FORM OF ORDER SHEET

Court of		
Case No	_	158/ 2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/1/2023	The appeal of Mr. Hasant Gul resubmitted today by
		Mr. Taimur Ali Khan Advocate. It is fixed for preliminary
-		hearing before Single Bench at Peshawar on Parcha
		Peshi is given to appellant/counsel.
		By the order of Chairman
		REGISTRAR
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The appeal of Mr. Hasanat Gul Retired Principal GHSS Kiar Abad Nowshera received today i.e. on 9.01.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal may be attested.
- 4- Affidavit may be got attested by the Oath Commissioner.
- 5- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 6- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No 132 /S.T,

Dt. 9 - 1 - 2023

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Tarmur Ali Adv. High Court Pesh.

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5. Better copy of selvant pages of Annewer-A all made.

6- Removed

Resubmitted after Compliance

18/01/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 158 /2023

Hasanat Gul

V/S

Education Deptt:

INDEX

S.No.	Documents	Annexure	Dar
1	Memo of Appeal	Amiexure	P. No.
2	Affidavit		01-05
	Copy of seniority list		06
3	Copies of notification dated 13.03.2007 and notification dated 13.06.2012	B&C	20-27
4	Copies of judgment dated 05.07.2021 and notification dated 11.02.2019	· D&E	28-33
	Copies of notification dated 24.03.2022, notification dated 22.07.2022 and order sheet dated 28.09.2022	F,G&H	34-31
6.	Copy of departmental appeal		27 1
7	Vakalat Nama		37-40
		<u> </u>	41

THROUGH:

APPELLANT

TAIMUR ALI KHAN (ADVOCATE HIGH COURT)

Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. /2023

2833 186017 9-1-2023

Mr. Hasanat Gul, Retired Principal (BPS-19), GHSS Khiar Abad Nowshera.

(APPELLANT)

VERSUS

- 1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2. The Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. The Director Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 4. The Provincial Selection Board through its Chairman Chief Minister Khyber Pakhtunkhwa.

(RESPONDENTS)

Macdan-day

APPEAL UNDER **SECTION** OF THE KHYBER PAKHTUNKHWA SERVICE **TRIBUNALS** ACT, AGAINST THE **IMPUGNED** ACTION OF RESPONDENTS OF NOT PROMOTING THE APPELLANT ON NOTIONAL BASIS FROM BPS-19 TO BPS-20 WITH EFFECT FROM 11.02.2019, THE DATE WHEN JUNIOR TO THE APPELLANT NAMELY MUHAMMAD RIAZ WAS PROMOTED TO BPS-20 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO

CONSIDER THE APPELLANT **FOR** NOTIONAL PROMOTION TO BPS-20 WITH **EFFECT** FROM 11.02.2019, THE DATE WHEN **JUNIOR** TO THE APPELLANT NAMELY **MUHAMMAD** RIAZ WAS PROMOTED TO BPS-20 WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH: FACTS:

- 1. That the appellant joined the education department in the year 1987 as SST (BPS-15) and was then appointed in (BPS-18) in the year 2002. The appellant since his appointed has performed his duty with devotion and honesty, whatsoever assigned to him.
- 2. That Muhammad Riaz was junior to the appellant as the appellant was Sr. No 71 in the seniority list of BPS-18, while Muhammad Riaz was Sr. No.72 of the seniority. (Copy of seniority list is attached as Annexure-A)
- 3. That the appellant along his colleagues and juniors (Muhammad Riaz etc) were promoted to BPS-19 on acting charge basis after observing the formalities of consultation of PSB vide notification dated 13.03.2007 and then his colleagues and juniors (Muhammad Riaz etc) were promoted to BPS-19 on regular basis vide notification dated 13.06.2012. (Copies of notification dated 13.03.2007 and notification dated 13.06.2012 are attached as Annexure-B&C)
- 4. That initially department issued a tentative seniority list in 2017 of BPS-19) official (Teaching Cadre) and the appellant was missing therein, therefore, the appellant filed an application for including his name in the seniority list of BPS-19 officials (Teaching Cadre) being a BPS-19 employee since 2007. The department in response vide order dated 27.07.2017 directed the appellant to provide regular promotion order of BPS-19 so to proceed in the matter further. The appellant in response to that direction submitted application, wherein he clearly stated that he remained on probation for one year in terms of section 6 (2) of the civil servant Act 1973 and rule 15(1) of KP Civil Servant (APT) Rules 1989. As the period has stood lapsed since long, therefore, he would be deemed regularized.
- 5. That the final seniority list of BPS-19 officials (Teaching Cadre) was issue in which the name of the appellant was missing. The appellant

- then filed departmental appeal, but no action was taken on his departmental.
- 6. That after the statutory period of ninety days, the appellant filed service appeal No.761/2018 in this Honorable Tribunal. The service appeal of the appellant was heard and decided by this Honorable Tribunal on 05.07.2021. The Honorable Service Tribunal allowed the appeal of the appellant and directed the respondents to issue the promotion order of the appellant to BPS-19 on regular basis with effect from 13.06.2012 and shall be entitle to all back benefits. It is pertinent to mention here that during pendency of service appeal of the appellant before this Honorable Tribunal, Muhammad Riaz who was junior to the appellant was promoted from BPS-19 to BPS-20 on regular basis vide notification dated 11.02.2019. (Copies of judgment dated 05.07.2021 and notification dated 11.02.2019 are
- That department did not implement the judgment dated 05.07.2021 of this Honorable Service Tribunal, therefore, the appellant filed Execution Petition No.158/2021 in this Honorable Service Tribunal for implementation of judgment dated 05.07.2021 and during the pendency of Execution Petition, the appellant was retired from service on attaining the age of superannuation w.e.f 01.04.2022 vide notification dated 24.03.2022 and on dated 28.09.2022 the department provided the notification dated 22.07.2022 to this Honorable Tribunal wherein the appellant was promoted to BPS-19 on regular basis (BPS-19) on notional basis w.e.f 13.06.2012. (Copies of notification dated 24.03.2022, notification dated 22.07.2022 and order sheet dated 28.09.2022 are attached as Annexure-F,G&H)
- 8. That Muhammad Riaz who was junior to the appellant was regular promoted to BPS-19 on 13.06.2012 and the appellant was also regular promoted to BPS-19 w.e.f 13.06.2012 on the basis of judgment dated 05.07.2021 through notification dated 22.07.2022. Muhammad Riaz who was junior to the appellant was then regular promoted from BPS-19 to BPS20 on 11.02.2019 during the period when the appellant was pursuing his case in this Honorable Tribunal for regular promotion to BPS-19 w.e.f 13.06.2012 and now the appellant was also regular promoted w.e.f 13.06.2012, therefore the appellant is also entitle for regular promotion to BPS-20 w.e.f 11.02.2019, the date on which his junior namely Muhammad Riaz was promoted to BPS-20, therefore, he filed departmental appeal on 05.10.2022 for his regular promotion from BPS-19 to BPS-20 on notional basis w.e.f 11.02.2019 i.e the date on which his junior Muhammad Riaz was promoted to BPS-20, which was not responded within the statutory period of ninety days. (Copy of departmental appeal is attached as Annexure-I)

9. That the appellant has no other remedy except to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUNDS:

- A) That the appellant was senior to Muhammad Riaz in BPS-18 and both were promoted to BPS-19 on acting charge basis, but Muhammad Riaz was regular promoted to BPS-19 vide notification dated 13.06.2012, while the appellant was deprived from regular promotion to BPS-19 in that notification without giving any reason, which was challenged by the appellant in service appeal No.761/2018 in this Honorable Service Tribunal which was allowed on 07.05.2021 and on the basis of the judgment dated 05.07.2021, the appellant was also regular promoted to BPS-19 w.e.f 13.06.2012 through notification dated 22.07.2022, but during the pendency of service appeal of the appellant, Muhammad Riaz was promoted from BPS-19 to BPS-20 on 11.02.2019 and as the appellant was also promoted to BPS-19 w.e.f 13.06.2012 through notification dated 22.07.2022 meaning by that his seniority in BPS-19 was revised/restored and become senior to Muhammad Riaz and as such the appellant is entitle for notional promotion to BPS-20 w.e.f 11.02.2019 as the appellant has retired from service on attaining the age of superannuation.
- B) That the appellant was promoted to BPS-19 with effect 13.06.2012 through notification dated 22.07.2022 on the basis of judgment dated 05.07.2021 and his seniority was also revised/restored along with his colleagues and juniors and it is legal right of the appellant to be promoted to BPS-20 w.e.f 11.02.2019, the date when his junior namely Muhammad Riaz was promoted to BPS-20.
- C) That the appellant has suffered a lot by the action the department of not promoting him to BPS-19 on 13.06.2012 on regular basis along with his colleagues and juniors without giving any reason, however that grievance was redressed by this Honorable Tribunal in its judgment dated 05.07.2021 and now not promoting him on notional basis to BPS-20 w.e.f 11.02.2019, the date on which his junior namely Muhammad Riaz was promoted to BPS-20 shows the arbitrary manner of the respondents.
- D) That the appellant's seniority was restored revised/restored in BPS-19 to 13.06.2012 through notification dated 22.07.2022 and not promoting him to BPS-20 w.e.f 11.02.2019 on notional basis is against the law, rules, facts, norms of justice and material on record, therefore, not tenable.

- E) That the appellant has been suffered a lot by not promoting him to BPS-19 on regular basis along with his colleagues and juniors on 13.06.2012 by the fault of the department which was redressed by this Honorable Tribunal in its judgment dated 05.07.2021 and now the appellant should not be punished by depriving him from his legal right of promotion to BPS-20 w.e.f 11.02.2019 for no fault on his part.
- F) That not promoting the appellant to BPS-20 from the date i.e 11.02.2019 on notional basis when his junior was promoted to BPS-20 has caused irreparable loss to the appellant in the shape of pension and other monetary benefits for no fault on his part.
- G) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

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

APPELLANT

Hasanat Gul

THROUGH:

TAIMUR ALI KHAN (ADVOCATE HIGH COURT) PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE	APPEAL	NO.	/2023

Hasanat Gul

VS

Education Department

AFFIDAVIT

I, Hasanat Gul, Retired Principal (BPS-19), GHSS Khiar Abad Nowshera, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

DEPONENT

Hesenat End at S. NO 71

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SECRETARY TO GOVERNAL AT OF NVPP SCHOOLS & LITERACY DEPARTMENT.

EndstNo.S0(\$)4-29/

Dated Peshewar the

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Directo Schools C. Literacy, Patriff P. Peshawar. Copy of the above is forwarded for information to the is

Director (PITE) NWFP, Pest awar. Director of Education (FATL) NIVEP, Pashawar

Director Curricultion & Teachther Edu; NWFP, MAbad.

5. All the Executive District Officers(S/L) in NWFP.

6. All officers concerned.

Ps to Secretary to Boyt; of NIVEP SIL Depti:

SECTION-OFFICER (SCHOOLS)

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	49 Mr. Sher Zada D/o (S&I.) Swiat	The same of Act till of the DI'VUGU	Mr Mr Saild Donies Dri DITE(M) DI Kha		Wir Riaz Milhammad Driv Gucc Dri Caddi Marian	JOWC GIOGIA VI III COLICO JOWAL	Mr. [mtlaz Khan V/prl: GHSS Mingors Swint		Mr. Noor Zada D/o (S&I) Mardan		A/Ahad	The second of th	THE MINOR PROGRAM SHAPE OF CHIS NO. 1
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SECRETARY TO GOVERNMENT OF NWFP SCHOOLS & LITERACY DEPARTMENT.

Endst: No. SO(S)4-29/

Dated Peshawar the /2007.

Copy of the above is forwarded for information to the:-

Director Schools & Literacy, NWFP, Peshawar.
 Director of Education (FATA) NWFP, Peshawar.

Director (PITE) NWFP, Peshawar.

Director Curriculum & Teacher Edu, NWFP, A/Abad.

. All the Executive District Officers (S/L) in NWFP.

All officers concerned.

Ps to Secretary to Govt: of NWFP S/L Deptt.

SECTION OF OFFICER (SCHOOLS)

Acronerada - (1)

GOVERNMENT OF NWFP SCHOOLS & LITERACY DEPTT.

Dated Peshawar the 13-3-2007.

NOTIFICATION,

NO.SO(S)1-2/2006/Promotion BS-18 to BS-19(Male). The Provincial Government, in consultation with the Provincial Selection Board is pleased to appoint the following officers of the Schools & Literacy Department from BPS-18 to BPS-19 on Acting charge basis with immediate effect:

Sl. No-	Name	SI.N	Name	SI.N	Name	SLN	Name
		D		0		0	
l- 	Shah Afzal	4-	Syed Manzar Jan	7-	Abdur Raqib	10-	Muhammad
2-	Abdul Qadoos	5-	Kifayat-ur Rehman	8-1	Hasanat Gul	11-	Saleem Qamar Ali
3-	Muhammad Shahid Zaman,	6-	Wazir Khan	9-	Muhammad Riaz		. <u>. </u>

2- On their appointment on Acting Charge basis as the case may be, the following transfer/posting order are hereby issued in the public interest:

S.No.	Name &Designation	Posted as	Remarks.
T -	Mr.Shah Afzal, Prl. (BS-18), GHS, Alo,	Prl. (BS-19), (on acting charge	Vice S.No.15
2-	Mardan.	basis) GHS, Kotha, Swabi.	i
2-	Mr. Abdul Qadoos, Prl. (BS-18), GHS, Kalabat	Prl. (BS-19), (on acting charge	Against Vacant
	Haripur.	basis) GHS, Sector No.4, Kalabat	Post.
		Town Ship, Haripur.	
3-	Mr.Muhammad Shahid Zaman, Prl. (BS-18),	Prl. (BS-19) (on acting charge	-do-
	GHS, Dhodha, Kohat.	basis), GHS, Rustam, Mardan,	
4-	Syed Manzar Jan, Deputy Director(Estt.) (BS-	EDO (BS-19) (on acting charge	Aiready
·	18), Directorate, S&L, NWFP, Peshawar.	basis), S&L., Peshawar,	Occupied by him.
5-	Mr.Kifayat-ur-Rehman, Prl. (BS-18), GHS,	Prl. (BS-19), (on acting charge	Against Vacant
	Regi, Peshawar.	basis), Services placed at the	Post
	j	Disposal of Director of Education	
		(FATA) for further posting.	
6-	Mr. Wazir Khan, Prl. (BS-18), GHS, Mohib	Prl. (BS-19) (on acting charge	-do-
·-···	Banda, Nowshera	basis), GHSS, Shaidu, Nowshera,	
7-	Mr.Abdur Raqib, Deputy Director(BS-18),	Prl. (BS-19) (on acting charge	-do-
	PITE, Peshawar.	basis),GHS, Mathra, Peshawar.	
8- 🖍	Mr. Hasnat Gul, Prl. (BS-18), GHSS, Jalozai,	Prl. (BS-19) (on acting charge	-do-
	Nowshera.	busis), GHS, Khewshgi Payan,	
	1	Nowshern, .	
9-	Mr. Muhammad Riaz, Prl. (BS-18), GHS, Beer	Prl. (BS-19) (on acting charge	Vice S.No.12
	Kund, Mannehm.	basis), GHS, Shinkayari, Mansehra.	
10-	Mr.Muhammad Saleem, Prl. (BS-18), GHSS,	Prl (BS-19) (on acting charge	Against Vacant
	Tujuzat, Lakki Marwat.	basis), GHSS, Manga Dargai,	Post.
	7 87 77 1 4 8 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	Charsadda.	,
Ï1- ⁻	Mr.Quinar Ali, Prl. (BS-18) GHSS, Smai,	Prl. (BS-19) (on acting charge	Vice S.No.14,
·	Swabi,	basis), GHS, Jahor, Swabi.	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

3 Consequential posting/transfer of the following officers are hereby ordered in their own pay scale in the public interest:

12-	Mr. Mehboob-ur-Rehman, Prl. (BS-19), GHS,	Prl. (BS-19) GHSS, Baffa,	Against	Vacani
	Shinkayari, Manschra.	Mansehra.	Post.	
13-	Mr. Jamil-ur-Rehman, Prl. (BS-19), GHSS,	Project Manager (BS-19), Free Text		
	Urmar Payan, Peshawar.	Book, Directorate S&L, Peshawar		
14-	Mr. Noorul Wahab, Prl. (BS-19), GHS, Lahor,	Prl. (BS-19) GHS, Toor Dher,	-do-	
	Swabi.	Swabi.		
15-	Mr. Muhammad Javed, Prl.(BS-19) GHS, Kotha,	Principal (BS-18), GHS, Dagai.	-do-	
	Swabi.	Swabi.		

The officers so promoted will remain on probation for a period of one year in terms of Section 6(2) of NWFP Civil Servants ACT, 1973 read with Rule-15(1) of NWFP Civil NOTE: Servants(Appointment, Promotion & Transfer,) Rules, 1989 SECRETARY.

ENDST. NO. & DATE EVEN.

Copy forwarded for information & Maction:

- 1- The Special Secretary to Chief Minister, NWFP.
- 2- The Accountant General, NWFP, Poshawar.
- 3- The Director of Education (FATA), Peshawar.
- 4- The Director, Schools & Literacy; NWFP, Peshawar.
- 5- The Director Curriculum & Teachers Education, Abhottabad.
- The Director, PITE, NWFP, Peshawar. 7- All District/Agency Accounts Officers Concerned.
- 8- EDOs, S&L Concerned.
- 9- Officers Concerned.
- 10-PSO to Chief Secretary, NWFP.
- 11-PS to Minister for Education, NWFP.
- 12-P\$ to Secretary, Schools & Literacy Deptt. NWFP.
- 13-PAs to Special Secretary, S&L Depte NWFP.
- 14-PA to Additional Secretary, S&L Deptt. NWFP.
- 15-PA to Deputy Secretary (Admn) S&L Deptt, NWFP.
- 16-Office order file.

SECTION OFFICER (SCHOOLS)

TAJ MUHAMMAD

Harmon -

Q (22)



Dated Peshawar the June 13, 2012



NOTIFICATION

NO. SO(S/M) E&SED/1-2/2011/Promotion BS-18 to BS-19 (Male): The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote /approint the following Seventy Seven (77) Officers of Teaching Cadre of Elementary and Secondary Education Department from BS-18 to BS-19 on regular basis with immediate effect as undert-

	Name of officers and Present Stations
S.#	
1	Andul Carlogs B-19 Working on Acting Charge basis as 200 Edgs as Secretary BISE Kohat Muhamanad Shahid Zaman B-19 Working on Acting Charge basis as Addl: Director Directorate of Education
<u></u>	Muhammad Shahid Zaman B-19 Working on Acting Charge basis as Addi: Director Directorate of Education Syed Manager Jan B-19 Working on Acting Charge basis as Addi: Director Directorate of Education
3.	Syed Manzar Jan B-19 Working on Acting Charge Charge
_	FATA Wazii Khan, B-19 Working on Acting Charge basis as Principal GHSS Adezal Poshawar Wazii Khan, B-19 Working on Acting Charge basis as Principal GHSS No.1 Peshawar Cantt:
1.	Wazii Khan, B-19 Working on Acting Charge basis as Principal GHSS No.1 Peshawar Cantt: Abdur Rageeb, B-19 Working on Acting Charge basis as Principal GCMHS No.2 Abbottabad
5.	Abdur Rageeb, B-19 Working on Acting Charge basis as Principal GCMHS No.2 Abbottabad Muhammad Riaz, B-19 Working on Acting Charge basis as Principal GHS No.1 Tangi Charsadda
C.	Muhammad Saleem, B-19 Working on Acting Charge basis as Principal GHS No.1 Tangi Charsadda Muhammad Saleem, B-19 Working on Acting Charge basis as Principal GHS No.1 Tangi Charsadda
7	Muhammad Saleem, B-19 Working on Acting Charge basis as Principal GHS Manai Swabi
S.	Muhammad Saleem, B-19 Working on Acting Glasge bas s as Principal GHS Manai Swabi Qamar Ali, B-19 Working on Acting Charge basis as Principal GHSS Pania Haripur Muhammad Riaz, B-19 Working on Acting Charge basis as Principal GHSS No.4 Mardan
9.	Muhammad Riaz, B-19 Working on Acting Charge basis as Principal GHSS No.4 Mardan
10.	Muhammad Riaz, B-19 Working on Acting Charge basis as Principal GHSS No.4 Mardan Abdut Salam, B-19 Working on Acting Charge basis as Principal GHSS No.4 Mardan Abdut Salam, B-19 Working on Acting Charge basis as AEO Balaur Agency
11.	Lal Zuda, B-19 Working on Acting Charge basis as AEO Bajaur Agency Lal Zuda, B-19 Working on Acting Charge basis as AEO Bajaur Agency Bajaur Agency Lal Zuda, B-19 Working on Acting Charge basis as AEO Bajaur Agency Bajaur Agency
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175	Measure Ahmad, B-19 Working on Acting Charge basis as Principal GHSS Khanpur Cir Method that Sher Khan, B-19 Working on Acting Charge basis as Principal GHS Badaber Peshawar I Monathad lebat, B-19 Working on Acting Charge basis as Principal GHS Badaber Peshawar

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(1.15 m) F. T.	T. C. L. D. L. L. Carlings
S.#	Name of officers and Present Stations
,54i	Shuja Ullah, 6-19 Working on Acting Charge basis as Principal GHSS Fathepur Swat
52.	Amir Ahmad, B-19 Working on Acting Charge basis as Principal GHSS Pirpai Nowshera
53	Salfullah, B-19 Working on Acting Charge basis as Principal GHSS. Akbar Pura Nowshera
5,1	Taj Khan, B-19 Working on Acting Charge basis as Principal GCMHS No.1 Hangu
55.	Yousar Khan, B-19 Working on Acting Charge basis as Principal GHSS Char Bagh Swat
56.	Nisar Mohammad, B-19 Working on Acting Charge basis as Principal GHS No.3 Peshawar Cantt:
57.	Khalid Ratig B-19 Working on Acting Charge basis as Principal GHS Taru Jabba Nowsehra
58.	Misal Khan, B-19 Working on Acting Charge basis as Principal GHS Karnal Sher Khan Kailli Swabi
59.	Tai Mohammad, B-19 Working on Acting Charge basis as Principal GHS Tor Dher No.1 Swabi
60.	Hafiz Nighammad Rauf, B-19 Working on Acting Charge basis as Principal GHSS Bill Tang Kohat
61.	Rooh Ullah, B-19 Working on Acting Charge basis as Principal GHS Batagram Charsadda
62.	Abdul Rasheed, B-19 Working on Acting Charge basis as Principal GHS No.2 Kohal
63.	Luttur Reinman, B-19 Working on Acting Charge basis as Principal GHS Toru Mardan
64.	Mohanimad Ashiq, B-19 Working on Acting Charge basis as Principal GHS Sabqadar Fort Charsadda
65.	Hajl Facile Sadiq, B-19 Working on Acting Charge basis as Principal GCMHSS Bannu
66.	Mohammad Ajmal, Principal (BS-18) GHS Harichand Charsadda
67.	Abd ul Aziz, Principal (BS-18) GHS Muslimabad Abbottabad .
UU.	Mohammud Nazir, PrIncipal (BS-18) GHS Attar Shesha Manserha
69.	Kifayat Ullah, Principal (BS-18) GHS Mian Gujar Peshawar
70.	Mohaminad Sharif, Principal (BS-18) GHS Changali Buner
71.	Mohammad Mutahir, Dy: Director BEIP Peshawari
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2. Consequent upon the above, the following postings/ transfers are hereby ordered, henceforth:-

Ajmir Shah, Principal (BS-18) GHS No.2 Nowshera Kalan Waqar Ali, Principal (BS-18) GHSS Dosehra Charsadda

75, 76. Wali Khan, Principal (BS-18) GHS Jehangiri Karal:

Mohammad Ali Arif, Instructor (BS-18) RITE (M) Haripur

Manawar Khan, Principal (BS-18) GHSS Dagg Peshawar

Said Tajamal Shah, Principal (BS-18) GHSS Man!:i Sharif Nowshera

	S#	Name & Designation of officer(s)	Place of Posting	Remarks
-	1.	Abdul Qadoos B-19 Working on Acting Charge basis as EDO E&SE Haripur (Teaching Cadre)	EDO (BS-19) E&SE Haripur (Teaching Cadre) on Regular basis	Already Occupied by him
	2.	Muhammad Shahid Zaman B-19 Working on Acting Charge basis as Secretary BISE Kohat	Principal (BS-19) GHSS Kohi Barmol Mardan on Regular basis	Against Vacant Post
	3.	Syed Manzar Jan B-19 Working on Acting Charge basis as Addl: Director Directorate of Education FATA	Addl: Director (BS-19) Directorate of Education FATA on Regular basis	Already Occupied by him
	4.	Wazir Khan, B-19 Working on Acting Charge basis as Principal GHSS Adezai Peshawar		Already Occupied by him
	5.	Abdur Raqeeb, B-19 Working on Acting Charge basis as Principal GHSS No.1 Peshawar Cantt; ;	Principal (BS-19) GHSS No.1 Peshawar Cantt: on Regular basis	Already Occupied by him
	G.	Muhammad Riaz, B-19 Working on Acting Charge basis as Principal GCMHS No.2 Abbottabad	Principal (BS-19) GCMHS No.2 Abbottat ad on Regular basis	Already Occupied by him
	7.	Muhamm <u>ad Saleem,</u> B-19 Working on Acting Charge basis as Principal GHS No.1 Tangi Charsadda	Principal (BS-19) GHS No.1 Tangi Charsadda on Regular basis	Already Occupied by him
	8.	Qamar Ali, B-19 Working on Acting Charge basis as Principal GHS Manai Swabi	Principal (BS-19) GHS Manai Swabi orı Regular basis	Already Occupled by him
	9:	Muhammad Riaz, B-19 Working on Acting Charge basis as Principal GHSS Pania Haripur	Principal (BS-19) GHSS Pania Haripur on Regular basis	Already Occupled by him
	10.	Abdul Salam, B-19 Working on Acting Charge basis as Principal OHSS No.4 Mardan	Principal (BS-19) GHSS No.4 Mardan on Regular basis	Already Occupied by him
	11.	Lal Zada, B-19 Working on Acting Charge basis as AEO Bajaur/agcy.	AEO (BS-19) Bajaur Agency on Regular pasis	Already Occupied by him

	<u> </u>	3	
C#)	Name & Designation of officer(s)	Place of Posting	Remarks
12.	Sher idawaz, B-19 Working on Acting Charge basis as Principal GHS Kheshgi Bala Nowshera:	Principai (BS-19) GHS Kheshgi Bala Nowshera on Regular basis	Already Occupied by him
13.	Acting Charge basis as Principal GHSS Urmar Payan Peshawar	Principal (BS-19) GHSS Urmar Payan Peshawar on Regular basis	Already Occupied by him
14.	on Acting Charge basis as AEO Khyber Agency	AEO (65-19) Khyber Agency on Regular basis	Already Occupied by him
15.	Acting Charge basis as Principal GHS No.1 Charsadda	Principh (BS-19) GHS No.1 Charsadda on Regular basis	Already Occupied by him
	Hafiz Gul Zamir, B-19 Working on Acting Charge basis as Principal GHSS Kabgani Swabi	Principal (BS-19) GHSS Kabgani Swabi on Regular basis	Already Occupied by him
17.	on Acting Charge basis as Principal GHS No.2 Bannu City	Principal (BS-19) GHS No.2 Bannu City on Regular basis	Already Occupied by him
13.	Nazim-Ud-Din, B-19 Working on Acting Charge basis as Principal RITE (M) Darush Chitral	Principal (BS-19) RITE (M) Darush Chitral on Regular basis	Already Occupied by him
19.	Munawar Gul, B-19 Working on Acting Charge basis as Principal GHSS No.4 Peshawar City	Principa: (BS-19) GHSS No.4 Peshawar City on Regular basis	Already Occupied by him
20.	Muhammad Idrees, B-19 Working on Acting Charge basis as Principal GHS Ghalanai Mohmand Agency	Principal (BS-19) GHS Ghalanal Mohmard Agency on Regular basis	Already Occupied by him
21.	Moin-ud-Din, B-19 Working on Acting Charge basis as Principal GHS Katlang Mardan	Principa' (BS-19) GHS Katlang Mardan on Regular basis	Already Occupied by hlm
22.	Fazii Rashid, B-19 Working on Acting Charge basis as Principal GHS Rustam Mardan	Mardan on Regular basis .	Already Occupied by him
23,	Muhammad Bashir, B-19 Working on Acting Charge basis as Principal GHS Kalu Khan Swabi	Principa (BS-19) GHS Kalu Khan Swabi on Regular basis	Already Occupied by him
24.	Acting Charge basis as Principal GHS Sikander Khel Bala Bannu	Principa. (BS-19) GHS Sikander Khel Ba a Bannu on Regular basis	Already Occupied by him
25.	Abdul Rokhan Shah, B-19 Working on Acting Charge basis as Principal GHSS Lachi Kohat	Principa (BS-19) GHSS Lachi Kohatter Regular basis	Already Occupied by him
26.	Riasat Khan, B-19 Working on Acting Charge basis as Principal GHSS No. 1 Haripur	Principal (BS-19) GHSS No. 1 Haripur on Regular basis	Already Occupied by him
27.	Sikandar Sher, B-19 Working on Acting Charge basis as Principal GHS Maneral Swabi	Principa (BS-19) GHS Maneral Swabi on Regular basis	Already Occupied by him
28.	Acting Charge basis as Principal GHS Sufaid Dheri Peshawar	Principa (BS-19) GHS Sufaid Dheri Pt shawar on Regular basis	Already Occupied by him
29.	Raj Muhammad Khan, Working on Acting Charge basis as EDO E&SE Buner (Teaching Cadre)	EDO (BS-19) E&SE Buner (Teachir.g Cadre) on Regular basis	Already Occupied by him
30.	on Acting Charge basis as Principal GCMHS No.1 Tank	Principa: (BS-19) GCMHS No.1 Tank on Regular basis	Already Occupied by him
31.	Abid Ullah, B-19 Working on Acting Charge basis as Principal GHSS Ouch Dir Lower	Principal (BS-19) GHSS Ouch Dir Lower on Regular basis	Already Occupied by him
32.	Sahib Zali Khan, B-19 Working on Acting Charge basis as Principal GHS Ghori Wala Bannu	Principa (BS-19) GHS Ghori Wala Bannu on Regular basis	Already Occupied by him

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1.2	Hussam-ul-Haq, B-19 Working on	Principal (BS-19) GHS No.3 Kohat	Already Occupied
ا القائم	Acting Charge basis as Principal	on Regular basis	· by him
	GHS No.3 Kohat		
347	Miraj Muhammad, 8-19 Working on	Principal (BS-19) GHS Panjpir	Already Occupied
	Acting Charge basis as Principal	Swabi on Regular basis	by him
	GHS Panjpir Swabi	5 (20 (0) (0) (0) (0)	Alsondy Occupied
35.	Abdul Rauf, B-19 Working on	Principal (BS-19) GHS Gardai	Already Occupied
	Acting Charge basis as Principal	Bajaur Agency on Regular basis	- 1, y 1 m ii
	GHS Gardai Bajaur Agency 👍	Display (DC 10) CHS Ibandi	Already Occupied
36.	Behramand, B-19 Working on	Principal (BS-19) GHS Jhangi	by nim
	Acting Charge basis as Principal	Abbottabad on Regular basis	~ ,
07	GHS Jhangi Abbottabad	EDO (BS-19) E&SE Mardan	Alread; Occupied
37.	Bahadar Khan, Working on Acting Charge basis as EDO E&SE	(Teaching Cadre) on Regular	by him
	Maradn (Teaching Cadre)	basis	·
38.	Abdul Haleem, B-19 Working on	Principal (BS-19) GHS Khojaki	Already Occupied
30.	Acting Charge basis as Principal	Killa Karak on Regular basis	by him
	Khojaki Killa Karak		
39.	Zaheer Ahmad, B-19 Working on	Principal (BS-19) GHS GHSS	Already Occupied
	Acting Charge basis as Principal	Manga Dargai Charsadda on	by him
	GHSS Manga Dargai Charsadda	Regular basis	Already Occupied
40.	Taj Ali Khan, B-19 Working on	Principal (BS-19) GHS GHSS Tehkal Peshawar on Regular	by him
	Acting Charge basis as Principal	Tehkal, Peshawar on Regular basis	<i>5)</i> (110)
	GHSS Tehkal Peshawar	Principal (BS-19) GHS Sarai	Already Occupied
41.	Mohammad Rafiq, B-19 Working on Acting Charge basis as Principal	Saleh Haripur on Regular basis	by him
İ	Sarai Saleh Harinur		
42.	Israf Uddin, B-19 Working on-	Principal (BS-19) GHS Ahmad	Already Occupied
	Acting Charge basis as Principal	Abad Karak on Regular basis	by him '
	GHS Ahmad Abad Karak		Already Occupied
43.	Niamat Ullah Khan, B-19 Working	Principal (BS-19) GHS No.1	by him
	on Acting Charge basis as Principal GHS No.1 Nowsehra Kalan	Nowse ira Kalan on Regular basis	
44.	4 - 40 - 14	Principal (BS-19) GCMHS No1	Already Occupied
j	on Acting Charge basis as Principal	D.I. Khan on Regular basis	by him
	GCMHS No1 DLKhan	· · · · · · · · · · · · · · · · · · ·	Against Vacant
45.	Riaz Ahmad Bahar, B-19 Working	Principal (BS-19) GHSS Totakan Malakand Agency	Post
	on Agling Charge basis as Program Director BIEP E&SE Department.		for actualization
46.	Mir Laid, B-19 Working on Acting	Principal (BS-19) GHSS Gul Imam	Already Occupied
	Charge basis as Principal GHSS	Tank on Regular basis	by him
	Gul Imam Tank	Dringing (PS 10) CHS Matta Swat	Already Occupied
47.	Sardar Ali, B-19 Working on Acting Charge basis as Principal GHS	Principal (BS-19) GHS Matta Swat on Regular basis	by him
	Matta Swat		
48.	Magsood Ahmad, B-19 Working on	Principal (BS-19) GHSS Sherpao	Already Occupied
	Acting Charge basis as Principal	Charsadda on Regular basis	by him
4 D	GHSS Sherpao Charsadda Mohammad Sher Khan, B-19	Principal (BS-19) GHSS Khanpur	Already Occupied
49.	Working on Acting Charge basis as	Dir on Regular basis	by him
	Principal GHSS Khanpur Dires		<u> </u>
50.	Mohanimad Iqbal, B-19 Working on	Principal (BS-19) GHS Badaber	Already Occupied by him
	Acting Charge basis as Principal	Peshawar on Regular basis	Бу ппн
51.	GHS Badaber Peshawar Shuja Ullah, B-19 Working on	Principal (BS-19) GHSS Fathepur	Already Occupied
51.	Acting Charge basis as Principal	Swat on Regular basis	by him
	GHSS Fathepur Swat		
52.	Amir Ahmad, B-19 Working on	Principal (BS-19) GHSS Pirpal	Already Occupied
!	Acting Charge basis as Principal	Nowshera on Regular basis	by him
53.	GHSS Pirpai Nowshera Saifullah, B-19 Working on Acting	Principal (BS-19) GHSS Akbar	Already Occupied
J.J.	Charge basis as Principal GHSS	Pura Nowshera on Regular basis	by him
	Akbar Pura Nowshera		
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· S# {	(Mame & Designation of Onicer(a) 	<u> </u>	<u>- </u>
31.	Taj Khan, B-19 Working on Acting Charge basis as Principal GCMHS	Principal (BS-19) GCMHS No.1 Hangu on Regular basis	Already Occupied by him
55.	No.1 Hangu Yousaf Khan, B-19 Working on Acting Charge basis as Principal GHSS Char Bagh Swat	Principal (BS-19) GHSS Char Bagh Swat on Regular; pasis	Already Occupied by him
56.	Nisar Mohammad, B-19 Working on Acting Charge basis as Principal GHS No 3 Peshawar Cantt:	Principal (BS-19) GHS No.3 Peshawai Cantt: on Regular basis	Already Occupied by him
177	and the state of t	Principal (3S-19) GHS Taru Jabba Nowschre on Regular basis	Already Occupied by him
58.	D 40 141-1-1-1-	Principal (BS-19) GHS Karnal Sher Khan Kailli Swabi on Regular basis	Already Occupied by him
59.		Principal (BS-19) GHS Tor Dher No.1 Swabi on Regular basis	Already Occupied by him
60.	1 5 4 0 40	Principal (BS-19) GHSS Bili Tang Kohat on Regular basis	Already Occupied by him
61.		Principal (BS-19) GHS Batagram Charsadca on Regular basis	Already Occupied by him
62.	Abdut Rasheed, B-19 Working on Acting Charge basis as Principal GHS No.2 Kohat	Principal (BS-19 GHS No.2 Kohat on Regular basis	Already Occupied by him
1	Lutfur Rehman, B-19 Working on Acting Charge basis as Principal GHS Toru Mardan	Principal (BS-19) GHS Toru Mardan en Regular basis	Already Occupied by him
64.	Mohammad Ashiq, B-19 Working on Acting Charge basis as Principal GHS Sabgadar Fort Charsadda	Principal (BS-19) GHS Sabqadar Fort Charsadda on Regular basis	Already Occupied by him Already Occupied
65		Principal (BS-19) GCMHSS Bannu on Regular basis	by him
66.	(BS-18) GHS Harichand Charsadda	Principal (BS-19) GHSS Takkar Mardan en Regular basis	Post
	Abd of Azin, Principal (BS-18) GHS Muslimatiad Abbottatiad Mohammad Nazin, Principal	Principal (BS-19) GHS No., 1 Abbottabad on Regular basis Principal (BS-19) GHSS Shinkiari	Against Vacant Post Against Vacant Post
69	(BS-18) GHS Attur Shesha Manserha Kifayat Ullah, Principal (BS-18)	Mansetria on Regular basis Principal (BS-19) GHS Pabbi	
	GHS Mian Gujar Peshawar Mohammad Sharif, Principal	basis Principal (BS-19) GHS Kotha	Against Vacant
	(BS-18) GHS Changali Buner Mohammad Mutahir, Dy. Director BEIP Pushawar	Swabt on Regular basis	Vice S. No. 78
72	Ajmir Shuh, Principal (BS-18) GHS	Nowshera on Regular basis	Against Vacant Post Against Vacant
73	Dosehra Charsadda Wali Khan, Principal (BS-18) GHS	Barmol Mardan on Regular basis Principal (BS-19) G-Çomp: High	Post Against Vacant Post
75	Jehangiri Karak	School Konat on Regular basis	Against Vacant Post
76	GHSS Dagg Peshawar	Principal (BS-19) GCMHS Marghuz Swabi on Regular basis	Post
77	Said Tajamal Shah, Principal (BS-18) GHSS Manki Sharif Nowshera	Principal (BS-19) GHSS Ghari Habibiullah Mansehra on Regula r basis	Against Vacant Post

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CONSEQUENTIAL TRANSFERS

(27)

		· · · · · · · · · · · · · · · · · · ·	
S#	Name & Designation of Officer(s)	Place of Posting	Remarks
78.	Mr. Iftikhar Ahmad, Principal	Principal (BS-18) GHS Shah	
	i (BS-16) GHS Zaida Swabi (wrongly posted).	Mansoor District Swabi (against his original post of BS-18)	Post

2. No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY

Endst: of even No. & Date:

Copy forwarded to the:

- 1. Accountant General, Khyber Pakhturikhwa Peshawar:
- 2. Principal Staff Officer to Chief Minister Khyber Pakhtunkhwa.
- 3. Director, E&SE Khyber Pakhtunkhwa, Peshawar. 👸 🛸
- 4. Director, Curriculum & Teacher Education Abbottabad.
- 5. Director, Information Khyber Pakhtunkhwa.
- 6. Director, Education FATA, FATA Secretariat, Wasrsak Road Peshawar.
- 7. District Accounts Officers concerned.
- 8. Executive District Officer E&SE concerned.
- 9. PS to Chief Secretary Khyber Pakhtunkhwa.
- 10.PS to Minister E&SE, Khyber Pakhtunkhwa.
- 11. Incharge EMISE E&SE Department.
- 12 PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- 13. PS to Additional Secretary E&SE Department, Khyber Pakhtunkhwa.
- 14. Officers concerned.

15. Office order file.

(MUJEEB/UR-REHMAN)

SECTION OFFICER (SCHOOLS/MALE)



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

0 28

APPEAL NO.

761

/2018

Hasanat Gul, Principal BPS-19, GCMHS, Akora Khattak Nowshera.



VERSUS

- 1. The Govt: of KPK Through The Chief Secretary KPK, Civil Secretariat Peshawar.
- 2. The Secretary Education (E&SE), Civil Secretariat Peshawar.
- 3. The Director Education, Directorate of Education (E&SE) Peshawar.

.....Respondents

30/5/18

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE SENIORITY LIST DATED 29.11.2017 CAME : INTO KNOWLEDGE APPELLANT INFEBRUARY WHEREIN THE NAME APPELLANT HAS NOT BEN AND AGAINST NOT TAKING ANY THE DEPARTMENTAL APPEAL WITHIN PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may be directed to include the name of the appellant in the seniority list of BPS-19 officials (Teaching Cadre) at his proper place and to regularize the promotion of appellant after completion of probationary period from his due date as per law. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of appellant.





(29)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 761/2018

Date of Institution

... 30.05.2018

Date of Decision

... 05.07.2021.



Hasanat Gul, Principal BPS-19, GCMHS, Akora Khattak Nowshera

.. (Appellant)

<u>VERSUS</u>

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

(Respondents)

Mr. TAIMUR ALI KHAN, Advocate

For appellant.

MR. JAVED ULLAH, Assistant Advocate General

For respondents.

TESTED

MR. SALAH-UD-DIN MR. ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL) MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER -

Precise facts as alleged by the appellant in the instant service appeal are that he is serving in Education Department and vide Notification dated 13.03.2007, the Provincial Government in consultation with Provincial Selection Board, promoted the appellant alongwith his other colleagues from BPS-18 to BPS-19 on acting charge basis; that vide Notification dated 13.06.2012, certain officers, who were junior to the appellant were promoted on regular basis to BPS-19; that a tentative seniority list of officers of BPS-19 was initially issued by the respondents in the year 2017,

wherein the name of the appellant was missing; that despite raising the issue before the competent Authority through application, the name of the appellant was not included in the final seniority list issued on 29.11.2017, however the seniority list was not circulated and the same came into the knowledge of the appellant in the month of February 2018, therefore, he filed the department appeal, however the same was not responded within the statutory period of ninety days, hence the instant service appeal.

- 2. Respondents submitted their comments, wherein they denied the averments of the appellant.
- 3. Learned counsel for the appellant has argued that the appellant was promoted to BPS-19 and in view of the prevalent rules, the service of the appellant in BPS-19 was required to be regularized in the year 2010 but it is an irony that the respondents have not even included the name of the appellant in the seniority list of officers of BPS-19, circulated in the year 2017; that the inaction/omission on part of the respondents is based on malafide, which has resulted in grave miscarriage of justice in the shape of deprivation of the appellant from his promotion; that the juniors of the appellant have been promoted on regular basis in BPS-19 in the year 2012, while the appellant has been still kept on probation without any plausible legal reasons. Reliance was placed on 2000 SCMR 645, 2008 PLC (C.S) 551, 2016 SCMR 1784, 2018 PLC (C.S) Note 66, 2017 PLC (C.S) 643, 2011 PLC (C.S) 1527, 2009 PLC (C.S) 178 and 1999 SCMR 880.
 - 4. Conversely, the learned Assistant Advocate General for the respondents has argued that the appellant was promoted on acting charge basis, which cannot create any right of seniority as well as regular promotion in favour of the appellant; that disciplinary action was taken against the appellant on the allegations of committing irregularities in the appointment of PSTs (Male), while serving as DEO (Male) Nowshera and in the de-novo inquiry, inquiry committee has recommended his removal from service; that the appellant filed Writ Petition in the august Peshawar High Court, Peshawar, which was allowed by declaring the de-novo inquiry as illegal, unlawful and of no legal effect, however the judgment of august Peshawar High Court has

Peshawar

.(3/_)

been challenged through filing of CPLA in the august Supreme Court of Pakistan, which is still pending adjudication.

- 5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record:
- A perusal of record would show that the appellant alongwith his other colleagues were promoted from BPS-18 to BPS-19 on acting charge basis, vide Notification dated 13.03.2007, issued by Government of NWFP School and Literacy Department. Vide Notification dated 13.06.2012 certain officers juniors to the appellant were also promoted from BPS-18 to BPS-19 on regular basis, however the appellant was ignored. The copy of minutes of meetings of Provincial Selection Board held on 17.02,2012 and 17.01,2014 are available on record, which would show that the promotion of the appellant to BPS-19 on regular basis was deferred for the sole reason that an inquiry was pending against him. It appears from the record that while posted as District Education Officer Nowshera, disciplinary action was taken against the appellant as well as other officers/officials on the charge of irregularities in the appointments of Teachers in various categories as well as other charges and on the conclusion of the inquiry, the inquiry officer submitted his report alongwith recommendations to the competent Authority, however the competent Authority was not satisfied regarding the punishments proposed for imposition upon the appellant and other officers/officials, therefore, an inquiry committee comprising of two officers was constituted for de-novo inquiry into the matter. The same was challenged by the appellant alongwith others through filing of Writ Petition No. 1376-P/2014 before august Peshawar High Court, Peshawar, which was allowed vide judgment dated 08.12.2016 by declaring the de-novo inquiry as illegal, unlawful, without lawful Authority and of no legal effect. It was, however observed that the competent Authority may proceed on the basis of first inquiry.
- 7. The judgment dated 08.12.2016 passed by august Peshawar High Tiver Court, Peshawar, has been impugned by the respondents through filing the court of Pakistan, however the appellant submitted an affidavit to the effect that neither the order dated 08.12.2016 passed by august Peshawar High Court, Peshawar,

has been suspended nor any status-quo order has been issued by the august Supreme Court of Pakistan. In this scenario, the inquiry against the appellant is still pending and according to the certificate issued by District Education Officer (Male) Nowshera, he is presently performing his duty as Principal BPS-19 in GCMHS Akora Khattak Nowshera. It is settled law that mere pendency of disciplinary proceedings against a civil servant, is no valid ground for not considering such civil servant for promotion. Reliance in this respect is placed on 2000 SCMR 645 and 2007 PLC (C.S) 716. Mere pendency of inquiry proceedings against the appellant thus could not be considered to be a legal ground for deferring his promotion to BPS-19 on regular basis.

8. In view of the above discussion, the appeal in hand is allowed and the respondents are directed to issue the promotion order of the appellant to BPS-19 on regular basis with effect from 13.06.2012 and he shall be entitled to all back benefits. The promotion of the appellant shall, however not debar the Authority from continuing with the disciplinary proceedings against the appellant in light of the judgment dated 08.12.2016 passed by worthy Peshawar High Court, Peshawar, in Writ Petition No. 1376-P/2014, subject to outcome of the CPLA pending adjudication in the august Supreme Court of Pakistan. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED 05.07.2021

(SALAH-UD-DIN) MEMBER (JUDICIAL)

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

Parter
None
None

Khybert hunkhwa Service Tribunial Peshawar Bate of Presentation of Application

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GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT



Dated Peshawar, the February 11, 2019

NOTIFICATION

NO.SO(E-I)E&AD/9-88/2019. The competent authority, on the recommendations of the Provincial Selection Board, is pleased to promote the following officers of the Teaching Cadre of Elementary & Secondary Education from BS-19 to BS-20, on regular basis, with immediate effect:-

s. #.	NAME OF OFFICER
1.	Muhammad Sultan
2.	Mr. Gul Zaman
3.	MrDilawar Khan
4.	Mr. Abdul Qaddus
5.	Muhammad Shahid Zaman
6.	Mr. Abdur Raqib
7.	Muhammad Riaz

- The officers, from Sr.1 to 6 on promotion shall remain on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and extendable for another year with the specific orders of appointing authority within two months of the expiry of firtst year of probation period specified in Rule-15(2) of Rules Ibid. However, the Officer at Sr.7 will remain on probation till his retirement under the rules ibid.
- Their posting/transfer orders will be issued later on. 3.

CHIEF SECRETARY GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. No. & date even

Copy forwarded to the:-

- Additional Chief Secretary (Merged Secretariat).
- Principal Secretary to Governor, Khyber Pakhtunkhwa.
- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa. Э.
- Secretary to Government of Khyber Pakhtunkhwa, E&SE Department.
- Accountant General, Khyber Pakhtunkhwa. 5.
- Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Perhawar.
- 7. All Obotat Education Officers concerned.
- All Principals/Head Masters of concerned schools.
 All District Accounts Officers (concerned Districts).
- 10. Director Information, Khyber Pakhtarichwa.
- 11. PS to Chief Secretary, Khyber Pakhtukhwa.
- 12. PS to Secretary Establishment
- 13. Teachers concerned.
- 14. Manager, Govt. Printing Press Peshallar.



POWER IN WILLIAM

TO BE SUBSTITUTED BEARING SAME NO. DATED 03-03-2022

GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar the March 24, 2022

NOTIFICATION

NO. AO/E&SE/6-27/LPR/Nowshera: In pursuance of Section-13 (1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), Mr. Hasanat Gul, Principal, BS-19, (Acting Charge-Basis), GHSS Khairabad, Nowshera shall stand retire from Government service w.e.f. 01-04-2022 (A.N) on attaining sixtleth (60th) year of age, as his date of birth is 02-04-1962.

2. The Competent Authority is further pleased to allow him 365 days encashment of leave in lieu of LPR as admissible to him under the Revised Leave Rules, 1981.

SECRETARY Govt. of Khyber Pakhtunkhwa Elementary & Secondary Edu: Department

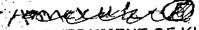
Endst: of even No. & date:

Copy forwarded to:

- 1. The Director, Elementary & Secondary Education, Peshawar.
- 2. The District Accounts Officer, Nowshera
- 3. The District Education Officer (Male), Nowshera
- 4. The Director, EMIS Cell, E&SE Department for uploading at official website.
- 5. The Section Officer (Schools/Male), Elementary & Secondary Education Department.
- 6. Mr. Hasanat Gul, Principal, BS-19, (Acting Charge Basis), GHSS Khairabad, Nowshera.
- 7. Master File.

(ABDUL GHAFFAR)
SECTION OFFICER (ACCOUNTS)





GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT



Dated Peshawar the July 22, 2022

NOTIFICATION

NO.SO(S/M)E&SED/4-13/2013/Hasnat Gul: In continuation of this Department Notification of even number dated 23-06-2022, on the recommendation of Provincial Selection Board (PSB) in its meeting held on 06.07.2022, the Competent Authority is pleased to promote Mr. Hasnat Gul, Ex-Principal on Acting Charge Basis (BS-19) on regular basis to (BS-19) on Notional basis w.e.f 13-06-2012, subject to final decision of Supreme Court of Pakistan.

2. Consequent upon his promotion to BS-19 on regular basis, he is posted as Principal (BS-19) at GHSS Khair Abad Nowshera against the vacant post w.e.f. 13.06.2012 (for the purpose of pension only). His promotion as well as assumption of charge in BS-19 shall be on (Proforma) notional basis.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA

E&SE DEPARTMENT

Endst: of even No. & Date:-

Copy forwarded to the: -:

- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Registrar, KP Service Tribunal Peshawar.
- 3. Director, E&SE:Khyber Pakhtunkhwa, Peshawar.
- 4. District Education Officers concerned.
- 5. District Accounts Officers concerned.
- 6. Section Officer (Lit-II), E&SE Department
- 7. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 8 PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- 9. Incharge EMIS É&SE Department.
- 10. Officer concernéd.
- 11 Office order file.

(BAQIR ALI)
SECTION OFFICER (SCHOOLS MALE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBLE PESHAWAR.

Execution Petition No. /202 In Service Appeal No.761/2018

Hasanat Gul, Principal (BPS-19), GCMHS, Akora Khattak, Nowshera.



PETITIONER

VERSUS

- 1. The Govt: of KP through Chief Secretary KPK, Civil Secretariat, Peshawar.
- 2. The Secretary Education (E&SE) Khyber Pakhtunkhwa Civil Secretariat, Peshawar.

The Director Education, Directorate of Education (E&SE), Peshawar.

RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED 05.07.2021 OF THIS HONOURABLE TRIBUNAL IN LETTER AND SPIRIT.

RESPECTFULLY SHEWETH:

That the petitioner has filed service appeal No.761/2018 against the seniority list dated 29.11.2017wherein the name of the petitioner has not been included with the prayer that on acceptance of the appeal the respondents may be directed to include the name of the petitioner in seniority list of BPS-19 officials (Teaching Cadre) at his proper place and to regularize the promotion of the petitioner after completion of probationary period from his due date as per law.

Certified to by ture copy

Khyber Pakiling

Service

Peshawar

28.09.2022

E.P. No. 158/2021 Hasanat Gul

Petitioner alongwith his counsel present. Mr. Kabitullah Khattak. Additional Advocate General alongwith Syed Naseer-ud-Din Shah, Section Officer Assistant Advocate General for the respondents present.

In pursuance of the judgement of Service Tribunal rendered in service appeal No. 761/2018 on 05.07.2021, the respondent department has complied with and issued Notification bearing NO.SO(S/M) E&SED/4-2013/Hasant Gul dated 27.07.2022. The petitioner has been promoted to BS-19 on regular basis w.e.f. 13.06.2012 subject to the outcome of CPLA pending before the august Supreme Court of Pakistan. Notification is placed on file as well as copy thereof provided to learned counsel for the petitioner who stated at the Bar that he feels satisfied with the Notification/implementation report. As such Service Tribunal judgment dated 05.07.2021 stands implemented. Consign.

03. Pronounced in open at Peshawar and given under my hand and seal of the Tribunal this 28th of September, 2022.



(Mian Muhammad) Member (E)

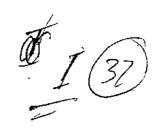
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Number of Variation of Lantington of 1-01-23

Date of 1-01-23

Certified in he ture copy

Khyber Pulatur bwi Service Tribunal, Teshawar The worthy-Chief Secretary Khyber Pakhtunkhwa, Peshawar.



SUBJECT: DEPARTMENTAL APPEAL PROMOTION FROM BPS-19 TO **BPS-20** WITH FROM 11.02,2019. THE DATE WHEN <u>JUNIOR</u> TO. THE APPELLANT MUHAMMAD RIAZ WAS PROMOTED to BPS-20.

Respected Sir,

- 1. That the appellant joined Education Department in the year 1987 as SST (BPS-15) and was then appointed in (BPS-18) in the year 2002 and since his appointment the appellant has performed his duty with great devotion and honesty whatsoever assigned to him.
- 2. That the appellant was at Sr.No.8 of the seniority position of BPS-18, while Muhammad Riaz was at Sr.No.9 of seniority position of BPS-18 and vide notification dated 13.03.2007, the appellant along with his colleagues and juniors (Muhammad Riaz etc) were promoted to BPS-19 on acting charge basis after observing the formalities of consultation of PSB and then his colleagues and juniors (Muhammad Riaz etc) were regularly promoted to BPS-19 vide notification dated 13.06.2012, in the said notification the officials Muhammad Riaz and onwards were juniors to the appellant in BPS-18. (Copies of notification dated 13.03.2007 and notification dated 13.06.2012 are attached as Annexure-A&B)
- 3. That initially the department issued a tentative seniority list in 2017 of BPS-19 officials (Teaching Cadre) and the name of the appellant was missing therein. Therefore, the appellant filed an application on 12.07.2017 for including his name in the seniority list of BPS-19 officials (Teaching Cadre) being a BPS-19 employee since 2007. The department in response vide order dated 27.07.2017 directed the appellant to provide regular promotion order in BPS-19 so to proceed in the matter further. The appellant in response to that direction submitted application on 08.08.2017, wherein he clearly stated that he was promoted to BPS-19 on acting charge basis with the condition to be remained on probation for one year in terms of section 6(2) of the Civil Servant Act, 1973 and rule 15(1) of KP Civil Servant (APT) Rules 1989. As the period has stood lapsed since long, therefore, he would be deemed regularized.

- 4. That on 29.11.2017, the final seniority list of BPS-19 officials (Teaching Cadre) was issued, but seniority list was never communicated to the appellant, however, the appellant got the knowledge of the final seniority list of BPS-19 officials (Teaching Cadre) in which the name of the appellant was missing. The appellant then filed departmental appeal, but no action has taken on his departmental appeal.
- 5. That after statutory period of ninety days, the appellant filed service appeal No.761/2018 in Khyber Pakhtunkhwa Service Tribunal. The service appeal of the appellant was heard and decided by the Service Tribunal on 05.07.2021. The Service Tribunal allowed the appeal of the appellant and directed the respondents to issue the promotion order of the appellant to BPS-19 on regular basis with effect from 13.06.2012 and shall be entitle to all back benefits. It is pertinent to mention that during the pendency of service appeal before the Khyber Pakhtunkhwa Service Tribunal, Muhammad Riaz who was junior to the appellant was promoted from BPS-19 to BPS-20 on regular basis vide notification dated 11.02.2019. (Copies of judgment dated 05.07.2021, and notification dated 11.02.2019 are attached as Annexure-C&D)
- 6. That the department did not implement the judgment dated 05.07.2021 of Service Tribunal, therefore, the appellant filed Execution Petition No.158/2021 in the Khyber Pakhtunkhwa Service Tribunal for implementation of judgment dated 05.07.2021 and during the pendency of Execution Petition, the appellant was retired from service on attaining the age of superannuation w.e.f. 01.04.2022 vide notification dated 24.03.2022 and on 28.09.2022 the department provided the notification dated 22.07.2022 to the Service Tribunal, wherein the appellant was promoted to BPS-19 on regular basis (BPS-19) on notional basis w.e.f 13.06.2012. (Copies of notification dated 24.03.2022 and 22.07.2022 are attached as Annexure-E&F)
- 7. That Muhammad Riaz who was junior to the appellant was regular promoted to BPS-19 on 13.06.2012 and the appellant also was regular promoted to BPS-19 w.e.f 13.06.2012 on the basis of judgment dated 05.07.2021 through notification dated 22.07.2022 and Muhammad Riaz who was junior to the appellant was then regular promoted from BPS-19 to BPS-20 on 17.02.2019 during the period when the appellant was pursuing his case in KP Service Tribunal for regular promotion to BPS-19 and now the appellant was also regular promoted w.e.f 13.06.2012, therefore he wants to file departmental appeal for his regular promotion from BPS-19 to BPS-20 on notional basis w.e.f 11.02.2019 i.e the date on which Muhammad Riaz was promoted to BPS-20 on the following grounds.



- A) That the appellant was senior to Muhammad Riaz in BPS-18 and both were promoted to BPS-19 on acting charge basis, but Muhammad Riaz was regular promoted to BPS-19 vide notification dated 13.06.2012, while the appellant was deprived from regular promotion to BPS-19 in that notification without giving any reason which was challenged by the appellant in service Appeal No.761/2018 in KP Service Tribunal which was allowed on 07.05.2021 and on the basis of the judgment dated 05.07.2021 the appellant was also regular promoted to BPS-19 w.e.f 13.06.2012 through notification dated 22.07.2022, but during the pendency of the service appeal of the appellant, Muhammad Riaz was further promoted from BPS-19 to BPS-20 11:02,2019 and as the appellant was also promoted to BPS-19 w.e.f 13.06.2012 through notification dated 22.07.2022 meaning by that his seniority in BPS-19 was revised and became senior to Muhammad Riaz and as such the appellant is also entitle for notional promotion to BPS-20 w.e.f 11.02.2019 as the appellant has retired from service on age of superannuation.
- B) That the appellant's seniority has been revised/restored in BPS-19 to 13.06.2012 through notification dated 22.07.2022 and it is the legal right of the appellant to be promoted to BPS-20 w.e.f 11.02.2019, the date when his junior namely Muhammad Riaz has been promoted to BPS-20.
- C) That the appellant has suffered a lot by the action of department of not regularly promoted him to BPS-19 on 13.06.2012 along with his batchmates and junior without giving any reason, however that grievance was redressed by the Service Tribunal in its judgment dated 05.07.2021 and now the appellant should not be deprived from his legal right of notional promotion to BPS-20 w.e.f 11.02.2019, the date on when his junior namely Muhammad Riaz was promoted to BPS-20.
- D) That the appellant's seniority has been revised/restored in BPS-19 to 13.06.2012 through notification dated 22.07.2022 and not promoting him to BPS-20 w.e.f 11.02.2019 on notional basis is against the law, rules, facts, norms of justice and material on record, therefore, not tenable.
- E) That the appellant has been suffered a lot by not regular promoting him to BPS-19 by the fault of the department which was redressed by the Khyber Service Tribunal in its judgment dated 05.07.2021 and now the appellant should not be punished by depriving him from legal right of promotion to BPS-20 w.e.f 11.02.2019 for no fault on his part.
- F) That not promoting the appellant to BPS-20 from the date i.e 11.02.2019 on notional basis when his junior was promoted to BPS-20

will cause irreparable loss to the appellant in the shape of pension and other monetary benefits.

It is therefore, most humbly requested that on acceptance of this departmental appeal, the appellant may kindly be promoted from BPS-19 to BPS-20 on notional basis with effect from 11.02.2019, the date when his junior namely Muhammad Riaz was promoted to BPS-20 with all back benefits.

Hasanat Gul, Retired Principal (BPS-19) GHSS Khair Abad Nowshera.

Hasanat Gul, R
GHSS KI

Cell # 0301-8614020

VAKALAT NAMA

		NO	/2021	:	
IN THE CO	OURT OF KE	Servi	e Trik	uval	Pesh
		at Gal			(Appellant
		VERSUS	3		(Petitioner (Plaintiff)
	Educa	tion se			spondent)
I/We,	Hasani	at Gu	1	(L	efendant)
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