

ORDER

21.01.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The appellant is held entitled to proforma promotion from the date, his other colleagues/juniors were promoted alongwith all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

21.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

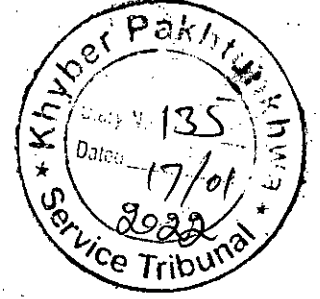
BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 7593/2021

Taj Noor

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary



APPLICATION FOR TRANSFER AND EARLY HEARING IN THE ABOVE TITLE CASE

Respectfully sheweth:

1. That the above titled case has been fixed for hearing dated 07/02/2022 before this Hon'ble Court at Camp Court Swat.
2. That the fundamental rights of the applicant/appellant are involved in the above title case and fixation of an early hearing of the title case is most urgent.

It is therefore, most humbly prayed that the above title case my kindly be fixed for an early hearing at principle seat Peshawar on the above stated grounds.

Dated: 17/01/2022

Appellant

Taj Noor
Taj Noor

Through

Muhammad Javaid Khan
Advocate Supreme Court

*put up to the worthy chairman
with appeal.*

17/11/2022

Reader.

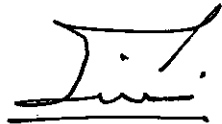
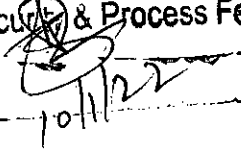
fix before SB on 21.01.2022

04.01.2022

Clerk of learned counsel for the appellant present.

File perused.. Grounds taken by the appellant in the appeal needs further consideration, therefore, the appeal in hand is admitted to regular hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments on 07.02.2022 before the S.B at Camp Court Swat.

Appellant Deposited
Security & Process Fee





(Salah-Ud-Din)
Member (J)
Camp Court Swat

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 7593 /2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	14/10/2021	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Mingora Bench/Dara-ul-Qaza at Swat and the Hon'ble High Court vide its order dated 28.09.2021 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;">  REGISTRAR </p> <p>This case is entrusted to Touring S. Bench at Swat. Notices be issued to appellant/counsel for preliminary hearing to be put up there on <u>04/10/22</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

All communications should be
addressed to the Additional Registrar
of this Bench.

Office: 0946-885005
Fax: 0946-885004
E-Mail: darulqazaswat2011@gmail.com

No. 3055 / Writ Petition Branch;

Dated: 08-10-2021

To

The Registrar,
Khyber Pakhtunkhwa Service Tribunal Peshawar,
Old Judicial Complex, Khyber Road, Peshawar. 091-9212281

Subject: Writ Petition No. 759-M of 2021

Taj Noor

Petitioner

Versus

Govt. of KPK through Chief Secretary & others

Respondents

Memo:

I am directed by the Hon'ble Division Bench of this Court vide judgment dated **28-09-2021** to forward herewith the original grounds of subject Writ Petition alongwith Annexures etc and certified copy of judgment for necessary action in the light of judgment dated **28-09-2021**.

S. No	Case No with Title.	Pages/ Sheets
01	W.P 759-M of 2021 <i>Taj Noor Vs Govt. of KPK through Chief Secretary & others</i>	73 Pages (1-File)

Kindly acknowledge the receipt of this letter along with its enclosures please.

Encl. a.a

Additional Registrar

10712
7-10-21
17/10

JUDGMENT SHEET

**PESHAWAR HIGH COURT, MINGORA
BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

W.P. No. 759-M/2021

JUDGMENT

Date of hearing: 28.09.2021

**Petitioner:- (Taj Noor) by Muhamamd Javaid
Khan, Advocate.**

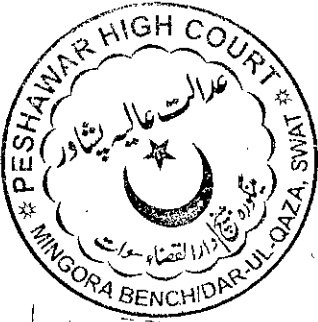
**Respondents:- (Govt: of KPK & others) by Mr.
Raza-ud-Din Khan, Addl: A.G.**

WIQAR AHMAD, J.- Petitioner has filed the instant constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, with the following prayer;

“ It is therefore most humbly prayed that on acceptance of this petition, a writ may be issued to the official Respondents to grant notional promotion to the Petitioner along with all back service benefits including pensionary benefits etc from the date of entitlement i.e. 28.11.2018.

Any other remedy coupled with cost, which is efficacious and appropriate, in peculiar circumstances of the case, may please be graciously granted, though not specifically prayed for.”

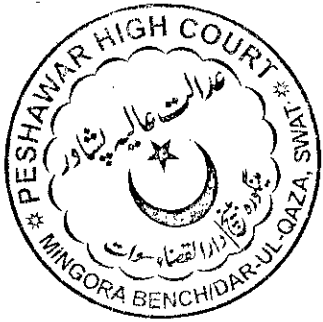
2. Hon'ble Supreme Court of Pakistan while giving its judgment in the case of **“Chief Secretary Govt: of the Punjab, etc v/s Ms. Shamim Usman”** (“Civil Petition No. 1097-L of 2020”) has clarified the situation that the matter of *proforma* promotion would fall within the exclusive jurisdiction of learned Service Tribunal. Learned counsel for petitioner after realizing the situation



requested that the instant petition be sent to the learned Service Tribunal for disposal according to law. In this respect, he also placed reliance on the judgment of Hon'ble Supreme Court of Pakistan rendered in the case "Muhammad Akram v/s DCO Rahim Yar Khan and others" reported as 2017 SCMR 56. Request of the learned counsel for petitioner seems justified. The instant petition is ordered to be sent to learned Service Tribunal where it shall be treated as an appeal filed before the learned Tribunal. The instant constitutional petition is disposed of accordingly.

ANNOUNCED

Dt: 28.09.2021



Certified to be True Copy

EXAMINER
Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984

JUDGE

JUDGE

IN THE PESHAWAR HIGH COURT, BENCH MINGORA /
DAR-UL-QAZA, SWAT

WRIT PETITION NO. 759-1 OF 2021

Taj Noor vs Govt. of FPR etc

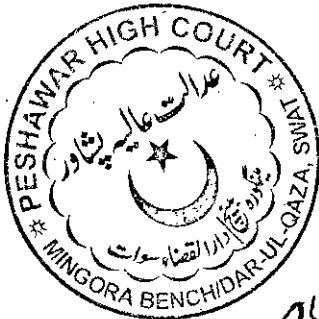
This petition had been presented by M.r. M. Javid Khan Advocate

On behalf of the petitioner /petitioners.

The petition is in proper form, copies of all the relevant documents have been attached.

one ~~three~~ (01) spare copies of writ petition have also been attached.

Petition be entered in the relevant register and placed before Hon'able court (D.B) for further orders on 28.9.2021 the date fixed.



Dated: 04/08/2021

READER

COUNTERSIGNED

Additional Registrar,
Peshawar High Court, Bench
Mingora/Dar-ul-Qaza, Swat.

Dated: 04/08/2021

04-08-21

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA, SWAT
OBJECTION SLIP

Taj Noor VERSUS Govt; of KPK through Chief Secretary & Others

Receipt No. 21-7899

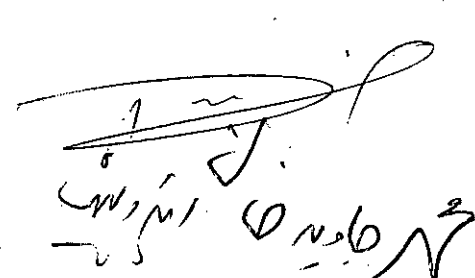
- 1 Certified copies of annexures/ page # **some pages** have not been filed.
- 2 Copies of annexures/ page # **38** arc not legible.
- 3 Petitioner's / Attorney of petitioner's CNIC#/ present address / permanent address/ phone #/ cell#/ Fax #/ email address has not been mentioned in memo of address of the parties.
- 4 most of the pages carries double numbers, which should be made cleared
- 5 Copy of the CNIC of the petitioner be provided


Reader

Returned with the objections mentioned above. Case be re-submitted on or before 13-08-2021

Additional Registrar
PHC, Mingora Bench

Dated: 04-08-2021

ضمانت کے لئے، ضمانت
page no 38 کی کاپی کو پوری کیا گیا ہے۔ جو کہ
تاریخ سے فوراً پیش کیا گیا ہے۔ جو کہ اس وقت کی ضرورت تھی۔
کو فیصلہ فرمایا، یہ مادی اس کے ساتھ ساتھ لیا گیا ہے۔
اس کی دستاویزی اور اس کے ساتھ ساتھ اس کے ساتھ ساتھ

تاریخ 04-08-2021

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA, SWAT
OBJECTION SLIP

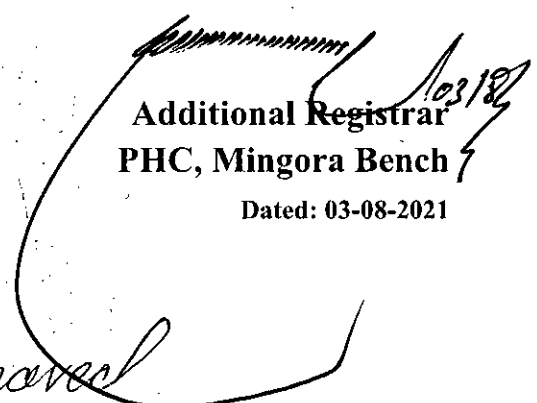
Taj Noor VERSUS Govt. of KPK through Chief Secretary & Others

Receipt No. 21-7876

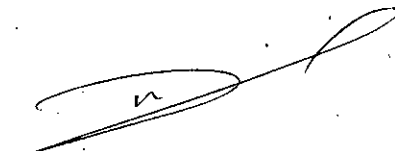
1 First the petition be paged properly/ according to index then will be consider for further scrutiny.


Reader

Returned with the objections mentioned above. Case be re-submitted on or before 13-08-2021


Additional Registrar
PHC, Mingora Bench
Dated: 03-08-2021

Note: All objections are removed
and replied today.


M. Javeed Khan
A.S.C

IN THE COURT OF PESHAWAR HIGH COURT
BENCH AT MINGORA SWAT

CHECK LIST

1.	Case titled	Taj Noor VS Govt of KPK and others	YES	NO
2.	Case is duly signed		✓	
3.	The law under which the case is preferred has been mentioned		✓	
4.	Approved file cover is used		✓	
5.	Affidavit is duly attested and appended		✓	
6.	Case and the annexure are properly paged an numbered according to the index		✓	
7.	Copies of the annexure are legible and attested. If not then better copies duly attested have been annexed.		✓	
8.	Certified copies of all the requisite document have been filed		✓	
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed		✓	
10.	Case is with in time		✓	
11.	That the value for the purpose of the court fee and jurisdiction has been mentioned in the relevant column		✓	
12.	Court fee in shape of stamp is affixed (for writ, 500 for others is required)		✓	
13.	Power of attorney is in proper form		✓	
14.	Memo of addresses filed		✓	
15.	List of books mentioned in the petition		✓	
16.	The requisite number if spare copies attached (writ petition 3 Nos, Civil Appeal (SB-1, DB-2), civil revision (SB-1, DB-2)		✓	
17.	Case (Revision/ Appeal / Petition etc / is filed in a prescribed form		✓	
18.	Power of attorney is attached by jail authority (for jail prisoners only)			✓

It is certified that the formalities / documents as required in column 2 to 18 above have been fulfilled.

Name: MUHAMMAD JAVAID KHAN

Advocate

Signature _____

Dated: 3-8-2021

FOR OFFICE USE ONLY

Case No. _____

Case received on _____

Complete in all respect: Yes / No (If No the grounds) _____

Date in court _____

FILED TODAY

03 AUG 2021

Additional Registrar

Signature _____

for Reader

Dated: _____

Countersigned: _____

(Additional Registrar)

IN THE PESHAWAR HIGH COURT PESHAWAR
OPENING SHEET FOR CIVIL BRANCH

Case No.
Date of Filing:
District Swat

Case Type: Writ Petition **759-** Nature of Original Proceeding:

Category Code:

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(Categories & sub Categories are given at the back of the opening sheet)

Review / Contempt of Court in respect of:

--

Writ of:

Heabus Corpus	Prohibition	Mandamus	Quo Warranto	Certiorari
------------------	-------------	----------	-----------------	------------

It Certiorari:

Forum	Date	(I)nterlocutory/(F)inal Order

Case pertains to
 SB
 DB

Petitioner Name	Taj Noor Son of Said Noor R/o Hero Shah Gadero Shah, Tehsil Dargai District Malakand
Mobile No.	
Address	District Buner
CNIC No.	
Email Address	NIL

Counsel for Petitioner (s)	Muhammad Javaid Khan
Mobile No.	0343-9607492
Address	Allah-o-Akbar Masjid, College Colony, Saidu Sharif, Swat
CNIC No.	15602-3557385-3
Email Address	akhan10963@gmail.com

Respondents	Govt of KPK and others.
Address	"do"

Original Order / Action / Inaction Complained of:
The impugned letter of Respondents is illegal, unlawful and unconstitutional.

Prayer

On acceptance of this writ petition, a writ may be issued to the official Respondents to grant notional promotion to the Petitioner along with all back service benefits including pensionary benefits etc from the date of entitlement i.e 28/11/2018.
Any other remedy coupled with cost, which is efficacious and appropriate, in peculiar circumstances, of the case, may please be graciously granted, though not specifically prayed for.

Law/rules governing the original proceedings / action / Inaction

Signature

Note: Any suggestion to improve the proforma will be appreciated:

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03 AUG 2021

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT,

MINGORA BENCH / DAR-UL-QAZA AT SWAT

Service Appeal No: 7593/2021

Writ Petition No. 759- of 2021

Taj Noor

SCANNED
Petitioner

VERSUS

Govt of KPK and others

.....Respondents

INDEX

S.#	Description of Documents	Annex:	Pages
1.	Writ Petition	-	1-9
2.	Affidavit & Certificate	-	10-11
3.	Memo of Addresses	-	12
4.	Copy of the Uniform Promotion Policy 2009, Tentative Seniority List of District Public Prosecutors and Senior Public Prosecutors (BPS-19, Directorate of Prosecution, Home and Tribal Department, the Notification Dated: 18/01/2018 along with the copy of the amendment / notification Dated: 21/05/2018	A	13-42
5.	Copy of the writ petition No. 1089-M	B	43-48
6.	Copy of order and judgment Dated: 01/12/2020	C	49-52
7.	Copy of the letter Dated: 25/06/2021	D	53
8.	Copy of the letter Dated: 15/07/2021	E	54
9.	Copy of the application along with the certificate, receipts, dispatch diary and received diary duly attested	F	55-57
10.	Copy of the directives Dated: 15/05/2018 along with covering letter Dated: 13/06/2018	G	58-60
	Copy of comments	H	61-63
11.	Copy of the notice	I	64
11.	Court fee	-	65
12.	Wakalat Nama	-	66

Re-Filed Today

04 AUG 2021

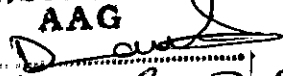
Additional Registrar

FILED TODAY

03 AUG 2021

Additional Registrar

**Noted for
AAG**

Sign: 
Date: 4-8-2021

Petitioner

Through Counsel

MUHAMMAD JAVAID KHAN

Advocate Supreme Court of Pakistan

Office: Allah-o-Akbar Masjid,

College Colony, Saidu Sharif, Swat

Cell: 0343-9607492

13

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH / DAR-UL-QAZA AT SWAT

Service Appeal No: 7593/2021

Writ Petition No. 759-11 of 2021

Taj Noor Son of Said Noor R/o Hero Shah Gandero Shah,
Tehsil Dargai District MalakandPetitioner

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary Govt of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
- 2) Secretary to the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department at Civil Secretariat Peshawar.
- 3) The Secretary to the Government of Khyber Pakhtunkhwa Establishment Department at Civil Secretariat Peshawar.
- 4) The Secretary to the Government of Khyber Pakhtunkhwa Law Parliamentary Affairs & Home Rights Department.
- 5) The Director General Prosecutor, Directorate of Prosecution Home & Tribal Affairs Department, Government of KPK at Peshawar.

FILED TODAY

03 AUG 2021

Additional Registrar

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973.

Respectfully Sheweth:-

1. That the Petitioner was appointed as Additional Government Pleader/ Additional Public Prosecutor in Law Department on 28/11/1998.
2. That the Petitioner was then promoted to BPS-18 as Public Prosecutor and took charge as Public Prosecutor in BPS-18 in ATC Swat on 25/05/2004.
3. That after the bifurcation of the post of Government Pleader and Public Prosecutor, the Petitioner joined/ preferred the directorate of prosecution as Public Prosecutor in the Home & Tribal Affairs Department Government of Khyber Pakhtunkhwa in the year 2005.
4. That in the year 2011 the Petitioner was promoted to BPS-19 and took charge as District Public Prosecutor BPS-19 on 12/02/2011.
5. That the Petitioner being duly qualified for further promotion to Regional Director Prosecution BPS-20 (after the promulgation of uniform promotion Policy in 2009 for all Civil servants in Khyber Pakhtunkhwa), the Petitioner applied for promotion

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03 AUG 2021

Additional Registrar

on 18/07/2018. The contents of the said application along with annexure may be considered as an integral part of this writ petition. (Copy of the Uniform Promotion Policy 2009, Tentative Seniority List of District Public Prosecutors and Senior Public Prosecutors (BPS-19, Directorate of Prosecution, Home and Tribal Department, the Notification Dated: 18/01/2018 along with the copy of the amendment / notification Dated: 21/05/2018 are annexed herewith as annexure "A").

6. That the Application of the Petitioner Dated: 18/07/2018 was filed / rejected illegally, unlawfully, unconstitutionally by Respondent No.5. Copy of the said filing / rejection order has not been provided to the Petitioner despite repeated requests.

7. That the Petitioner filed a writ petition No. 1089-M of 2018 before the Peshawar High Court Mingora Bench/ Dar ul Qaza Swat. (Copy of the writ petition No. 1089-M is attached as annexure "B").

8. That the said writ petition was converted into a departmental appeal and was sent to the

FILED TODAY

03 AUG 2021

Additional Registrar

(4)

Respondents No. 2 to 5/ Department for passing an appropriate order thereupon vide order and judgment Dated: 01/12/2020. (Copy of order and judgment Dated: 01/12/2020 is attached as annexure "C").

9. That the said departmental appeal was filed / rejected by the Respondent No.2 and the said was communicated to Respondent No.5 vide letter Dated: 25/06/2021. (Copy of the letter Dated: 25/06/2021 is attached as annexure "D").

10. That the said letter was communicated to the Petitioner vide letter Dated: 01/07/2021, which was received by the Petitioner on 13/07/2021. (Copy of the letter Dated: 13/07/2021 is attached as annexure "E").

11. That the Petitioner being aggrieved from the decision of Respondents communicated through letter Dated: 25/06/2021, has no other appropriate, efficacious and prompt remedy except to knock at the doors of this Honorable Constitutional Court Inter Alia on the following grounds.

FILED TODAY

03 AUG 2021

Additional Registrar

GROUNDS :-

5

- A) That the filling/ rejection of the departmental appeal of the Petitioner for notional promotion vide the impugned order/ letter Dated: 25/06/2021 is illegal, unlawful and unconstitutional.
- B) That the filling/ rejection of the departmental appeal of the Petitioner for notional promotion by the Respondents has been done in violation of Article 4, 10A), 25, 38, 260, 264 along with other Articles of the Constitutional of Islamic Republic of Pakistan, 1973.
- C) That in the impugned order communicated through letter Dated: 25/06/2021, three grounds are mentioned for rejection / filling of departmental appeal, which are narrated and answered as follows;

Firstly, it has been alleged the promotion of the Petitioner was differed by the Provincial Selection Board in its meeting held on 26/02/2018 from BS-19 to BS-20 due to non availability of PERs for the year 2016, which is totally incorrect for the reason that the PERs for the year 2016 were submitted from DPP Office Chatral vide dispatched No. 27 Dated: 01/07/2017. In this regard, the Petitioner has obtained a certificate Dated: 28/07/2021 along with the relevant record by

FILED TODAY

03 AUG 2021

Additional Registrar

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submitting an application to the present DPP lower Chatral. It is pertinent to mention that the said were received at the office of Respondent No.5. (Copy of the application along with the certificate, receipts, dispatch diary and received diary duly attested, is attached as annexure "F").

Secondly, it has been alleged in the impugned letter Dated: 25/06/2021 that the Petitioner was at Serial No. 12 in the seniority list and at that time 8 posts of BS-20 were lying vacant, hence the name of the Petitioner was not considered. This assertion is also totally incorrect for the reason that according to the Khyber Pakhtunkhwa Civil Servant Promotion Policy 2009 (the promotion policy invoked at that time), it is mentioned in clause iii sub clause ii that the panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20. Hence, it was the requirement of the policy that 24 names of officers should have been recommended / placed before the Provincial Promotion Board for consideration of promotion from BS-19 to BS-20. Copy of the Khyber Pakhtunkhwa Civil Servant Promotion Policy 2009 is already annexed in Annexure "A").

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Thirdly, in the impugned letter it has been asserted that in Para 7 of the Khyber Pakhtunkhwa Promotion Policy 2009, the appeal of the officer is not tenable, as notional promotion is admissible only to civil servants who retires or expires after recommendation of the Provincial Selection Board or Departmental Promotion Committee as the case may be, but before approval of the competent authority. This assertion of Respondents is also totally incorrect, baseless and misconceived for the reason that the wording of the said para transpires otherwise. It is further submitted that the Petitioner had filed a writ petition (converted into departmental appeal) before his retirement.

- D) That the Petitioner has submitted his ACR for the year 2016 well within time, which is very much clear from the above mentioned paras. Furthermore it is submitted that it was the responsibility of the Respondents to have communicated to the Petitioner in respect of deficiency (if any) of non-availability of PERs. In this regard the directive of the PSB meeting held on 03/05/2018 was issued to Respondents and all other Provincial Governments Departments vide letter Dated: 15/05/2018. The negligence on the part of Respondents

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shall not be attributed to the Petitioner and the Petitioner may not be punished for the negligence and wrong committed by the Respondents. (Copy of the directives Dated: 15/05/2018 along with covering letter Dated: 13/06/2018 is attached as annexure "G").

E) That the impugned letter is vague/ silent in respect of the fact that the meeting of Provincial Promotion Board is convened after every three months, what the Respondents have done in the other meetings. In this regard, the said letter is evasive just to deprive the Petitioner from his legal and vested right of notional promotion, hence on this score alone the impugned letter is illegal, unlawful and unconstitutional.

F) That the ground of deficiency of the ACR for the year 2016 was not mentioned by the Respondents in their comments, submitted during the proceedings in writ petition No. 1089-M of 2018 of the Petitioner, hence this assertion of the Respondents in the impugned letter is clear cut and after thought lame excuse just to deprive the Petitioner from his legal and vested right of notional promotion. (Copy of comments is attached as annexure "H").

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12. That a notice in respect of the institution of this writ petition has been sent to the Respondents. (Copy of the notice is attached herewith as annexure "I")

It is therefore humbly prayed that on acceptance of this writ petition, a writ may be issued to the official Respondents to grant notional promotion to the Petitioner along with all back service benefits including pensionary benefits etc from the date of entitlement i.e 28/11/2018.

28/11/2015

Any other remedy coupled with cost, which is efficacious and appropriate, in peculiar circumstances of the case, may please be graciously granted, though not specifically prayed for.

Petitioner
Through Counsel


MUHAMMAD JAVAID KHAN
Advocate Supreme Court
of Pakistan


List of books:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Any other law book / precedents as per need.

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Additional Registrar


MUHAMMAD JAVAID KHAN
Advocate Supreme Court
of Pakistan

10

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH / DAR-UL-QAZA AT SWAT

Writ Petition No. 759-.....of 2021

Taj NoorPetitioner


VERSUS

Govt of KPK and othersRespondents

CERTIFICATE

It is certified that no such like writ petition is earlier been filed or decided by this Honorable Court between the parties against the impugned order / letter Dated: 25/06/2021. Moreover a notice in respect of institution of the instant writ petition has been sent to the Respondents.

Petitioner
Through Counsel


MUHAMMAD JAVAID KHAN
Advocate Supreme Court
of Pakistan

FILED TODAY

03 AUG 2021

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH / DAR-UL-QAZA AT SWAT

Writ Petition No. 759-11 of 2021

Taj NoorPetitioner


VERSUS

Govt of KPK and othersRespondents


AFFIDAVIT

It is hereby stated on oath that the contents of this writ petition are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this August court.

Deponent


Taj Noor
Petitioner in person
NIC No.

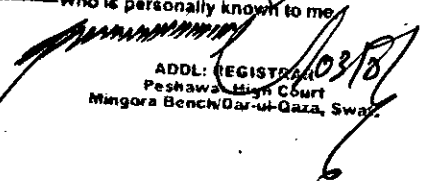
Identified by


Muhammad Javaid Khan
Advocate Supreme Court
of Pakistan

FILED TODAY

03 AUG 2021

Additional Registrar

S.No 2968
Certified that the above was verified on Solemn
affirmation before me on this 03rd day
of Aug 2021 by Taj Noor
S/o Said Noor R/o Malakand
was identified by Muhammad Javaid Khan
Advocate who is personally known to me

ADDL REGISTRAR
Peshawar High Court
Mingora Bench/Dar-ul-Qaza, Swat

12

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH / DAR-UL-QAZA AT SWAT

Writ Petition No. 759-1 of 2021

Taj NoorPetitioner

VERSUS

Govt of KPK and othersRespondents

MEMO OF ADDRESSES

Address of Petitioner:

Taj Noor Son of Said Noor R/o Hero Shah Gandero Shah, Tehsil
Dargai District Malakand
Cell # 0345-9800253
NIC # 15401-0954734-3

Addresses of Respondents:

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary Govt of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
- 2) Secretary to the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department at Civil Secretariat Peshawar.
- 3) The Secretary to the Government of Khyber Pakhtunkhwa Establishment Department at Civil Secretariat Peshawar.
- 4) The Secretary to the Government of Khyber Pakhtunkhwa Law Parliamentary Affairs & Home Rights Department.
- 1) The Director General Prosecutor, Directorate of Prosecution Home & Tribal Affairs Department, Government of KPK at Peshawar.


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03 AUG 2021

Additional Registrar

Petitioners

Through Counsel


MUHAMMAD JAVAID KHAN
Advocate Supreme Court
of Pakistan



~~Annex A~~
GOVERNMENT OF N.-W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(ESTABLISHMENT WING)

13
 Annex "A"

SUBJECT:- NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS PROMOTION POLICY, 2009.

Dear Sir,

I am directed to refer to the subject noted above and to say that in order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

I. Length of service:

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

- Basic Scale 18 : 5 years' service in BS-17
- Basic Scale 19 : 12 years' service in BS-17 & above
- Basic Scale 20 : 17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

- (i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.
- (ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

- Basic Scale 19 : 7 years' service in BS-18
- Basic Scale 20 : 10 years' service in BS-18 and above or 3 years' service in BS-19.

Print to BPS-18
 25-4-2009

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[Handwritten signature]

12-2-2011
 print to BP 18

II. Linking of promotion with training:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

¹ Notified vide letter No. SOE-III (E&AD)1-3/2008 Dated Peshawar the 28th January, 2009

- (14)
- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
 - Senior Management Course at National Management College, Lahore for promotion to BS-20
 - National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

- (i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

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(ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

(iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

✓
along with (v-c) or (vii)

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S. No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1.	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2.	Training Evaluation Reports as explained hereafter.	--	15%
3.	Evaluation by PSB	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

- (i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.
- (ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded,

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points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A
Old PASC & NIPAs

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

TABLE-B
NATIONAL DEFENCE UNIVERSITY

Category	Range	Weighted Average	Points @ 60%=9
A. Outstanding	76-100%	88%	7.92
B-Plus. Very Good	66-75.99%	71%	6.39
B- High. Good	61-65.99%	63.5%	5.71
B-Average. Average	56-60.99%	58.5%	5.26
B-Low. Below Average	51-55.99%	53.5%	4.81
B-Minus. Below Average	46-50.99%	48.5%	4.36
C. Below Average	40-45.99%	43%	3.87
F. Below Average	35-39.99%	37.5%	3.37

(d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of speciality. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PERs and 30% marks shall be at the disposal of the PSB.

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(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

		<u>Upto 11th June, 2008</u>	<u>From 12th June, 2008</u>
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

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(j) The quantification formula and instructions for working out quantified score are annexed.

IV. Promotion of officers who are on deputation, long leave, foreign training:

a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.

- b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.
- c) In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government; the condition of earning one calendar PER shall not be applicable to officer on deputation and the officer on return to his/her cadre shall be considered for promotion.
- d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.
- e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.
- f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.
- g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department. However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.
- h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

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V. **Deferment of Promotion:**

- (a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if
 - (i) His inter-se-seniority is disputed/sub-judice.

- (ii) Disciplinary or departmental proceedings are pending against him.
- (iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

vip
wis

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

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(e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year. ✓

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

Yours faithfully,

(MUHAMMAD ABID MAJEED)
Special Secretary (Regulations)

Endst: No. SOE-III(E&AD)1-3/2008

Dated Peshawar the 28th January, 2009

Copy forwarded to:

1. The Accountant General, NWFP, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.
3. The Director, Staff Training Institute, E&A Department, Peshawar.
4. All Additional Secretaries in E&A Department, GoNWFP.
5. Reforms Coordinator, Reforms Cell, E&A Department.
6. All Deputy Secretaries in E&A Department, GoNWFP.
7. The Secretary, NWFP Public Service Commission, Peshawar.
8. The Director, Anti-Corruption Establishment, N.-W.F.P., Peshawar.
9. The Registrar, NWFP Service Tribunal, Peshawar.
10. All Section Officers in E&A Department, GoNWFP.
11. Private Secretary to Chief Secretary, N.-W.F.P.
12. Private Secretary to Secretary, Establishment Department, GoNWFP.
13. Librarian, E&A Department.

(*Syeda Fanzeela Sabahat*)
Section Officer (E-III)

Endst: No. SOE-III(E&AD)1-3/2008

Dated Peshawar the 28th January, 2009

Copy forwarded to:

1. The Chief Secretary, Government of the Punjab, Lahore.
2. The Chief Secretary, Government of Sindh, Karachi.
3. The Chief Secretary, Government of Baluchistan, Quetta.

(*Syeda Fanzeela Sabahat*)
Section Officer (E-III)

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ANNEX: I

First Step

Arithmetic mean will be calculated for each calendar year containing 2 or more PERs to derive the PER score for that year as follow:

$$M = \frac{\sum M_y}{N_y}$$

Where

M_y = marks for each PER recorded in calendar year 'y',

N_y = Number of PERs recorded in year 'y',

and Σ stands for summation.

Second Step

Average marks for each level will be calculated according to the following formula:

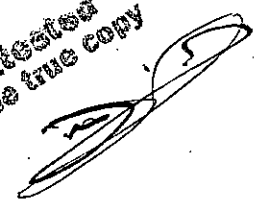
$$\text{Average marks} = \frac{\sum M}{T}$$

Where

M = Marks for PERs; and

T = Total number of PERs in posts at that level.

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to be true copy



Third Step

Weightage for posts held at each level will be given as follows in computing the aggregate score against a uniform scale of 100 marks for promotion:

- (i) to post carrying basic pay scale 18 $10 \times A$
- (ii) to post carrying basic pay scale 19 $(6 \times B) + (4 \times A)$
- (iii) to post carrying basic pay scale 20 $(5 \times C) + (3 \times B) + (2 \times A)$
- (iv) to post carrying basic pay scale 21 $(5 \times D) + (3 \times C) + (A + B)$

Where

A = Average marks for reports in posts carrying basic pay scale 17

B = Average marks for reports in posts carrying basic pay scale 18

C = Average marks for reports in posts carrying basic pay scale 19

D = Average marks for reports in posts carrying basic pay scale 20

Fourth Step

The following additions/deductions shall be made in the total marks worked out in the third step for purposes of mandatory trainings.

A. *Additions:*

- (i) for serving in a Government training institution, including those meant for specialized training in any particular cadre, for a period of 2 years or more *2 marks*

B. *Deductions:*

- (i) for each major penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973/Disciplinary Rules prevailing at the time. *5 marks*
- (ii) for each minor penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973/Disciplinary Rules prevailing at the time. *3 marks*
- (iii) for adverse remarks (deductions be made for such remarks only as were duly conveyed to the concerned officer and were not expunged on his representation, or the officer did not represent) *1 mark per PER containing adverse remarks*

Note: For purpose of CEI, the negative marks for adverse entries and / or imposition of penalty shall be deducted from the quantified score of the relevant grade. However, additions for serving in a Government training institution for a period of two years or more shall be made in the total quantified scores of the PERs.

attested
to be true copy



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INSTRUCTIONS FOR GUIDANCE

While filling in the quantification Form and working out quantification marks the following factors may be kept in view to avoid in error:-

- (i) DEDUCTION is to be made as indicated below:-
- (a) One mark for each adverse report;
 - (b) 3 marks for each minor penalty imposed on a civil servant in a disciplinary case under E&D Rules, 1973/Disciplinary Rules prevailing at the time;
 - (c) 5 marks for each major penalty imposed on a civil servant in a disciplinary case under E&D Rules, 1973/Disciplinary Rules prevailing at the time.
- (ii) Addition of 2 marks is to be made for service in a (specified training) institutions for a period of two years or more.
- (iii) If more than one PERs have been initiated on an officer during the calendar year, their average marks would be the marks for the whole calendar year.
- (iv) Writing of a PER covering part periods of two calendar years is not permissible.
- (v) If a period of report is less than 3 months, it shall be ignored for purposes of quantification.
- (vi) Quantification marks should be in round figure.
- (vii) If the overall grading in a PER is ambiguous e.g. placed between 'Good' and 'Average' the quantification will be based on the lower rating.
- (viii) Where Only two reports or less are available on an officer against posts in a particular basic pay scale, these PERs will be added to the PERs earned in the lower post for calculating the average marks.
- (ix) Where an officer appointed to a higher post on acting charge basis is considered for regular promotion that post, the PER earned during acting charge appointment will be added to PERs earned in the lower post for calculating average marks.

Attested
to be true copy



Received on 12/02/2018

(22) (25)



**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DP/ExA/1(49)1213-37

Dated Peshawar 06/02/18

Office Phone # 091-9212559

Fax # 091-9212559

E-mail: kp prosecution@yahoo.com

To

All District Public Prosecutors,
In Khyber Pakhtunkhwa."

Attention: All Senior Public Prosecutors.

Subject - TENTATIVE SENIORITY LIST OF DISTRICT PUBLIC
PROSECUTOR/ SENIOR PUBLIC PROSECUTOR (BPS-19).


Dear Sir,

I am directed to refer to the subject noted above and to state that this office letter No. DP/E& A/1(49) A/2018/495-5247 Dated 17-01-2018 is hereby withdrawn.

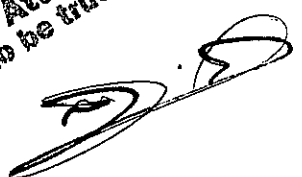
I am further directed to enclose herewith a copy of Tentative Seniority List of District Public Prosecutors/Senior Public Prosecutors (BS-19) of the Directorate of Prosecution, Khyber Pakhtunkhwa. The same may be handed over to all the Concerned Officers. Working under your kind control for information and further necessary action.

Furthermore, it is requested to submit their objections, if any, to this Directorate for necessary action within 14- days positively, otherwise the same will be considered as "Final Seniority List", please.

Yours faithfully,


Deputy Director Admin/Finance

Attestance
to be true copy



Office of the District Public Prosecutor, Peshawar
Diary No. 10
Date: 12/02/2018
Sign: SC

01/02/2018

**TENTATIVE SENIORITY LIST OF DISTRICT PUBLIC PROSECUTORS & SENIOR PUBLIC PROSECUTORS (BPS-19),
DIRECTORATE OF PROSECUTION, HOME & TRIBAL AFFAIRS DEPARTMENT**

Sl. No.	Name of officer with academic qualification	Date of Birth & Domicile	Date of first entry into service with BPS	Regular appointment/Promotion to present post			Present posting
				Date	BPS	Method of recruitment	
1.	Muhammad Idrees Khan, M.A, LL.B	10/03/1959 Swabi.	21/09/1995 as Addl: PP (BPS-17)	12-02-2011	19	By Promotion on Regular Basis	Peshawar
2.	Muhammad Zubair Anwar, B.A, LLB, LL.M	02/04/1960 Kohat	04/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Hangu
3.	Mr. Bilal Mohyudin, B.Sc, LL.B	15/12/1963 Peshawar	04/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Director Admn:
4.	Mr. Fakhruil Islam, B.A, LL.B	15/06/1960 Abbottabad	04/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Mansehra
5.	Muhammad Sultan Mehmood, B.A, LL.B	06/01/1966 D.I.Khan	17/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Bannu
6.	Mr. Amjid Ali Shah, B.A, LL.B	16/06/1963 Swabi	04/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Peshawar
	Mr. Sikandar Hayat M.A, LL.B	10/09/1959 Charsadda	04/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Peshawar
	Muhammad Ibrahim, B.A, LL.B	15/02/1963 Malakand.	04/10/ 1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Dir Lower
9.	Mr. Amir Subhan Khattak, B.A, LL.B	20/12/1959 Nowshera.	04/10/1995 as Addl: PP (BPS-17)	-do-	-do-	-do-	Nowshera
10.	Mr. Mujarab Khan, B.A, LL.B	22/03/1960 Shangla.	03/11/1998 as Addl: PP (BPS-17)	-do-	-do-	-do-	Swat
11.	Mr. Tariq Bakhsh, B.A, LL.B	14/02/1966 Kohat.	25/11/1998 as Addl: PP(BPS-17)	-do-	-do-	-do-	Swat

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Sl. No.	Officer with academic qualification	Date of Birth & Domicile	Date of first entry into service with BPS	Regular appointment/Promotion to present post			Present posting
				Date	BPS	Method of recruitment	
12	Mr. Taj Noor, B.A, LL.B	03/03/1959 Malakand.	28/11/1998 as Addl: PP(BPS-17)	-do- 12.2.2011	-do-	-do-	Buner
13	Mr. Shahzada, M.A, LL.B	04/10/1964 Bajour Agency	28/11/1998 as Addl: PP(BPS-17)	-do-	-do-	-do-	Dir Upper
14	Mr. Hafiz Muhammad Haroon B.A,LL.B	01/04/1965 Mansehra	28/11/1998 as Addl: PP(BPS-17)	-do-	-do-	-do-	Kohistan
15	Mr. NusratUllah Jan, B.A, L.L.B	10/10/1965 Peshawar	25/11/1998 as Addl: PP(BPS-17)	-do-	-do-	-do-	Kohat
16	Mr. Saleem Muhammad, B.A, L.L.B	04/04/1964 Malakand Agency	18/09/1991 as PSI BPS-14 in Police department	-do-	-do-	-do-	Home Deptt.
17	Mr. Abdul Wajid, B.A, L.L.B	10/10/1966 D.I.Khan	27/11/1998 as Addl: PP(BPS-17)	-do-	-do-	-do-	Tank
18	Mr. Imtiaz-Ud- Din Mansoor, B.A, L.L.B	12/10/1963 D.I.Khan	09/01/2001 as Addl: PP (BPS-17)	30/04/2013	-do-	-do-	Mardan
19	Mr. Gul Waris Khan, B.A, L.L.B	10/07/1968 FR Bannu.	09/01/2001 as Addl: PP (BPS-17)	11-04-2017	-do-	-do-	Lakki Marwat
20	Mr. Zulfiqar Ali Khan, B.A, L.L.B	03/03/1968 Swabi	19/04/2002 as Addl: PP (BPS-17)	-do-	-do-	-do-	Peshawar
21	Mr. Saeed Naeem, M.A, L.L.B	10/03/1966 Dir Lower	19/04/2002 as Addl: PP (BPS-17)	-do-	-do-	-do-	Swat
22	Mr. Farmanullah, M.B.A, M.A, L.L.B	15/01/1965 Kohat	19/03/1992 as PSI in BS-14 in Police Department	-do-	-do-	-do-	Kohat
23	Mr. Kamran Khan Wazir, M.A, L.L.B	04/02/1968 FR Bannu	19/04/2002 as Addl: PP (BPS-17)	-do-	-do-	-do-	Bannu
24	Muhammad Jehanzeb Sheikh, B.Sc, L.L.B	20/09/1967 D.I.Khan	19/04/2002 as Addl: PP (BPS-17)	-do-	-do-	-do-	D.I.Khan
25	Mr. Jehanzeb Khan, B.A, L.L.B	25/12/1967 Peshawar	19/04/2002 as Addl: PP (BPS-17)	-do-	-do-	-do-	Mardan
26	Mr. Shehzad Iqbal, B.A, L.L.B	08/06/1967 Peshawar	04/04/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Abbottabad
27	Mr. Qadir Bakhsh, M.A, L.L.B	09/09/1959 D.I.Khan	11/09/1989 as PSI in (BPS-17)	-do-	-do-	-do-	D.I.Khan

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Sl. No.	Officer with academic qualification	Date of Birth Domicile	Date of first entry into service with BPS	Regular appointment/Promotion to present post			Present posting
				Date	BPS	Method of recruitment	
				-do-	-do-	-do-	Swat
	Mr. Fazal Noorani, B.A, L.L.B	01/03/1970 Peshawar	04/04/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Swat
	Mr. Arif Bilal, M.A, L.L.B	23/03/1968 Peshawar	04/04/2003 as Addl: PP (BPS-17)	-do-	-do-	Post Upgraded	Buner
30.	Mr. Zahid Amin, B.A, L.L.B	20/04/1972 Mardan	04/04/2003 as Addl: PP / Addl: GP (BPS-17)	02-02-2017	-do-	By Promotion	Karak
31.	Mr. Attaullah Shah, B.A, L.L.B	25/11/1968 Lakki Marwat	04/04/2003 as Addl: PP / Addl: GP (BPS-17)	11-04-2017	-do-	-do-	Peshawar
32.	Mr. Faheem Khan, B.Sc, L.L.B	03/03/1969 Kohat	04/04/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Swabi
33.	Mr. Jamshed Khan, M.A, L.L.B	15/08/1965 Charsadda	04/04/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Mardan
34.	Mr. Malik Zaheer ud Din Babar, B.Sc, L.L.B	12/07/1968 Kohat	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Battagram
35.	Mr. Mian Shaïd ur Rehman, B.Sc, L.L.B	06/10/1971 Nowshera	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Peshawar
36.	Mr. Muhammad Zulfiqar Ali B.A, L.L.B	20/04/1968 Peshawar	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Bannu
37.	Mr. Muhammad Ayub, B.A, L.L.B	12/11/1968 D.I.Khan	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Haripur
38.	Mr. Saqib Sultan Jadoon, B.A, L.L.B	27/02/1971 Abbottabad	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Directorate of Prosecution
39.	Mr. Irshadullah Afridi, B.Sc, L.L.B	01/01/1966 FR Kohat	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Peshawar
40.	Mr. Muhammad Irshad, B.A, L.L.B	05/12/1970 Bajour Agency	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Abbottabad
41.	Mr. Bashir Muhammad, M.A, L.L.B	05/11/1960 Mansehra	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	Post Upgraded	Malakand
42.	Mr. Muhammad Litaf, B.A, L.L.B	13/02/1971 Mohmand Agency	16/09/2003 as Addl: PP (BPS-17)	02-02-2017	-do-	-do-	

20/05/2015

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	Officer with academic qualification	Date of Birth & Domicile	Date of first entry into service with BPS	Regular appointment/Promotion to present post			Present posting
				Date	BPS	Method of recruitment	
43	Mr. Muhammad Khalid, B.A, L.L.B	20/08/1969 Khyber Agency	16/09/2003 as Addl: PP (BPS-17)	-do-	-do-	-do-	Peshawar
44	Mr. Alam Zeb Khan, B.A, L.L.B	12/12/1964 Dir Upper	26/09/1991 as PSI in (BPS-14) and on 14-02-2004 as Addl: PP (BPS-17)	-do-	-do-	-do-	Mardan
45	Mr. Raza Khan, B.A, L.L.B	09/01/1970 Mohmand Agency	14/02/2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Peshawar
46.	Mr. Abdul Hamid , M.A, L.L.B	01/01/1961 Battagram	30/07/1991 as PSI in (BPS-14) and on 14-02-2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Abbottabad
47.	Mr. Muhammad Younas Khan , M:A, L.L.B	10/01/1966 Abbottabad	30/07/1991 as PSI in (BPS-14) and on 14-02-2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Abbottabad
48.	Mr. Zafar Abbas Mirza , B.A, L.L.B	22/11/1973 Peshawar	14-02-2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Directorate of Prosecution
49.	Mr. Nisar Alam , B.A, L.L.B	17/03/1964 Shangla	14-02-2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Buner
50.	Mr. Attaur Rehman , B.A, L.L.B	11/01/1970 Peshawar	14-02-2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Peshawar
51.	Mr. Anwar Ali , B.Sc, L.L.B	16/04/1968 Swat	17-06-2004 as Addl: PP / Addl: GP (BPS-17)	-do-	-do-	-do-	Shangla

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for B.M.M.
(Adnan Zafar)
Director General Prosecution
Khyber Pakhtunkhwa



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GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
REGULATION WING

Dated Peshawar, the May 21, 2018

1476
35/610

NOTIFICATION

No. SOE (Policy) E&AD/1-16/2017. - The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009" obliterated vide this department letter No. SOE-III(E&AD)-1-3/2008 dated 28.1.2009, the following further amendment shall be made, namely:-

AMENDMENT

For sub-para (k) of Para-III, the following shall be substituted:

"(k) The officers who attained the age of 58 years or above on the scheduled date of commencement of relevant training, shall be exempted from mandatory training of (a) Mid Career Management Course (M.C.M.C) (b) Senior Management Course (SMC) (c) National Management Course (NMC) (d) National Defense Course (NDC). The exemption extended already to professional and technical cadres will continue as the professionals/ technocrats undertake their specialized training separately."

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department;
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All Autonomous/Semi-Autonomous Bodies in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa/Political Agents in FATA.
11. The Registrar Peshawar High Court, Peshawar.
12. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
13. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
14. All Additional Secretaries/Deputy Secretaries/DDIT/ Section Officers in Establishment & Administration Department.

21/05/18
Beenish Iqbal
Section Officer (Policy)

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Government of Khyber Pakhtunkhwa
Establishment department
Regulation Wing
Dated Peshawar, the ma 21. 2018

Notification

No.SO(Policy) E&AD/1-(6/2018). The competent authority is pleased to direct that in the Khyber Pakhtunkhwa civil servants promotion policy, 20019 circulated vide this department letter NO. SOE-III(E&AD) 1-3/2008 dated 28,1, 2009, the following further amendment shall be made, namely.

AMENDMENT

For sub-para (k) of para-III, the following shall be substituted;

"(k) the officers who attained the age of 58 years or above on the scheduled date of commencement of relevant training, shall be exempted from mandatory training of (a) Mid Carrere management course senior management course (SMC) (c) national management course (NMC) (d) national defense course (NDC). The exemption extended already to profession and technical cadres will training as the professionals/technocrats undertake their specialized training separately".

SECRETARY TO GOVT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPRATMENT

ENDST; NO. & EVEN DATE

Copy is forwarded to:-

1. Additional chief secretary, Govt of Khyber Pakhtunkhwa, planning & development department.
2. Additional chief secretary (FATA), FATA secretariat Peshawar.
3. The senior member board of revenue, Khyber Pakhtunkhwa.
4. All administrative secretaries to Govt of Khyber Pakhtunkhwa.
5. The principal secretary to Governor, Khyber Pakhtunkhwa.
6. The principal secretary to chief minister, Khyber Pakhtunkhwa.
7. All divisional commissioners in Khyber Pakhtunkhwa.
8. All heads of attached departments in Khyber Pakhtunkhwa.
9. All autonomous/semi-autonomous bodies in Khyber Pakhtunkhwa.
10. All deputy commissioners in Khyber Pakhtunkhwa/political agents in FATA.
11. The registrar Peshawar high court Peshawar.
12. The registrar Khyber Pakhtunkhwa service Tribunal Peshawar.
13. All secretary Khyber Pakhtunkhwa public service commission Peshawar.
14. All additional secretaries /deputy secretaries/DD(IT) section officers in establishment & administration department.

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Beevish Iqbal
Section officer (Policy)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 16TH FEBRUARY, 2018

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Dated Peshawar, the 18th January, 2018

No.SO(PROSECUTION)/HD/1-5/Vol-I/2018:- In exercise of the powers conferred by sub-rule(2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants(Appointment, Promotion and Transfer) Rules,1989, the Home & Tribal Affairs Department in consultation with the Establishment Department and Finance Department, hereby direct that in this Department's Notification No. SO(Pros)/HD/1-9/201/Vol-I, dated:05-09-2013, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

- (a) Against Serial No.1 in Column No.5, for the existing entries, the following shall be substituted, namely:

"By transfer from amongst the officers of PCS/PMS/PAS.";

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1080 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 16th FEBRUARY, 2018

(b) After Serial No.1, as so amended, the following new entries shall be inserted in the respective column, namely:

"1A.	Regional Director (BS-20).			By promotion, on the basis of merit-cum-fitness, from amongst the Senior Public Prosecutors, District Public Prosecutors and Directors in (BPS-19) with at least seventeen (17) years of service in BPS-17 and above subject to successful completion of Senior Management Course.";
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(c) For Serial No.2, the following shall be substituted, namely:

"2.	Senior Public Prosecutor/District Public Prosecutor (BS-19).			By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Public Prosecutors (BPS-18) with at least twelve (12) years' of service in BPS-17 and above.";
-----	---	--	--	---

(d) For Serial No.3 the following shall be substituted, namely:

"3.	Director Legal/ Director Admin/ Director (Monitoring) (BS-19).			By transfer, from amongst the Senior Public Prosecutors and District Public Prosecutor (BPS-19).";
-----	---	--	--	--

(e) For Serial No.4 the following shall be substituted, namely:

"4.	Deputy Public Prosecutor (BS-18).			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Public Prosecutors (BPS-17) with at least five (05) years' of service as such."; and
-----	--------------------------------------	--	--	--

(f) For Serial No.5 the following shall be substituted, namely:

"5.	Assistant Public Prosecutor (BS-17).	(i) at least Second Class LLB/BS(Law) Honours/ BS (Shariah Law) Honours(five years) or its equivalent qualification, from a recognized University; and (ii) License from Bar Council	25 to 35 Years.	By Initial recruitment."
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Secretary to
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

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Islamabad High Court that at Polling Station No.219, women voters could not exercise their right of franchise for want of female polling staff and female voters of this polling station also moved an application to the Election Commission of Pakistan and report was also submitted by the Polling Officer wherein he has verified the factual position referred therein. This may be seen that at the same time similar applications were made by the voters of Polling Stations Nos.1, 2, 3, 4 & 5 of Kaghan Area containing the grievance that due to land slide and blockade of roads they have not been able to exercise their right of franchise as they could not reach the polling station. The fact relating to land slide and blocking of road was duly verified by NHA Engineer. However, this application remained unattended.

33. This Court, however, cannot be oblivious of the fact that Election Commission has not given equal treatment to the petitioner in the matter relating to his complaint that at certain polling stations women voters have not been able to exercise their right of franchise and similarly, we have noticed that the Election Commission of Pakistan has not given due consideration and weight to the written complaint dated 29-2-2008 lodged by male and female voters of Polling Stations Nos.1, 2, 3, 4 & 5 of Kaghan Area wherein the grievance voiced was that due to land slide and blockade of roads they have not been able to exercise their right of franchise. The contents of these applications were duly verified by the Engineer of NHA and the same were also received in the office of Election Commission of Pakistan at Islamabad before the order was passed on the complaint in respect of Polling Station Nos.219 & 244, Constituency NA-20, Mansehra-I, therefore, these applications/complaints under section 103-AA of Representation of the People Act, 1976, have to be decided by the Election Commission of Pakistan along with the application of private respondent and should have passed an appropriate order in the interest of just, fair, honest and transparent elections in accordance with law. The non-disposal of these applications would reflect upon transparency and fairness of the election at the polling stations referred therein which may have also material effect on the free and fair election and ultimate result. In view thereof, we direct that Election Commission of Pakistan will also consider the application dated 29-2-2008, moved by male and female voters of Polling Stations Nos.1, 2, 3, 4 & 5 of Kaghan Area and applications of petitioner in respect of women votes at women polling stations after holding necessary inquiry will decide the same in accordance with the law in exercise of powers under section 103-AA of Representation of the People Act, 1976, after hearing the parties at its convenience. These are the reasons for our short order of even date which reads as under and is made part of this judgment:--

the learned counsel for the parties and Attorney-General for Pakistan and having considered the question of law and facts raised therein, dismiss this petition with direction that the grievance raised by the voters (male and female) of certain polling stations in Kaghan Area to the effect that they have not been able to cast their votes and exercise right of franchise, due to land slide and blockade of roads etc, shall be considered and disposed of by the Election Commission of Pakistan in accordance with law on their own merits after providing a proper opportunity of hearing to the parties."

Petition dismissed.

M.B.A./S-29/S.

P L D 2008 Supreme Court 769

Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan and Ch. Ejaz Yousaf, JJ

FAZALI REHMANI---Appellant

versus

CHIEF MINISTER, N.-W.F.P., Peshawar and others---Respondents

Civil Appeal No.1346 of 2007, decided on 19th June, 2008.

(On appeal from the judgment dated 19-4-2007 in Service Appeal No.831 of 2005 passed by the N.-W.F.P. Service Tribunal, Peshawar).

(a) North-West Frontier Province Service Tribunals Act (I of 1974)---

---S. 4(b)(i)---Promotion---Eligibility for promotion of a civil servant though can be subjected to judicial scrutiny by the Service Tribunal as it relates to terms and conditions of a civil servant yet, the question of fitness of a civil servant for promotion is barred from its jurisdiction under S.4(b)(i) of North-West Frontier Province Service Tribunals Act, 1974---When a civil servant was eligible for promotion but was ignored and other eligible person was promoted then his appeal before the Service Tribunal would be competent, while in the present case, appellant (aggrieved civil servant) had failed to show that the promoted civil servant was ineligible for promotion---Service Tribunal, in circumstances had rightly declined to interfere---'Eligibility for promotion' and 'fitness for promotion'---Distinction.

[pp. 773, 774] A, B & C

Abdul Haseeb and others v. Abdul Haseeb and others PLD

[Citation]

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2007 SCMR 682; Syed Abdul Qadir Shah v. Government of Punjab 1972 SCMR 323; Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others 1991 SCMR 1129 and Muhammad Akram and others v. The State and others 1996 SCMR 324 fol.

Muhammad Rehman Khan v. Chief Secretary, N.-W.F.P. and others 2004 PLC (C.S.) 62; Abdul Ghafoor, Supervisor/Inspector, NHA v. National Highway Authority and others 2002 SCMR 574 and Zafarullah Baloch v. Government of Balochistan and others 2002 SCMR 1056 distinguished.

(b) Civil service---

---Promotion---'Eligibility for promotion' and 'fitness for promotion' are distinct and separate from each other---Eligibility relates to the terms and conditions of service, whereas fitness for promotion is a subjective evaluation on the basis of objective criteria, where substitution for opinion of the competent authority is not possible by that of a tribunal or a court hence, neither eligibility to promotion can be equated with promotion nor prospects of promotion can be included in terms and conditions of service. [p. 773] A

(c) Civil service---

---Promotion---Consideration for promotion is a right yet, the promotion itself cannot be claimed as of right. [p. 775] D

(d) Civil service---

---Promotion to grade 20---Necessity of training course at the National Institute of Public Administration---Exemption---Officers, who had served for one year as Head of NIPA/Specialized Training Institutions imparting training to officers in BPS-17 and above, are exempted from the training requirement of NIPA in view of Government of Pakistan Office memorandum No.10(5)91-CP-1, dated 8-5-1991. [p. 776] E

(e) Civil service---

---Promotion---Non-selection posts and selection posts---Requirements---Where posts carrying basic pay scale 18 or below are non-selection posts, promotion to those posts is to be processed by Departmental Promotion Committees on the basis of seniority-cum-fitness, as per clause (1) of Heading II of the Guidelines for Departmental Promotion Committee/Central Selection Board (at p.234), Sl.No.154, contained in the ESTACODE, 2000 (Edition), the posts in basic pay scale 19 or higher are selection posts and promotion to those posts are to be processed through the Central Selection Board---In order to ensure that

unfit, clause 2 of the said Guidelines further provided that the Establishment Division must place larger panel of eligible officers before the Boards depending on the availability of eligible officers in a cadre--- Clause 3 of the Guidelines required that for selection posts "quality and output of work" and "integrity" in all Annual Confidential Reports recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in Addendum to the Guidelines and those marks shall be a crucial factor in determining comparative merit of officers for promotion to selection posts. [p. 776] F

(f) Civil service---

---Promotion---Post of pay scale 21---Requirements---Posts carrying basic pay scale 21, fall in senior management involving important policy making or extensive administrative jurisdiction and therefore, in addition to the circulation value and variety of experience the incumbents must possess proven analytical competence, breadth of vision, emotional maturity and such other qualities as are required to determine the potential of successfully holding posts in top management and since the potential cannot be adjudged by mathematical formula, therefore, Selection Board is required to apply its collective wisdom to determine the same. [p. 777] G

ESTACODE, 2000 Edn. Guidelines for Departmental Promotion, Cl. 6, at p.238 ref.

(g) Civil service---

---Promotion---Posts carrying basic pay scale 18 or below---Such promotion is to be made on the basis of seniority-cum-fitness, promotion in case of selection posts i.e. BPS-19 and above is to be made on the basis of "Fitness cum seniority" meaning thereby that in the earlier case i.e. BPS-18 and below, seniority would be considered first and fitness of the employee would be adjudged later, whereas, contrary thereto, in the case of selection posts i.e. BPS-19 and above, fitness of an employee would be adjudged first and the seniority would be considered later, for instance, if two equally fit employees are selected by the Board then senior amongst them would be given preference. [p. 779] H

Muhammad Anis and others v. Abdul Haseeb and others PLD 1994 SC 539; Muhammad Iqbal v. Executive District Officer (Revenue) 2007 SCMR 682; Syed Abdul Qadir Shah v. Government of Punjab 1972 SCMR 323; Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others 1991 SCMR 1129; Muhammad Akram and others v. The State and others 1996 SCMR 324; Muhammad Rehman Khan v. Chief Secretary, N.-W.F.P. and others 2004 PLC (C.S.) 62; Abdul Ghafoor, Supervisor/Inspector NHA v National Highway Authority and others

2002 SCMR 574 and Zafarullah Baloch v. Government of Balochistan and others 2002 SCMR 1056 ref.

(h) Civil Servants Act (LXXI of 1973)---

---S. 25(2)---Instructions contained in ESTACODE have the force and effect of rules, by virtue of S.25(2), Civil Servants Act, 1973. [p 779] ✓

Secretary to the Govt. of the Punjab v. Abdul Hamid Arif and others 1991 SCMR 628 and Muhammad Yousaf and others v. Abdul Rashid and others 1996 SCMR 1297 fol.

Maazullah Barkandi, Advocate Supreme Court for Appellant.

Qaiser Rashid, Addl. A.G., N.W.F.P. for Respondents Nos. 1-4

Qazi M. Anwar, Senior Advocate Supreme Court for Respondent No.5.

Date of hearing: 19th June, 2008.

JUDGMENT

CH. EJAZ YOUSAF, J.---This appeal is directed against judgment dated 19-4-2007 passed by the N.-W.F.P. Service Tribunal, Peshawar, (hereinafter referred to as "the Tribunal"), whereby service appeal filed by the appellant against promotion of the respondent No.5 to BPS-21, was for lack of jurisdiction, dismissed with reference to section 4(b)(i) of the N.-W.F.P. Service Tribunals Act, 1974 (hereinafter referred to as the "Act").

2. Facts of the case, necessary for the disposal of instant appeal, briefly stated, are that the appellant as well as respondent No.5 both were serving in BPS-20 (Executive Grade). Their promotion cases for filling one post in BPS-21 was placed before the Provincial Selection Board in its meeting held on 12-7-2005. Since service record of respondent No.5 was found comparatively better, therefore, he was recommended for promotion, though he was at S. No.2 in the seniority list, below the appellant, who was at S. No.1. A notification to the above effect was issued on 2-8-2005. The appellant filed review/representation before the respondent No.1, i.e. the Chief Minister, N.-W.F.P., Peshawar, under the rules, which was rejected on 24-9-2005. Resultantly, the appellant approached the N.-W.F.P. Service Tribunal through appeal No.831 of 2005 which was dismissed vide the impugned judgment, hence this appeal.

3. It has been contended by the learned counsel for the appellant that since very eligibility of the respondent No.5 for promotion to BPS-21, was challenged before the Service Tribunal therefore, the

Tribunal could not have declined to exercise jurisdiction by bringing the matter under section 4(b)(i) of the Act, which was patently wrong. He added that since the appellant was the senior-most officer in BPS-20 and was also eligible in all respects for promotion to BPS-21, therefore, he could not have been deprived of legitimate right of his promotion without any cogent reason. It is further his grievance that respondent No.5's promotion to BPS-21 was also in violation of rules and regulations as he had not done the NIPA Course from the staff college, which was a mandatory requirement for promotion to grade 21; that since promotion of PCS (Executive Group) comes within the purview of non-selection post therefore, it was to be made on the basis of seniority-cum-fitness and thus the impugned order of respondent No.4 was against the law, rules and policy.

4. Qazi Muhammad Anwar, learned Sr. ASC, appearing for respondent No.5, on the other hand, while vehemently controverting the contentions raised by the learned counsel for the appellant, has submitted that question of eligibility for promotion of the respondent No.5 was never raised before the Tribunal and only his promotion to BPS-21 was challenged which being not within the jurisdiction of the N.-W.F.P. Service Tribunal, under section 4(b)(i) of the Act, the appeal filed by the appellant was rightly dismissed. He maintained that since the posts in grade 21 and above were selection posts, therefore, it could not have been filed on the basis of seniority-cum-fitness. While controverting the contention of the learned counsel for the appellant that respondent No.5 had not done the NIPA Course, he submitted that since respondent No.5 had served for one year as head of NIPA Specialized Training Institution, therefore, he was rightly exempted by the competent authority and thus was eligible for promotion to grade 21. Learned counsel added that appellant as well as respondent No.5 were considered by the Board and since appellant was not found fit for promotion he was superseded.

5. We have given our anxious consideration to the respective contentions of the learned counsel for the parties and have also perused the record of the case with their assistance, minutely.

6. As regard the first contention raised by the learned counsel for the appellant that since very eligibility of respondent No.5 for promotion to the next higher grade was disputed as compared to the appellant, therefore, the learned Tribunal could not have declined to exercise jurisdiction by bringing the matter under section 4(b) (i) of the Act, it may be pointed out here that eligibility for promotion and fitness for promotion are distinct and separate from each other. Eligibility relates to the terms and conditions of service, whereas fitness for promotion is a subjective evaluation on the basis of objective criteria, where substitution for opinion of the competent authority is not possible by that of a

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... promotion nor prospects of promotion can be included in terms and conditions of service. It is well settled that though eligibility for promotion of a civil servant can be subjected to judicial scrutiny by the Service Tribunal as it relates to terms and conditions of a civil servant yet, the question of fitness of a civil servant for promotion is barred from its jurisdiction under section 4(b) (i) of the N.-W.F.P. Service Tribunals Act, which reads as follows:--

4. Appeal to Tribunals.-.....

- (a)
- (b) No appeal shall lie to a Tribunal against an order or decision of a departmental authority determining:
 - (i) the fitness or otherwise of a person to be appointed to a higher post or grade;

In a number of judgments, it has been repeatedly laid down by this Court that though the question of eligibility relates to the terms and conditions of service and therefore, would fall within domain of the Tribunal yet, the question of fitness of a civil servant for promotion is barred from the jurisdiction of the Tribunal. Reference in this regard may usefully be made to the following reported judgments:--

- (i) Muhammad Anis and others v. Abdul Haseeb and others (PLD 1994-SC 539)
- (ii) Muhammad Iqbal v. Executive District Officer (Revenue) (2007 SCMR 682)
- (iii) Syed Abdul Qadir Shah v. Government of Punjab (1972 SCMR 323)
- (iv) Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (1991 SCMR 1129)
- (v) Muhammad Akram and others v. The State and others (1996 SCMR 324)

No doubt it has also been, in some cases including (i) Muhammad Anis (supra), (ii) Muhammad Rehman Khan v. Chief Secretary, N.-W.F.P. and others (2004 PLC (C.S) 62), (iii) Abdul Ghafoor, Supervisor/Inspector, NHA v. National Highway Authority and others (2002 SCMR 574), and (iv) Zafarullah Baloch v. Government of Balochistan and others (2002 SCMR 1056), laid down by this Court that when a civil servant was eligible for promotion but ignored and other eligible person was promoted then his appeal before the Service Tribunal

PLD 1994-SC 539

would be competent, yet, in the instant case, since the appellant had failed to show that respondent No.5 was ineligible for promotion, therefore, the learned Tribunal had rightly declined to interfere with the order of the departmental authority. Needless to point out that though consideration for promotion is a right yet, the promotion itself cannot be claimed as of right. Record reveals that the cases of both the appellant as well as respondent No.5 were thoroughly considered by the Selection Board and since respondent No.5 was found fit for promotion, therefore, his name was recommended. The contention therefore, is devoid of force.

7. As to the next contention that since respondent No.5 had not done the NIPA course, therefore, he could not have been considered for promotion, it may be pointed out here that no doubt under the policy of the Federal as well as the Government of N.-W.F.P. contained in letter No.SOR-I(S and GAD)1-173/94, every officer of the All Pakistan Unified Grade has to attend a regular training course at the National Institute of Public Administration, before he is considered for promotion to a post in B-20 and likewise, officers are required to attend the specified course at the Pakistan Administrative Staff College, Lahore, yet in terms of letter No.10(5)91-CP-I, dated 8th May, 1991, certain officers are exempted from such training. It would be advantageous to have a glance at the letter in question which reads as follows:--

Government of Pakistan
Cabinet Secretariat
Establishment Division

No.10(5)91-CP-I Islamabad, the 8th May, 1991

OFFICE MEMORANDUM

Subject:--PROMOTION POLICY-EXEMPTION FROM NIPA AND STAFF COLLEGE/NDC COURSE.

The undersigned is directed to refer to this Division's d.o. letter No.10(10)/85-CP-I, dated the 15th May, 1985 on the above subject and to say that apart from those who have crossed the age of 56 years, training requirement of NIPA/PASC/NDC can only be waived for the following categories of officers:--

- (i) From promotion to BPS-20.--those who have served on directing staff in BPS-19 for 2 years in NIPA, Staff College, NDC, Civil Services Academy and the specialized training institutions imparting training to officers in BPS-17 and above.
- (ii) For promotion to BPS-21.--those who have served on directing staff in BPS-20 for two years in the Staff College, NDC, NIPA

PLD

and Civil Services Academy or have served for one year as head of NIPA/specialized training institutions imparting training to officers in BPS-17 and above.

(Ashiq Hussain)
Section Officer (C.P.D)
Tel: 828610

1. All Ministries/Divisions, Rawalpindi/Islamabad
2. All Chief Secretaries of Provincial Governments.

A bare perusal of the above letter particularly latter part of clause (ii) indicates that those officers who had served for one year as Head of NIPA/ specialized training institution imparting training to officers in BPS-17 and above, are exempted from the training requirement of NIPA, hence the respondent No.5 having served as such, his eligibility towards promotion was never under jeopardy. This contention too, therefore has no force.

8. Adverting to the next contention of the learned counsel for the appellant that since promotion to PCS (EG) comes within the purview of non-selection post therefore, it had to be made on seniority-cum-fitness basis, it may be noted here that where posts carrying basic pay scale 18 or below as non-selection posts and promotion to those posts is to be processed by the Departmental Promotion Committees on the basis of seniority-cum-fitness, as per clause 1 of Heading II of the Guidelines for Departmental Promotion Committees/Central Selection Boards, (at page 234) under Sl. No.154, contained in the ESTACODE, 2000 Edition (hereinafter referred to as the "Code"), the posts in basic pay scale 19 or higher are selection posts and promotion to these posts are to be processed through the Central Selection Boards. In the order to ensure that selection by these Boards does not amount to a mere elimination of the unfit it is further provided in clause 2 of the above guidelines that the Establishment Division must place a larger panel of eligible officers before the Board depending on the availability of eligible officers in a cadre. It is further the requirement of clause 3 thereof that, for selection posts "quality and output of work" and "Integrity" in all the ACRs recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in the Addendum and those marks shall be a crucial factor in determining comparative merit of officers for promotion to selection posts. Here it would be advantageous to have a glance at the above guidelines which reads as follows:--

"II. Promotions on Seniority-cum-Fitness Basis

1. Posts carrying basic pay scale 18 or below are non-selection

posts. Promotions to these posts are to be processed by the DPCs on the basis of seniority-cum-fitness. Fitness would be assessed primarily on the officer's work in the lower post.

III. Promotion to Selection Posts.

1. Posts in basic pay scale 19 or higher are selection posts. Promotions to these posts are to be processed through the Central Selection Boards.

In order to ensure that selection by these Boards does not amount to a mere elimination of the unfit the Establishment Division shall place a larger panel of eligible officers before the Boards. Depending on the availability of eligible officers in a cadre, the number of officers to be included in the panel shall be as follows:--

(a) for promotion to supervisory posts	A minimum of 2 officers for every vacancy.
(b) For promotion to middle and senior management posts.	A minimum of 3 officers for every vacancy.

3. For selection posts, entries under "quality and output of work" and "Integrity" in all the ACRs recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in the Addendum. These marks shall be a crucial factor in determining comparative merit of officers for promotion to selection posts."

Another relevant fact which cannot be lost sight of is that the posts carrying basic pay scale 21, against one of which the appellant lays a claim, fall in senior management, involving important policy-making or extensive administrative jurisdiction and therefore, in addition to the circulation value and variety of experience the incumbents must possess proved analytical competence; breadth of vision, emotional maturity and such other qualities as determine the potential for successfully holding posts in top management and since the potential cannot be adjudged by mathematical formula, therefore selection Board is required to apply its collective wisdom to determine the same. Clause 6 of the said guidelines at page 238 of the Code is explicit in this regard, which is reproduced herein below in extenso:--

- "6. Posts carrying basic pay scale 21 fall in senior management involving important policy-making or extensive administrative jurisdictions. In addition to the circulation value and variety of experience the incumbents must possess proven analytical

Admittedly posted on 20/08/08

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competence, breadth of vision, emotional maturity and such other qualities as determine the potential for successfully holding posts in top management. This potential cannot be judged by mathematical formula. The Selection Board will have to apply its collective wisdom to determine the same. A civil servant must fulfil the following conditions for promotion to senior management post:--

- (a) Qualifying Service.--Possess 22 years service as an officer subject to the provisions contained in Establishment Department's O.M. No. 1/9/80-R-II (A), dated 2-6-1983.
- (b) Eligibility threshold.--Attain a minimum score of 70 marks in CRs in accordance with the formula given in the Addendum.
- (c) Qualifications.-- As are prescribed by relevant recruitment rules.
- (d) Relevance of Experience.--Possess experience relevant to the functions of the post being filled by promotion.
- (e) "Quality and Output of Work" and "Integrity" marks calculated in accordance with the formula in the Addendum shall be a crucial factor in determining the comparative merit of an officer.
- (f) Variety of Experience.--The Selection Board should give careful consideration to the nature of duties, duration and location of posts previously held by the officer. At this level, a proper assessment under the criterion may require some distinction between hard or taxing assignments (on account of work load or its complexity) viz-a-viz relatively routine duties particularly in the secretariat. Depending on the posts to be filled, an officer possessing well rounded experience with adequate exposure to difficult assignments should normally be preferred.
- (g) Training.--should have successfully completed a regular course at the Pakistan Administrative Staff College / National Defence College. This requirement will be waived for officers who
- have served as head of a training institution for at least one year; or
 - have served on the directing staff of a training institution for at least two years; or
 - have exceeded the age of 56 years.
- (h) Top Management Potential.--Since officers promoted to this level may be called upon to hold independent charge of a Ministry/Division or to head a major corporation, the officer

should satisfy itself about the officer's maturity, balance and ability to assume such top management positions even at short notice.

9. In the wake of above, it thus follows that where promotion to posts carrying basic pay scale 18 or below is to be made on the basis of seniority-cum-fitness, promotion in case of selection posts i.e. BPS-19 and above is to be made on the basis of "fitness-cum-seniority" meaning thereby that in the earlier case, i.e. BPS-18 and above seniority would be considered first and fitness of the employ would be adjudged later, whereas, contrary thereto, in the case of selection posts i.e. BPS-19 and above, fitness of an employee would be adjudged first and his seniority would be considered later, for instance, if two equally fit employees are selected by the Board then senior amongst them would be given preference. Needless to point out that since the instructions contained in the ESTACODE have the force and effect of rules, by virtue of subsection (2) of section 25 of the Civil Servants Act, 1973 as has been held by this Court in the cases of (i) Secretary to the Govt. of the Punjab v. Abdul Hamid Arif and others (1991 SCMR 628) and (ii) Muhammad Yousaf and others v. Abdul Rashid and others (1996 SCMR 1297), therefore, this contention too, has no force.

10. Upshot of the above discussion is that this appeal being misconceived in hereby dismissed.

M.B.A./F-14/S

Appeal dismissed:

P L D 2008 Supreme Court 779

Present: Muhammad Nawaz Abbasi, Zia Perwez,
Mian Hamid Farooq, Syed Zavar Hussain Jaffery,
and Muhammad Farrukh Mahmud, JJ

AFTAB SHAHBAN MIRANI and others---Petitioners

versus

MUHAMMAD IBRAHIM and others---Respondents

Civil Petitions Nos. 369 and 370 of 2008, decided on 30th April, 2008.

(On appeal from the judgment dated 28th March, 2008 passed by High Court of Sindh in C.Ps.D-454 and 455 of 2008).

(a) Representation of the People Act (LXXXV of 1976)---

---Ss. 103, 103-AA, 52 & 9(2)---Constitution of Pakistan (1973),
Arts. 218, 219 & 199---Election dispute---Scope and extent of judicial

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محفوظ صاحب ڈائری کٹر جنرل صاحب پراسیکیوشن

دفعہ 187(1) کے تحت

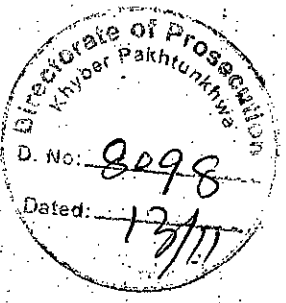
پر دفعہ 187(1) کے تحت = 409 جزیہ 1817/018 دفتر 202 ڈیپ

صاحب عالی :- من سائل نے ایڈووکیٹ کی طرف سے 19 BAS کے تحت

دفعہ 187(1) کے تحت 5302 کی طرف سے 1817/018

ازرا لکھنؤ دفعہ 187(1) کے تحت 5302 کی طرف سے 1817/018

عرف



سائل صاحب ڈائری کٹر جنرل صاحب پراسیکیوشن 1817/018

Handwritten signature at the bottom of the page.

OFFICE OF THE DISTRICT PUBLIC PROSECUTOR BUNER.

No. 409/DPP/Buner dated Dagger the 18/07/2018

To

The Worthy Director General Prosecution
Government Of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

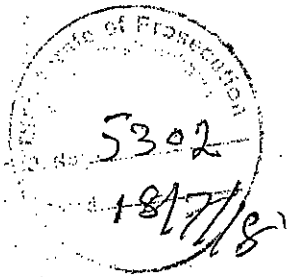
Subject: **PROMOTION (FROM BPS-19 TO BPS-20)**

Respected Sir,

The undersigned submits as under.

1. The undersigned was appointed in BPS-17 as Additional Government Pleader/ Additional Public Prosecutor in Law Department and have taken charge as Additional Government Pleader/ Additional Public Prosecutor, on 28.11.1998.
2. The undersigned was promoted to BPS-18 as Public Prosecutor and have taken charge in BPS-18 as PP in ATC Mingora Swat on 25.05.2004.
3. Latter on the post of Government Pleader and Public Prosecutor were separated and the undersigned preferred / joined the Directorate of Prosecution as Public Prosecutor, Home & Tribal Affairs Department, Khyber Pakhtunkhwa as Public Prosecutor in the year 2005.
4. That the undersigned after promotion have taken charge in BPS-19 on 12.02.2011 and is still serving in BPS-19 as District Public Prosecutor, now at Buner. My total length of service is about 20 years. ✓
5. That after amendment in the rules / Uniform Promotion Policy 2009 for all civil servants in Khyber Pakhtunkhwa, on May 21, 2018 (copy attached), the undersigned has got right to be promoted to BPS-20 as the condition of SMC or other course/ Training has been abolished for all civil servants, who have attained the age of 58 years.
6. The undersigned have attained the age of 59 years and about 5 months.
7. The undersigned is the senior most of all the senior PPs/DPPs in KP and will be retired (Insha Allah) on 03.03.2019.
8. That for promotion to BPS-19 and above (which is selection post), fitness cum seniority is required and I am eligible in all respects to be promoted to BPS-20.
9. That under the Uniform Promotion Policy 2009, KP, for promotion to BPS-20, for each post, 03 eligible candidates will be recommended by the department to PSB for final selection for promotion.

*note - copy of Judgment of Appeal No 1142 / 2016 Applicant
is attached, along with promotion policy 2009.*



Mr. Tajnoor Khan
District Public Prosecutor at
Buner Daggar

Attested
to be true copy 18/7/2018.

(K) Annex "B" (43)

**BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH / DAR-UL-QAZA AT SWAT**

Writ Petition No.of 2018

1) Taj Noor District Public Prosecutor District Bunir

.....Petitioner

VERSUS

1) The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar

2) The Secretary to the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Civil Secretariat, Peshawar

3) The Secretary to the Government of Khyber Pakhtunkhwa Establishment Department, Civil Secretariat, Peshawar

4) The Secretary to the Government of Khyber Pakhtunkhwa Law Parliamentary Affairs & Home Rights Department.

5) The Director General Prosecutor, Directorate of Prosecution Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar

..... Respondents

Writ Petition Under Article 199 Of The
Constitution of Islamic Republic of Pakistan 1973.

Respectfully Sheweth:-

Brief facts of the case as under;

(2) (44)

1. That the petitioner was appointed as
Additional Government Pleader / Additional

Public Prosecutor in Law Department on

28/11/1998. ✓ *Adm*

2. That the petitioner was then promoted to BPS-

18 as Public Prosecutor and took charge as

Public Prosecutor in BPS-18 in ATC Swat on

25/05/2004.

3. ✓ That after the bifurcation of the post of *P*

Government Pleader and Public Prosecutor,

the petitioner joined / preferred the

directorate of prosecution as Public

Prosecutor in the Home & Tribal Affairs

Department Government of Khyber

Pakhtunkhwa in the year 2005.

CTC
4. ✓ That in the year 2011 the petitioner was *M*

promoted to BPS-19 and took charge as

District Public Prosecutor BPS-19 on

12/02/2011.

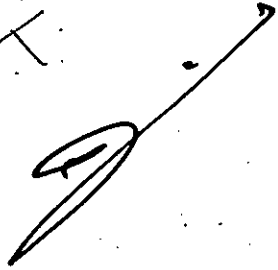
5. That the petitioner is now serving as District

Public Prosecutor Buner. *M*

(5) 45

6. That the petitioner being duly qualified for further promotion to Regional Director Prosecution BPS-20 (after the promulgation of uniform promotion Policy in 2009 for all Civil servants in Khyber Pakhtunkhwa), the petitioner applied for promotion on 18/07/2018. The contents of the said application along with annexure may be consider as an integral part of this writ petition. (Copy of the Uniform Promotion Policy 2009, tentative Seniority list of District Public Prosecutors and Senior Public Prosecutors (BPS-19), Directorate of Prosecution, Home and Tribal Department, the notification dated 18/01/2018 along with the copy of the amendment / notification dated 21/05/2018 are annexed herewith as annexure "A")

7. That the application of the petitioner dated 18/07/2018 has been filed / rejected illegally, unlawfully, unconstitutionally by respondent No. 5. The copy of the said filing / rejection

CTC


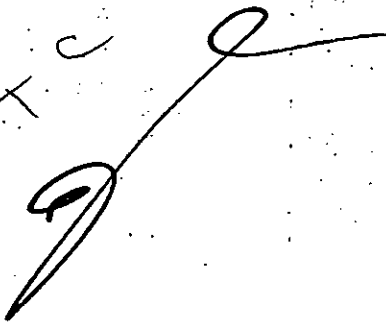
(C 4) (46)

order has not been provided to the petitioner, despite repeated requests, hence the petitioner has no other appropriate and efficacious remedy except to knock at the doors of this Honorable Constitutional Court Inter Alia on the following grounds.

GROUNDS :-

- A) That the filing / rejection of the application dated 18/07/2018 of the petitioner for promotion by the respondent is illegal, unlawful and unconstitutional.
- B) That the filing / rejection of the application of the petitioner for promotion by the respondent has been done in violation of Article 4, 10(a) 25, 38 of the Constitution of Islamic Republic of Pakistan, 1973.
- C) That tentatively (by guessing) the application for promotion of the petitioner has been filed / rejected on the basis of fitness, hence this Honourable

C.T.C



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(47)

Court has got jurisdiction vide judgment of the Supreme Court of Pakistan reported as PLD-2008 Supreme Court Page 769.

- D) That according to judicial policy the civil Servants (Serving therein) are exempted from SMC after the age of 56 years.
- E) That the petitioner is a fit, qualified and eligible person for promotion to Regional Director BPS-20 having an unblemished service record.
- F) That others grounds will be argued at the time of argument with the permission of this August court.

8. That a notice in respect of the institution of this writ petition has been sent to the respondents. (Copy of the notice is attached herewith as annexure "B")


It is therefore humbly prayed that on acceptance of this writ petition a writ

C.T.C
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may be issued to the respondents to promote the petitioner to the post of Regional Director BPS-20 from the date of entitlement with all back benefits.

Any other remedy coupled with cost, which is efficacious and appropriate, in peculiar circumstances, of the case, may please be graciously granted, though not specifically prayed for.

Petitioner
Through Counsel


MUHAMMAD JAVAID KHAN
Advocate High Court

List of books:

- 1) Constitution of Islamic Republic of Pakistan 1973.
- 2) Any other law book / precedents as per need.

C.T.C.



MUHAMMAD JAVAID KHAN
Advocate High Court

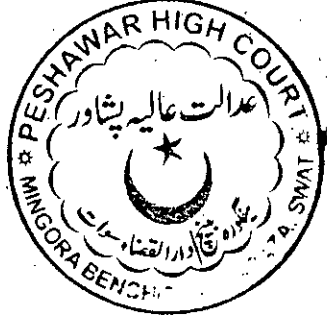
(4)

(49)

Annex 'c'

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH / DAR-UL-QAZA AT SWAT

Writ Petition No. .../1089.../17...of 2018



1) Taj Noor District Public Prosecutor District Bunir

R/o Gandizo Shah Dargai Dist, Malakand.....Petitioner

VERSUS

- 1) The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2) The Secretary to the Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Civil Secretariat, Peshawar
- 3) The Secretary to the Government of Khyber Pakhtunkhwa Establishment Department, Civil Secretariat, Peshawar
- 4) The Secretary to the Government of Khyber Pakhtunkhwa Law Parliamentary Affairs & Home Rights Department.
- 5) The Director General Prosecutor, Directorate of Prosecution Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar .

..... Respondents

Writ Petition Under Article 199 Of The
Constitution of Islamic Republic of Pakistan 1973.

Respectfully Sheweth:-

Brief facts of the case as under;

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

FILED TODAY

15 NOV 2018

Additional Registrar

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JUDGMENT SHEET

PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No. 1089-M/2018

JUDGMENT

Date of hearing: - 01.12.2020

Petitioner:- (Taj Noor District Public
Prosecutor District Buner) by Mr. Javaid Khan,
Advocate.

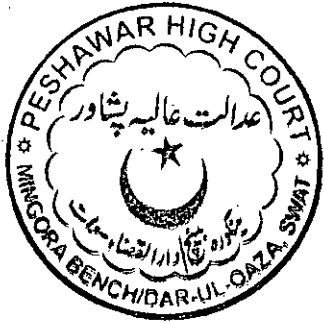
Respondents:- (The Govt: of KPK & others) by
Mr. Sohail Sultan, Astt: A.G.

WIQAR AHMAD, J.- Petitioner has filed the instant
petition under Article 199 of the Constitution of
Islamic Republic of Pakistan, 1973, with the
following relief;

“ It is therefore humbly prayed that on
acceptance of this writ petition a writ may be
issued to the respondents to promote the
petitioner to the post of Regional Director
BPS-20 from the date of entitlement with all
back benefits.

Any other remedy coupled with cost,
which is efficacious and appropriate, in
peculiar circumstances of the case, may
please be graciously granted, though not
specifically prayed for.”

2. After arguing the case at some
length, when learned counsel for petitioner was
confronted with the question that petitioner has
now got retired from service and his case could
not therefore be considered for regular promotion
to BPS-20 but could only be considered for the

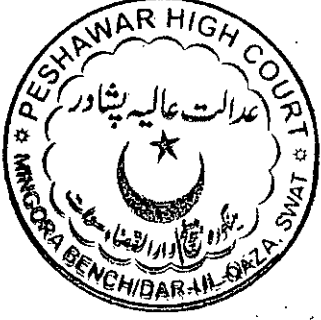


ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

2

51



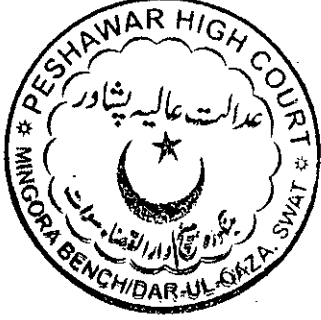
grant of notional promotion, even if he is found to have wrongly been deprived from his due promotion, he requested that his case should be considered for the grant of notional promotion. Grant of notional promotion to the petitioner has never been considered at departmental end. In such a situation, learned counsel for petitioner requested the Court, on behalf of the petitioner, that the instant writ petition may be converted into a departmental appeal and sent to the competent authority for treating the same according to law. Request seems genuine, which is accepted. The instant petition be considered as a departmental appeal for the grant of notional promotion to the petitioner, on the basis of facts and grounds agitated in the instant constitutional petition. Secretary to the Government of Khyber Pakhtunwa Home & Tribal Affairs Department and Director General Prosecution Khyber Pakhtunkhwa i.e. respondents No. 2 & 5 herein are directed to submit case of the petitioner before the competent authority for treating the same as departmental appeal and passing the appropriate order thereupon. Respondents No. 2 & 5 shall do

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

(52)

the needful within a period of one month of receipt of this order, a final order whereupon is expected to be passed by the competent authority within three (03) months. Office is directed to transmit record of the instant writ petition along with copy of this order to Secretary Government of Khyber Pakhtunwa Home & Tribal Affairs Department as well as Director General Prosecution Khyber Pakhtunkhwa i.e. respondents No. 2 & 5 for compliance. A copy of record of the instant petition shall however be retained for the purpose of record of this Court.



Announced
Dt: 01.12.2020

S.No. 02
Name of Applicant S.A. Ullah
Date of Presentation of Applicant 03-12-2020
Date of Completion of Copies 10-12-2020
No of Copies 04
Urgent Fee 167
Fee Charged 167
Date of Delivery of Copies 10-12-2020

JUDGE

Certified to be true copy

10-12-2020
EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 67 of Qanoon-e-Shahadat Order 1984

JUDGE

Office
07/12



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Phone# 091-9210541 Fax:# 091-9210201

NO. SO (Pros)/HD/1-10/2021.

Dated Peshawar the 25th June, 2021.

To

The Director General Prosecution,
Khyber Pakhtunkhwa.

53
Annex "B"

Subject:

**PROFORMA PROMOTION ON NOTIONAL BASIS IN MR. TAJ NOOR KHAN DISTRICT
PUBLIC PROSECUTOR.**

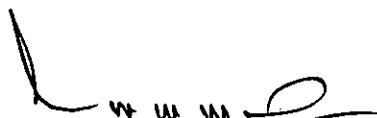
Dear Sir,

I am directed to refer to the subject noted above and to say that in compliance with the directions of Peshawar High Court given vide judgment, Dated: 01.12.2020 in Writ Petition No. 1089-M/2018-Taj Noor V/S Govt. of Khyber Pakhtunkhwa, departmental representation of the petitioner was processed in consultation with the Establishment Department for consideration of the competent authority. The competent authority after a thorough consideration in light of the directions of the Court viz-a-viz the Khyber Pakhtunkhwa Promotion Policy has found that the Provincial Selection Board in its meeting dated 26.02.2018 deferred the promotion of Mr. Taj Noor Khan, District Public Prosecutor BS-19 to BS-20 due to non-availability of his PERs for the year 2016 and also that the officer was at Serial No. 12 of the seniority list, therefore he retired from service on 03.03.2019 before holding of next PSB meeting. The competent authority further noted that as per Para-VII of the Khyber Pakhtunkhwa Promotion Policy 2009, the appeal of the officer is not tenable, as notional promotion is admissible only to Civil Servant who retires or expires after recommendations of the Provincial Selection Board or Departmental Promotion Committee as the case may be, but before approval of the competent authority. The competent authority has therefore filed the appeal.

I am, therefore, directed to kindly convey the decision of the competent authority to the appellant concerned.

Yours faithfully,




(Khushi Muhammad Khan)
Section Officer (Prosecution)


ATTESTED

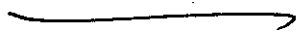
Endst. of even no. and date.

Copy of the above is forwarded to the:

1. Principal secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Advocate General, Khyber Pakhtunkhwa, Peshawar w/r to order/judgment referred to above.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
4. PS to Special Secretary-I, Home & Tribal Affairs Department.
5. PS to Secretary, Home Department, Peshawar.
6. Master file.

SM
28/6/21
D.D.


28/6
28/6


Section Officer (Prosecution)



Annex "E"
54
**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DP/E&A/PF/8287-88

Dated Peshawar 01/7/2021

Office Phone # 091-9212559

Fax # 091-9212559

E-mail kpprosecution@yahoo.com

To

Mr. Taj Noor,
Retired District Public Prosecutor (BS-19), Buner,
Village & p/o Hero Shah
(via Shergarh Teh Dargai, Malakand Agency).

Subject: - **PROMFORMA PROMOTION ON NOTIONAL BASIS IN MR. TAJ
NOOR KHAN DISTRICT PUBLIC PROSECUTOR.**

Dear Sir,

I am directed to refer to the subject noted above and enclose herewith a copy of self-explanatory letter bearing No. SO(Pros)/HD/1-10/2021 dated: 25th June, 2021, received from Section Officer (Prosecution), Home Department for information, please.

Yours faithfully,


Deputy Director Administration

(Encl: as above)

Copy forwarded for information to the:

1. District Public Prosecutor, Buner at Dagger with the request to inform Mr. Taj Noor, retired DPP Buner.
2. PA to Director General Prosecution, Khyber Pakhtunkhwa.


Deputy Director Administration

بخدمت جناب ڈی۔ پی۔ پی۔ صاحب لوئر چترال

55

درخواست فراہمی ریکارڈ PER سال 2016

مضمون :-

جناب عالی :-

درخواست سائل سابقہ ڈی۔ پی۔ پی۔ چترال حسب ذیل عرض ہے۔

- ۱۔ یکہ میں سال 2012 سے سال 2017 میں (15 مارچ 2017) تک ضلع چترال میں بحیثیت ڈی۔ پی۔ پی۔ چترال تھا۔
- ۲۔ یکہ میں نے اپنے PER برائے سال 2016 جنوری 2017 میں ڈائریکٹریٹ آف پراسیکیوشن بھیجا تھا، لیکن وہاں پر مذکورہ PER میں پس و پیش ہوا ہے۔
- ۳۔ یکہ مذکورہ میرے پر دموشن امانی فوائد کے حصول کیلئے ضروری ہے۔

لہذا جناب والا سے درخواست ہے کہ سال 2016 کی PER کا ریکارڈ اور Dispatch نمبر وغیرہ فراہم کریں۔

JAF
تاج نور خان

سابقہ ڈی۔ پی۔ پی۔ چترال

ATTESTED

As per the records of this office your PERs for the year 2016 has been send to Directorate of prosecution vide despatch no 27 dated 07-01-2017, however copy of the same has not been retained in this office. Copy of register and post office receipt attached.

District Public Prosecutor
Chitral 28/1/21

(57)

24	7/57	D G Prosecution	Post	Mortality Commission			
25	9/57	D G Prosecution	Post	MALABAR WISE DEPT			
26		D G Prosecution	Post	ACK			
27		D G Prosecution	Post	Subs			
28		D G Prosecution	Post	Transition for DPP	Taj Noida		
29		D G Prosecution	Post	Transition for DPP	Taj Noida		
30	12/57	D G Prosecution	Post	Transition for DPP	Taj Noida		
31-37	14/57	Secretary Home	Post	Charge Assumption Report	Mr: Abdul Wahid APP		
		DG Prosecution	Post	"	"		
		Secretary finance	Post	"	"		
		Accountant General	Post	"	"		
		DPP Chitral	cl	"	"		
		District Account office	cl	"	"		
		Personal file		"	"		
38-44	14/57	Secretary Home	Post	Charge Assumption Report	Mr: Iskan wal Din APP		
		DG Prosecution	Post	"	"		
		Secretary finance	Post	"	"		
		Accountant General	Post	"	"		
		DPP	cl	"	"		
		District Accounts office	cl	"	"		
		Personal file	cl	"	"		

Arrested

District Public Prosecutor
Chitral
28/7/21

58 Annex "G1"

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT



NO. SO(PSB) ED/1-25/2018/
DATED PESHAWAR THE 15.05.2018

To: All Administrative Secretaries to
Govt. of Khyber Pakhtunkhwa.

SUBJECT: DIRECTIVE OF THE PSB MEETING HELD ON 03/05/2018

Dear Sir,

I am directed to refer to the subject noted above and to say that the Provincial Selection Board (PSB) in its meeting held on 03/05/2018 observed that promotion of officers are deferred in most cases for reasons such as pending inquiries, non-submission of PERs and pendency of resignation and leave application. The Chair showed serious concern on such state of affairs and the PSB directed to issue the following directives:-

- i) The concerned Administrative Department shall ensure that inquiries pending against its employees are completed by the enquiry Officer/Committee within the stipulated period of 30 days as per rules-11 (7) of Khyber Pakhtunkhwa Civil Servant, (E&D) Rules, 2011 positively.
- ii) Show cause notice of removal from service be issued to the Officers who are not submitting their pending PERs despite repeated intimation as per relevant provisions of E&D Rules. Similar disciplinary action should also be initiated against the Reporting Officers if any fault lies on their part.
- iii) Application of Officers regarding leave/resignation should be disposed off within 10 days. The Higher Education Department in particular shall submit a report on such cases to Establishment Department within 10 days for perusal of the Chief Secretary.

In promotion cases where training is mandatory, the working paper submitted by the department must reflect the details about nomination of a particular officer for such training and the reasons/justifications due to which the said officer was unable to attend the requisite training. The Administrative Department should clearly communicate to the officers that failure to attend the training in spite of two time nominations for training shall result in supersession if such failure was not for the reason beyond the control of the officer concerned.

2. You are, therefore, requested that the above directions may be implemented in letter and spirit.

Yours faithfully,

DBL (PRR) /ha/ 15/5

[Signature]
DAULAT KHAN
SECTION OFFICER (PSB)

ATTACHED

Endst. No. & date even:

Copy forwarded to the:-

- 1. All Section Officers in Regulation Wing of Establishment Department.
- 2. PS to Secretary (Establishment), Establishment Department.
- 3. P.S to Special Secretary (Reg.), Establishment Department.
- 4. P.A to Additional Secretary (Reg.), Establishment Department.
- 5. P.A to Deputy Secretaries (R-I, II & III), Establishment Department.

[Signature]
SECTION OFFICER (PSB)

9922
16/5/2018
4-1/18

SSH
A3/PSB
28/5/18

Received on 20/6/2018. (59)



Diary No. 120
Date 20/6/2018
Sign: [Signature]

**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DP/EGA/100/6286-6328
Dated Peshawar 13/6/2018
Office Phone # 091-9212559
Fax # 091-9212559
E-mail kp prosecution@yahoo.com

To

- 1- All Regional Directors,
Khyber Pakhtunkhwa.
- 2- All District Public Prosecutors,
Khyber Pakhtunkhwa.

Subject: - **DIRECTIVE OF THE PSB MEETING HELD ON 03-05-2018.**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of letter No. E & A (HD) 7-29 / 2012 Dated 18-05-2018 received from Section Officer (General), Home & Tribal Affairs Department, Khyber Pakhtunkhwa alongwith its enclosure, which is self explanatory for strict compliance, please.

Yours faithfully

ATTESTED

[Signature]
Director Administration

Copy forwarded to the:-

1. Section Officer (General), Home & Tribal Affairs Department, Khyber Pakhtunkhwa.
2. PA to Director General Prosecution, Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.

[Signature]
Director Administration

60



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. E & A (HD) 7-29/2012
Dated Peshawar the May 18, 2018

- To
- 1- The inspector General of Police
Khyber Pakhtunkhwa.
 - 2- The Inspector General, of Prisons,
Khyber Pakhtunkhwa, Peshawar.
 - 3- The Director General Prosecution,
Khyber Pakhtunkhwa, Peshawar.
 - 4- The Director, PPS&PCC,
Khyber Pakhtunkhwa.
 - 5- The Director,
Reclamation and Probation,
Khyber Pakhtunkhwa, Peshawar.

Subject: - **DIRECTIVE OF THE PSB MEETING HELD ON 3/5/2018**

Dear Sir,

I am directed to enclose herewith copy of letter No.SO(PSB)ED/1-25/2018 dated 16/5/2018 received from Establishment Department Government of Khyber Pakhtunkhwa on the subject noted above, which is self-explanatory with the request to comply with the instructions in letter and spirit, please.

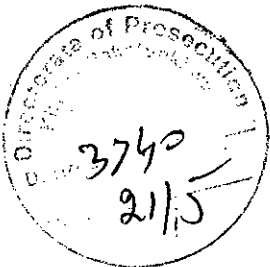
Yours faithfully,

SECTION OFFICER (GENERAL)

Copy to:-
PA to Deputy Secretary (Admn) Home Department

SECTION OFFICER (GENERAL)

ATTESTED



A
21-5-2018
DA
21/5
7/21/5
ADN

Annex 'H'
61

BEFORE THE HONOURABLE PESHAWAR HIGH COURT, MINGORA
BENCH, DAR-UL-QAZA, SWAT.

In Writ Petition No. 1089-M/ 2018

Taj Noor, Retired District Public Prosecutor, Buner.

..... Petitioner

VERSUS

1. The Government of Khyber Pakhtunkhwa & others.

..... Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 4 & 5.

Respectfully Sheweth,


PRELIMINARY OBJECTIONS:-

- 1) That, the petitioner has got no cause of action.
- 2) That, the instant petition is not maintainable in the present form.
- 3) That the petitioner being retired from the prosecution service on attaining the age of superannuation, hence, his plea regarding promotion to the post of Regional Director Prosecution (BS-20) is without legal force and could not be taken into consideration rather the same being infructuous may be dismissed.
- 4) That, the petitioner has got no locus standi to bring the instant petition in hand.
- 5) That, the petitioner is estopped by his own conduct to file the present petition.
- 6) That, the petitioner has not come to this Hon'ble Court with clean hands.
- 7) That, the petitioner has concealed material facts from this Hon'ble Court.
- 8) That, the petition is bad for mis-joinder and non-joinder of necessary parties.
- 9) That, the Hon'ble Court has got no jurisdiction to entertain the instant writ petition.

FILED TODAY

04 JAN 2020

Additional Registrar



ON FACTS

1. Para pertains to record. Hence, needs no reply. ✓
2. Para pertains to record. Hence, needs no reply.
3. Para pertains to record. Hence, needs no reply.
4. Para pertains to record. Hence, needs no reply.
5. Para is incorrect. The petitioner was serving as District Public Prosecutor, Bunner and now retired from service on attaining the age of superannuation w.e.f 03-03-2019 vide notification dated 28-03-2019 vide (Annexure-A), hence, writ petition of the petitioner may graciously be dismissed being infructuous
6. Para is incorrect. As per amended Service Rules of 2018 (Annexure-B), criteria for promotion to the post of Regional Director Prosecution (BS-20) provides as under:
"By promotion, on the basis of merit-cum-fitness, from amongst the Senior Public Prosecutors, District Public Prosecutors and Directors in (BPS-19) with at least seventeen (17) years of service in BPS-17 and above subject to successful completion of Senior Management Course"
 Seniority list of Senior Public Prosecutor, District Public Prosecutors and Directors BS-19 (Annexure-C), reveals that the petitioner was placed at Sr. No. 13 amongst Senior Public Prosecutors in BS-19. Relevant to mention that in the year 2014, seven (07) posts of Regional Director Prosecution (BS-20) ^{were} sanctioned and as per seniority, 07 senior most Prosecutors in BS-19 were promoted / appointed to the post of Regional Director Prosecution (BS-20) wherein 04 have been promoted on regular basis while 03 Senior Public Prosecutors (BS-19) have been appointed as Regional Director Prosecution on acting charge basis in BS-20 vide order (Annexure-D) in their own pay scale as per eligibility criteria laid down in the Rules ibid. Hence, the petitioner is neither senior from the remaining Prosecutors who are yet to be promoted on regular basis nor has fulfilled the eligibility criteria as provided for promotion to BS-20. Therefore, by superseding Senior Public Prosecutors without any valid reasons is not justified/permitted under the law / rules. ✓
7. Incorrect, as replied vide preceding paras. Moreover, petitioner has been treated in accordance with law during tenure of his service as presently petitioner has been retired from service.

(Writ petition)

when this order is

CC-2

REPLY TO GROUNDS:-

- a. Para is incorrect. As replied vide preceding paras. Thus, no illegality whatsoever has been committed by the respondents, rather his application has been treated in accordance with law.

FILED TODAY
 04 JAN 2020
 Additional Registrar

AAE

21

4

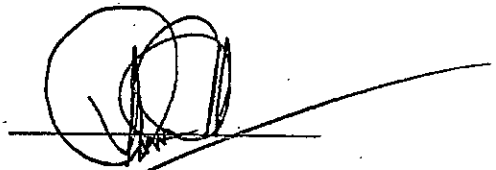
(3)

(63)

- b. Para is incorrect. As replied vide preceding paras. However, no violation of article-4, 10(a), 25 and 38 of the Constitution of Islamic Republic of Pakistan, 1973 has been made rather reply of the replying respondents is sufficient for dismissal the petition.
- c. Para is incorrect. With utmost respect this honorable has got no jurisdiction to entertain the instant writ petition.
- d. As replied vide preceding paras. Moreover, the petitioner has not appended the copy of said policy, therefore, reply could not be offered.
- e. Para is incorrect. As replied vide preceding paras.
- f. Para needs no reply.

PRAYER:

In light of the above facts and circumstances of the case, writ petition filed by the petitioner is devoid of merits and legal substance; therefore, may graciously be dismissed with cost, please.

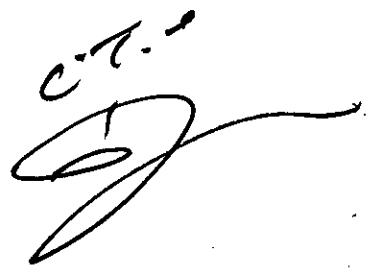


Director General Prosecution
Home Department,
Govt. of Khyber Pakhtunkhwa
(Respondent No.05)

FILED TODAY

04 JAN 2020

Additional Registrar



MUHAMMAD JAVAID KHAN

*Advocate, Supreme Court
Of Pakistan*

*Office: Near Allah-o-Akbar Masjid,
College Colony Saidu Sharif, Swat
Cell: 0343-9607492
Email: akhan10963@gmail.com*

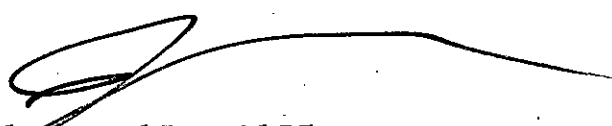
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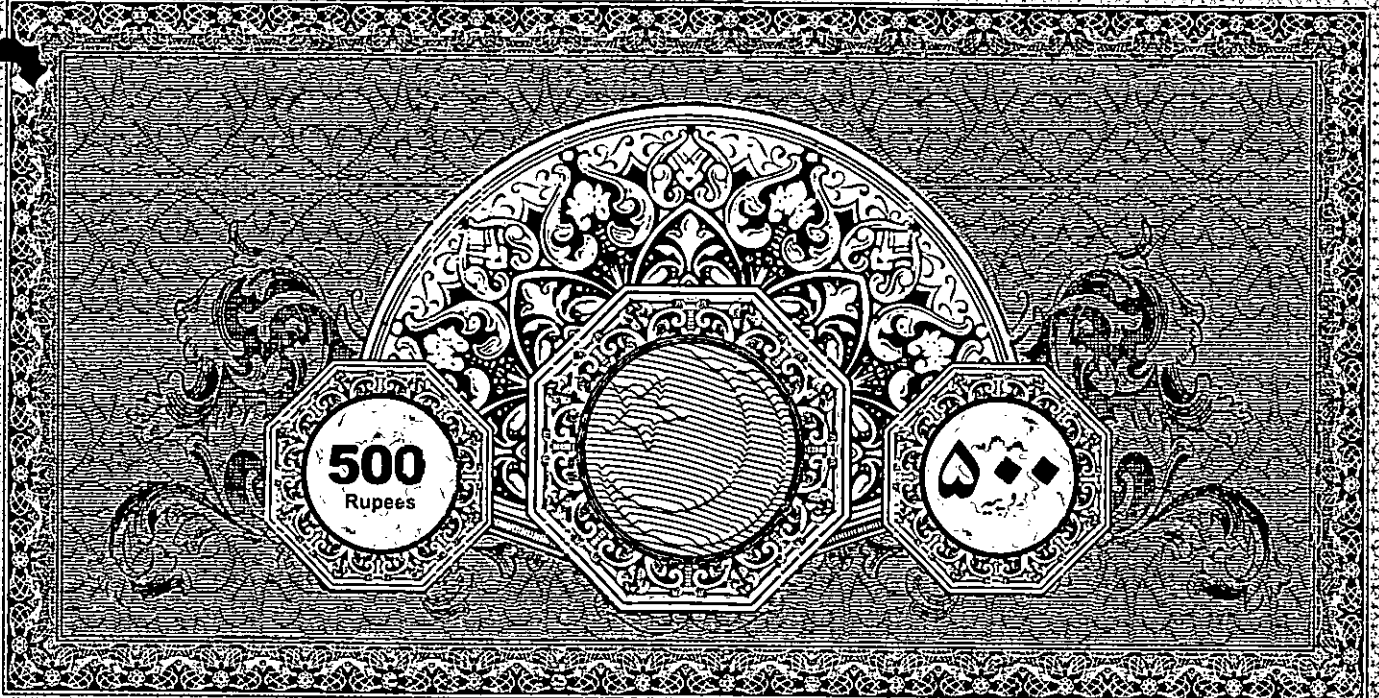
Government of Khyber Pakhtunkhwa through Chief Secretary Govt of
Khyber Pakhtunkhwa at Peshawar and others

NOTICE

Dear Sir,

I am filing a Writ petition in the Peshawar High Court Mingora
Bench / Dar ul Qaza at Mingora Swat on behalf of Taj Noor District
Public Prosecutor District Buner for his notional promotion. (Copy of
the writ petition along with annexures is send with this notice for
your information please).


Muhammad Javaid Khan
*Advocate Supreme Court
of Pakistan*



500
Rupees

PAKISTAN COURT FEE

Before the Peshawar High Court
Mingawara Bench / Dat-ul-Qaza Swat

Taj Noor

w.p 759-1/21

CANCELLED

VERSUS

Govt of F.P.K and others

CANCELLED

Re-Filed Today

04 AUG 2021

[Signature]
Additional Registrar

بعدالت عالیہ پشاور ہائی کورٹ مینگورہ بینچ (دارلقضاء) سوات

wp 759-121

مورخہ 03 Aug 2021 منجانب Petitioner

مقدمہ Govt of KPK بنام Taj Noor
and other's دعویٰ

جرم

FILED TODAY

باعث تحریر آنکے

03 AUG 2021

Additional Registrar

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام مینگورہ دارلقضاء کیلئے خواجہ احمد خان، محمد جاوید خان ریڈوسیٹ سپر ہائی کورٹ پشاور پاکستان مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

2021

ماہ اگست

المرقوم 03

العبد

گواہ شد

العبد

Taj Noor

cell 0545-9800253

enr 115401-0954734-3

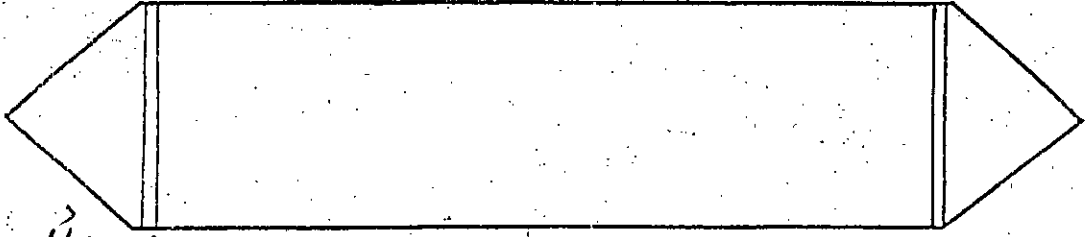
العبد

گواہ شد

العبد

بمقام مینگورہ دارلقضاء سوات کیلئے منظور ہے۔

بعد الت صواب سروس سر موصل لکھا



۲۲ بجائے اصل
بنام صورت

تاج نور

سورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کراچی کیلئے قرض حاصلی و ڈیوٹس لکھا
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا اکالت نامہ لکھدیا کہ سند ہے۔

المرقوم 21 ماہ صوری 20

العبد گواہ العبد

بمقام لکھا کے لئے منظور ہے۔
Accepted
Amir
Khan

Taj Noor

BEFORE THE HON'BLE SERVICE TRIBUNAL KPK PESHAWAR

Taj Noor **V**ersus The State

**APPLICATION FOR CORRECTION OF DATE OF
PENSIONARY BENEFITS AS 28-11-2015 INSTEAD
OF 28-11-2018**

Respectfully Sheweth,


1. That the above noted appeal is pending for adjudication before this Hon'ble Tribunal for today.
2. That inadvertently the date of pensionary, benefits is written 28-11-2018 instead of 28-11-2015, which is liable for correction.
3. That there is no legal bar in correcting the date and year of the pensionary benefits.

It is, therefore, most humbly prayed that on acceptance of this application the above noted correction may kindly be made.

Dated 21/01/2022

Petitioner

Through


Farhad Ali
Advocate, High Court
Peshawar