



FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA
POLICE GAZETTE PART-II ORDERS OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA PESHAWAR

Office of the Addl. IG/Commandant
F.R.P KPK Peshawar

Dated Peshawar 12/03/21

Diary No. 1935 Enci 01
Date 15/03/2021

NOTIFICATION

No. 823-50 /E-V, **PROMOTION**: - In pursuance to the provision contained in the Khyber Pakhtunkhwa Police Department Ministerial Service Rules, 1974 at S.No. 3 of the Appendix to the said Rules, the Competent Authority on the recommendations of the Departmental Promotion Committee (D.P.C) meeting held on 04.03.2021, is pleased to promote the following Senior Clerks (BPS-14) to the rank of Assistant Grade Clerks (BS-16), on regular basis with immediate effect:-

S#	NAME OF OFFICIAL	PRESENT PLACE OF POSTING
1.	Haibat Khan	DPO Office Lakki Marwat
2.	Akhtar Hussain-I	SP Investigation Office D.I.Khan
3.	Farmanullah	E-III Branch CPO/Peshawar
4.	Muhammad Zahid	SP Investigation Office Mansehra
5.	Muhammad Shafiq	FRP Bannu Range (He is conditionally promoted to the rank of Assistant Grade (BPS-16) subject to completion of ACR for the period from 01.01.2017 to 31.12.2017 within fortnight)
6.	Abdul Karim	CCPO Peshawar
7.	Gul Rehman	DPO Office Lakki Marwat
8.	Muhammad Bilal-I	RPO Office Kohat
9.	Ghaffar Ali	SP Investigation Office Charsadda
10.	Muhammad Saeed	Investigation Wing Nowshera
11.	Gohar Ali	DPO Office Swabi
12.	Muhammad Shoaib	DPO Office Haripur (He is conditionally promoted to the rank of Assistant Grade (BPS-16) subject to completion of ACR for the period from 17.09.2016 to 30.09.2016 within fortnight)
13.	Hussain Habib	DPO Office Swabi
14.	Muhammad Farman Ali	CCPO Peshawar
15.	Fazal Khaliq	DPO Office Lower Chitral
16.	Alamzeb	DPO office Mansehra
17.	Hayat Ullah	Investigation Wing Mardan
18.	Shah Zaman-I	RPO Office Kohat
19.	Rahmat Ullah	DPO Office D.I.Khan
20.	Muhammad Khurshid	DPO Abbottabad
21.	Aslam Khan	FRP HQR: Peshawar
22.	Akhtar Hussain-II	DPO office Dir Upper
23.	Essa Khan	Police School of Explosive Handling Nowshera
24.	Gul Karim	Operation Branch CPO (He is conditionally promoted to the rank of Assistant Grade (BPS-16) subject to completion of ACRs for the period 01.01.2015 to 16.11.2015 and 01.01.2019 to 31.03.2019 within fortnight)

25.	Sultan Mehmood	SP Investigation Office Haripur
26.	Guldar Alam	DPO Office Dir Lower
27.	Ashraf Khan	DPO office Haripur
28.	Ijaz Khan	SP Investigation Office Abbottabad
29.	Shah Iran	DPO Office Nowshera

Terms and conditions of promotion are as under:-

1. They will be on probation for a period of one year extendable for another year in terms Section-6 (2) of Khyber Pakhtunkhwa, Civil Servant Act-1973 read with Rules-15 (f) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
2. Their promotion will take effect from the date of they actually assume the charge of the higher responsibilities.
3. The promotion of officials having ACRs deficiency will be conditioned with submission their remaining ACRs within fortnight. In case of non-compliance, they shall be considered deferred and a fresh Notification of their deferment shall be issued.

Sd/-
(KASHIF ALAM) PSP
 Additional Inspector General of Police,
 Headquarters, Khyber Pakhtunkhwa,
 Peshawar

Endst: No. and dated even

Copy forwarded to the:-

- All Addl: Inspectors General of Police in Khyber Pakhtunkhwa.
- All Regional Police Officers, in Khyber Pakhtunkhwa.
- Accountant General Khyber Pakhtunkhwa, Peshawar.
- All concerned Deputy Inspectors General of Police in Khyber Pakhtunkhwa.
- Capital City Police Officer, Peshawar.
- Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
- All concerned District Police Officers in Khyber Pakhtunkhwa.
- All concerned SP Investigation in Khyber Pakhtunkhwa.
- All concerned District Account Officers in Khyber Pakhtunkhwa
- PSO to Inspector General of Police Khyber Pakhtunkhwa Peshawar.
- Registrar, CPO, Peshawar.
- Office Supdts: Establishment-III, Secret & CP Branch CPO Peshawar.

~~(IRFAN ULLAH) PSP~~
~~AIG/Establishment~~
 For Inspector General of Police,
 Khyber Pakhtunkhwa,
 Peshawar

Ec

Dy Commandant Secret: PRP

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.5776/2020

Date of Institution ... 15.06.2020
Date of Decision ... 19.12.2022

Mr. Aslam Khan, Senior Clerk (BPS-14), FRP Headquarter, Khyber
Pakhtunkhwa, Peshawar.

... (Appellant)

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and twenty
seven others.

... (Respondents)

Noor Muhammad Khattak,
Advocate

... For appellant.

Naseer Ud Din Shah,
Assistant Advocate General

... For respondents.

Mrs. Rozina Rehman

... Member (J)

Miss Fareeha Paul

... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

“That on acceptance of this appeal the impugned
notification may very kindly be modified/rectified by
promoting the appellant to the post of Assistant Grade Clerk
(BPS-16) w.e.f 17.09.2019 with all consequential benefits
including seniority”.



2. Brief facts of the case are that appellant is the employee of respondent department and presently working as Senior Clerk (BPS-14). The department circulated seniority list of Senior Clerks (BPS-14) on 31.12.2017 wherein name of the appellant was enlisted at Serial No. 41. Respondent No. 1 directed the Senior Clerks including appellant to submit missing ACRs for promotion to the post of Assistant Grade Clerk BPS-16 on 08.05.2019. The name of the appellant was mentioned therein at Serial No. 28. The appellant submitted his ACRs for the period w.e.f 01.01.2018 to 31.12.2018 in time before the concerned authority for his promotion to the post of Assistant Grade Clerk BPS-16. The meeting of the DPC was held on 29.07.2019 but the appellant was astonished when notification was issued on 17.09.2019 because he had been ignored from promotion despite eligibility and seniority. Feeling aggrieved he filed departmental appeal which was properly forwarded, but was not responded to, hence present service appeal.

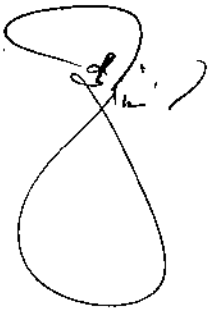
3. We have heard Noor Muhammad Khattak, Advocate learned counsel for the appellant and Naseer Ud Din Shah, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Noor Muhammad Khattak Advocate, learned counsel for the appellant submitted that the impugned notification dated 17.09.2019 is against law, facts and norms of natural justice and material on record,

hence not tenable and liable to be modified/rectified. He contended that the appellant was not treated in accordance with law and rules and that authority violated Article 4 & 25 of the Constitution of Islamic of Republic of Pakistan. He further submitted that department discriminated the appellant by ignoring him from promotion to the post of Assistant Grade Clerk and that juniors to the appellant were promoted, therefore, he requested for acceptance of the present service appeal.

5. Conversely, learned AAG submitted that the appellant failed to submit ACRs for the year 2018 before the DPC held on 29.07.2019. It was argued that name of the appellant was included at serial No. 37 for promotion to Assistant Grade Clerk (BPS-16) of DPC held on 29.07.2019 but due to incomplete ACRs for the period from 01.01.2018 to 31.12.2018 next official having complete ACRs was promoted on regular basis and that after completion of codal formalities, he was promoted to the post of Assistant Grade Clerk (BPS-16) with immediate effect under the rules.

6. From the record it is evident that seniority of the present appellant was not disputed. He was serving as Senior Grade Clerk (BPS-14) and was eligible for promotion, however, he was deferred and admittedly his juniors i.e Wajid Ali, Ikram Ullah and Bashir Ahmad and others were promoted as Assistant Grade Clerk (BPS-16) vide notification dated 17.09.2019. He filed Departmental appeal and



clarified his position. ACRs for the period from 01.01.2018 to 31.12.2018 duly signed by reporting officer had been sent to CPO vide letter No. 4647/CC dated 24.05.2019 and in response whereof duplicate copy of the same ACRs duly signed by competent authority was returned to the appellant. The remarks of Deputy Inspector General on the departmental appeal of the appellant are worth perusal which are hereby reproduced for ready reference:

“please look into ^{it} why he has not been promoted when his requirements including ACRs etc were available.”

The letter dated 24.05.2019 from Commandant FRP to the Inspector General of Police Khyber Pakhtunkhwa Peshawar is also available on file which shows that the appellant was mistakenly dropped in the DPC held on 29.07.2019. ACRs for the said period are also available on file and it was on 12.03.2021 when appellant alongwith others was promoted to the rank of Assistant Grade Clerk (BPS-16) on regular basis with immediate effect. From the comments it is evident that the non-submission of ACRs/PERs was made a reason for deferment of the appellant for promotion. Deferment is neither a punishment nor a final order; as and when the reasons for deferment ceases to exist, the employee is to be promoted from the date when his juniors were promoted.

7. As per Explanation to Rule-17 of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989, if a junior person in a lower post is promoted to a higher post by superseding a senior person and

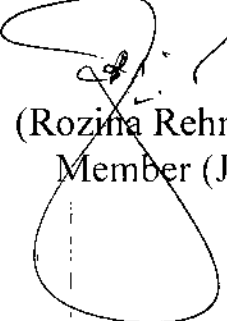
subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit. In the instant case, the present appellant was promoted but with immediate effect.

8. In the absence of any solid reason and convincing response by the respondents, the claim of the appellant is bonafide and just and he is held entitled for promotion to the post of Assistant Grade Clerk w.e.f 17.09.2019 i.e. the date his juniors were promoted. With the observations herein-above, the appeal in hand is hereby disposed off. File be consigned to the record room.

ANNOUNCED

19.12.2022


(Fajeeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

ORDER

19.12.2022

Appellant present through counsel:

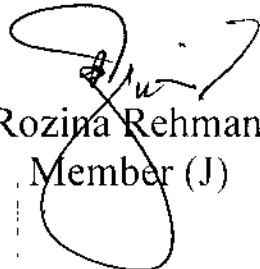
Naseer Ud Din Shah learned Assistant Advocate General for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today of this Tribunal place on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

19.12.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)