

Khyber Pakhtunkhwa
Service Tribunal
Case No. 3041
Dated 18-1-2023

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7925/2021

Engr. Muhammad Ayub
Superintending Engineer (Retired) ---

Appellant

Versus

Govt of Khyber Pakhtunkhwa
through Chief Secretary Khyber Pakhtunkhwa
and others ---

Respondents

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Deponent

Zahid Ullah

Section Officer (Litigation)
C&W Department, Peshawar

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 7925 OF 2021

Engr. Muhammad Ayub --- Appellant
Superintending Engineer (retired)
C&W Department resident of
Phase-VII Hayatabad, Peshawar

VERSUS

1. Govt of Khyber Pakhtunkhwa --- Respondents
Through Chief Secretary Khyber Pakhtunkhwa
2. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa
Finance Department, Peshawar
4. Secretary to Govt of Khyber Pakhtunkhwa
Establishment Department, Peshawar

Joint Para-wise Comments on behalf of Respondents No. 1 to 4

Respectfully Sheweth

Preliminary Objections

- i. That the appeal is not maintainable in its present form.
- ii. That the appellant has never challenged in time any order in which his right were ignored
- iii. That the appeal is pre-mature
- iv. That the appellant has no cause of action and locus standi to file appeal.
- v. That the appeal is time barred

Facts

1. Pertains to record, need no reply
2. Pertains to record, need no reply
3. Pertains to record, need no reply
4. Pertains to record, need no reply
5. Correct to the extent that a working paper for filling up 02 Nos posts of Chief Engineer BS-20 on acting charge basis was placed before the Provincial Selection Board (PSB) on 26.08.2019, including the appellant (Engr. M. Ayub) at Sr.No.02. The PSB in its meeting held on 23.09.2019 recommended Engr. Riaz Arshad at Sr.No.01 of the seniority list for appointment to the temporarily vacated post of Chief Engineer BS-20 on acting charge basis (**Annex-I**). in this connection, the department moved a summary to Competent Authority (Chief Minister) for approval of posting proposal of Engr. Riaz Arshad against the post of Chief Engineer (CDO), C&W, Peshawar for actualization of the eve of his appointment as BS-20 on acting charge basis. However, the Establishment Department returned the summary with the observation to which the department attended and was resubmitted accordingly but the Competent Authority (Chief Minister) did not approve the appointment of Engr. Riaz Arshad as Chief Engineer BS-20 on acting charge basis.

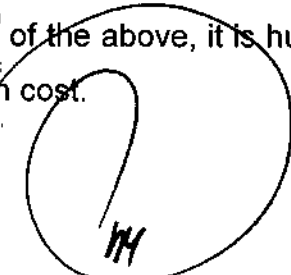
6. Incorrect, C&W Department again placed a working paper before PSB for filling of two (02) Nos posts of Chief Engineers BS-20 (01 regular + 01 acting charge appointment), including the appellant was placed before PSB for consideration on **09.10.2020 (Annex-II)**. The Establishment Department returned the working paper and observed that the PSB did not consider promotion cases due to conditional retirement in wake of Peshawar High Court Peshawar judgment dated **19.02.2020** on which CPLA has been lodged before Apex court and Establishment Department has sought the advice from Law Department in the cases of conditional retirement (**Annex-III**).
7. Incorrect, similarly another working paper for filling of one (01) post of Chief Engineer BS-20 appointment on acting charge basis, including the appellant was forwarded to Establishment Department for placing before PSB for consideration on **08.12.2020**. The Establishment Department did not process the same as explained in para-6 above.
8. Correct to the extent that, after creation of posts of Chief Engineer (BS-20) in C&W Department, the Department placed a working paper for promotion of Superintending Engineers (BS-19) to the rank of Chief Engineers (BS-20) on **23.02.2021** for consideration of PSB including the name of the Applicant at **Sr.No.01 (Annex-IV)**. The Establishment Department returned the working paper with certain observation (**Annex-V**).
9. Correct to the extent that the appellant (Engr. Muhammad Ayub) Superintending Engineer C&W Department retired from Govt service on attaining the age of superannuation i.e. 60 years w.e.f. 02.02.2021 and the retirement Notification issued on 31.03.2021, while the retirement age i.e. 63 years of Govt employees was disputed in the Peshawar High Court Peshawar in writ petition No.5673-P/2019. The Provincial Government has issued amended Ordinance 2021, whereby a civil servant shall retired from service on the completion of sixtieth (60th) years of his age (**Annex-VI**).
10. The Appellant (Engr. Muhammad Ayub) retired Superintending Engineer (BS-19) C&W Department submitted an application for special BSB meeting for promotion on 25.03.2022 (**Annex-VII**), which was processed and referred to Establishment Department for advice (**Annex-VIII**). In response, the Establishment Department informed on 13.04.2021 that in light of the Provincial Government Promotion Policy for proforma promotion is allowed in cases, where seniority is disputed in court of law and restored back on court decision after retirement of the employees. Since the appellant retired on superannuation on 02.02.2021, the proforma promotion in the instant case is not cover under Provincial Government Promotion Policy (**Annex-IX**).
11. Incorrect, as explained in para-10 above
12. Incorrect, as explained in para-10 above
13. No comments


GROUND

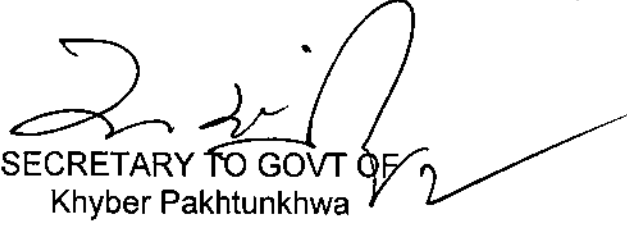
- A. Incorrect and misconceived, hence denied. The promotion policy of the Provincial Government are binding on all the Provincial Government Departments, including answering respondents as they make their own policies, rules and laws in good faith and that too for the public benefit.
- B. Incorrect, as explained in para-9 of the facts
- C. Incorrect, the appellant has been posted as Chief Engineer (Centre) C&W Peshawar in his own pay & scale as stopped gap arrangement to run the official business smoothly and did not claim the benefit of regular promotion.
- D. Incorrect and misconstrued, hence denied. appellant cannot claim any vested right on policy decisions of the govt. The Government had formulated and framed its Rules correctly and in public good. There is thus no scope / need of amending them in order to appease and accommodate few and that too at the expense of over-all functioning of the entire department.

- E. Incorrect, as explained para-8 of the facts
- F. Incorrect, there is no mala-fide, no discrimination and violation of rights of the applicant has been made. In fact, the Department followed rules/policy strictly in the cases of promotion of officers/officials of the Department.
- G. Incorrect, as explained para-8 of the facts
- H. Incorrect, As replied in above paras.
- I. Incorrect, the promotion case was considered by the PSB as per rules/law and on the completion of all codal formalities.
- J. Incorrect. As replied in above paras.
- K. Incorrect as explained in para-10 of the facts. Since the appellant case is not covered under the rules, he had not been deprived of any fundamental or constitutional rights.
- L. The respondents would like to seek permission of the Hon'able court in advance for more grounds during the time of arguments.

In view of the above, it is humbly prayed that the instant appeal may kindly be dismissed with cost.


SECRETARY TO GOVT OF
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 2)


SECRETARY TO GOVT OF
Khyber Pakhtunkhwa
Finance Department
(Respondent No. 3)


SECRETARY TO GOVT OF
Khyber Pakhtunkhwa
Establishment Department
(Respondent No. 4)

(4)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7925/2021

Engr. Muhammad Ayub
Superintending Engineer (Retired)

Appellant

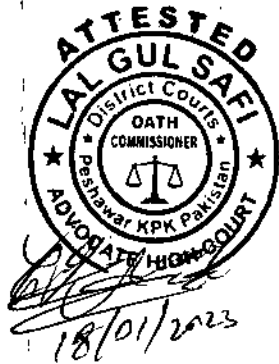
Versus

Govt of Khyber Pakhtunkhwa
through Chief Secretary Khyber Pakhtunkhwa
and others

Respondents

AFFIDAVIT

I, Zahid Ullah, Section Officer Litigation (BS-17) C&W Department, Peshawar hereby affirm and declare that all the contents of the Parawise comments are correct to the best of my knowledge and belief and nothing has been concealed.



Deponent

Zahid Ullah

Zahid Ullah
Section Officer (Litigation)
C&W Department, Peshawar

Annex-I

(5) (4)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/79
Dated Peshawar, the August 26, 2019

To

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: APPOINTMENT OF SUPERINTENDING ENGINEER (BS-19) AGAINST
THE POST OF CHIEF ENGINEER (BS-20 A.C.B) C&W DEPARTMENT

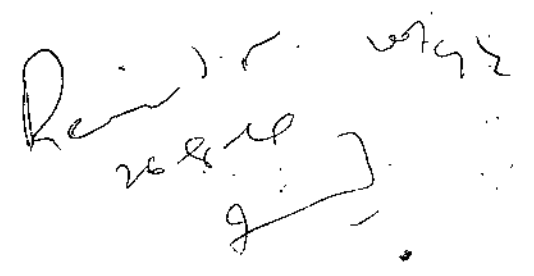
I am directed to refer to this Departments' letter of even number dated 03.07.2019 on the subject noted above and to forward herewith 07 sets of revised working papers along-with related documents duly completed in all respect for appointment of Superintending Engineers (BS-19) against the posts of Chief Engineer (BS-20 on acting charge basis) for placing before the Provincial Selection Board (PSB) for consideration please.


SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar


SECTION OFFICER (Estb)


26/8/19

(S-A)

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: Communication & Works Department

1. Nomenclature of the post/Basic Scale Chief Engineer (BPS-20)
2. Service/Group/Cadre Engineering (C&W)
3. Sanctioned strength of the Cadre Total posts 6 (5-regular and 01 Ex-Cadre) Annex-I

		Direct	Promotion	Transfer
4. i.	Percentage of share		100%	
ii.	No. of posts allocated to each category	-	06	-
iii.	Present occupancy position	-		
	1) Regular		05	
	2) Acting charge		00	
iv.	No. of vacancies in each category:	-		
	a. Regular		00	
	b. Acting charge		02	

- v. How did the vacancy(ies) under promotion quota accrue and since when

Position of 02 Nos Acting charge Appointment

- a. One (01) regular Chief Engineer (BS-20) C Department Engr. Muhammad Uzair has been posted Director General PDA Peshawar (**Annex-II**).
- b. One (01) regular Chief Engineer (BS-20) C Department Engr. Muhammad Shahab Khattak has been posted as Secretary C&W Department (**Annex-III**).

- vi. Recruitment Rules

By selection, on merit from amongst Superintending Engineers/Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above possessing Degree in B.E/B.Sc. Engineering (Civil) from a recognized University and have successfully completed Senior Management Course Trainee (**Annex-IV**).

- vii. Required length of service

At least 17 (seventeen) years of service in BPS-17 and above

- viii. Whether to be promoted on regular basis or appointed on acting charge basis?

Acting charge appointment = 02 posts

- ix. Mandatory training, if any
- x. Minimum required score on EI.

S.M.C

70


Secretary

Dated 26 /08/2019

Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department

PANEL OF OFFICERS FOR CONSIDERATION

Sl. No.	Sen No.	Name of Officer with qualification	Date of Birth	Date of 1 st entry into Govt Service	Date of Appointment/ promotion to BS-19	Date of regular Appointment/ promotion to the present scale	Whether fulfill the prescribed length of service	Quantified score	Missing PERS (if any)	Disciplinary proceedings (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	1	Riaz Ashad B.Sc/M.S (Civil)	25.11.1960	26.05.1988	09.12.2014	09.12.2014	Yes	64.34	---	---	---	---	---	Awaiting post	Exempted from SMC training as he has attained the age of 58 years
2	2	Muhammad Ayub B.Sc/M.S (Civil)	03.02.1961	26.09.1987	09.12.2014	09.12.2014	Yes	65.16	21.08.2017 to 25.12.2017 (not countersigned)	---	---	---	---	CE (Centre) C&W Peshawar (OPS)	Exempted from SMC training as he has attained the age of 58 years
3	3	Abdul Sattar B.Sc (Civil)	07.03.1961	26.09.1988	01.09.2016	01.09.2016	Yes	65.11	03.04.2016 to 31.12.2017	---	---	---	---	SE (Southern) C&W Circle Tribal Districts at Bannu	Exempted from SMC training as he has attained the age of 58 years
4	4	Noor-us-Saeed Shah B.Sc (Civil)	02.03.1962	26.09.1988	05.06.2015	05.06.2015	Yes	55.71	---	---	---	Annex-V	---	SE (HQ) O/O CE (Merged Areas) Peshawar	---
5	5	Amner Nadeem Durran B.Sc (Civil)	28.04.1962	26.09.1988	05.06.2015	05.06.2015	Yes	56.46	01.01.2018 to 31.12.2018	---	Yes	Nil	---	SE (PBMC) C&W Peshawar	The officer was involved in VR case with NAB amounting to Rs.5,10,017/- in pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-VI).
6	6	Rafiq-ud-Din B.Sc (Civil)	01.04.1962	26.09.1987	01.09.2016	01.09.2016	Yes	55.63	01.01.2018 to 31.12.2018	---	---	Nil	---	SE C&W Circle Mardan	---

1. Certified that the officers included in the panel are eligible for appointment to the post of BS-20 on acting charge basis in all respects.
2. Certified that the officers included in the panel are not involved in any NAB case nor entered into plea bargain or VR with National Accountability Bureau (NAB) except Sr.No.5

Signature: _____



Date: 26/08/2019
 Secretary to Govt of
 Khyber Pakhtunkhwa
 C&W Department

307

(7) 2019

CERTIFICATE

It is certified that:-

1. The officers included in the panel are eligible in terms of length of service required for promotion.
2. No disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officer included in the panel.
3. The seniority list of the officers, included in the panel issued on 09.04.2019 is final (Annex-VII).
4. As per record, the officers included in the panel are neither involved in any NAB case nor entered into plea bargaining/VR agreement with NAB authorities except Sr.No.5.



SECRETARY Secretary to Govt of
C&W Khyber Pakhtunkhwa
C&W Department

Dated 26/08/2019

Annex-II

2

13



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT.

No. SOE/C&WD/4-2/2020
Dated Peshawar, the October 09, 2020

TO

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: PROMOTION OF SUPERINTENDING ENGINEERS (BS-19) TO THE
POSTS OF CHIEF ENGINEER (BS-20) C&W DEPARTMENT ON
REGULAR BASIS

I am directed to refer to the subject noted above and to forward herewith
07 sets of working papers along-with related documents duly completed in all
respect for promotion of Superintending Engineers (BS-19) to the post of Chief
Engineer (BS-²⁰49) on regular basis for placing before Provincial Selection Board
(PSB) for consideration, please.

Zahoor Shah

09.10.2020

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

Zahoor Shah

Zahoor Shah

SECTION OFFICER (Estb)

Received
9-10-20
[Signature]

with

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: **Communication & Works Department**
 1. Nomenclature of the post/Basic Scale **Chief Engineer (BPS-20) Engineering (C&W)**
 2. Service/Group/Cadre
 3. Sanctioned strength of the Cadre **Total posts 6 (5-regular and 01 Ex-Cadre) Annex-1**

4.	i. Percentage of share		ii. No. of posts allocated to each category	iii. Present occupancy position	iv. No. of vacancies in each category:	
	a. Regular	b. Acting charge			1) Regular	2) Acting charge
	100%	-	06	-	04	00
					01	01

v. How did the vacancy(ies) under promotion quota accrue and since when

a. Due to retirements of Muhammad Shahab Khattak (Annex-II) -- 01 Nos
 Regular Vacant Post -- 01 Nos
Position of 01 Nos Acting charge Appointment

b. 01 No. ex-cadre post i.e. MD PKHA Peshawar (BS-20) is lying vacant. Therefore, the appointment of one (01) No. senior SE (BS-19) against the post of MD PKHA (BS-20) is required on acting charge basis, under Section-9 of APT Rule (Annex-III).

By selection, on merit from amongst Superintending Engineers/Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc. Engineering (Civil) from a recognized University and have successfully completed Senior Management Course Training (Annex-IV).
 At least 17 (seventeen) years of service in BPS-17 and above

vii. Required length of service
 viii. Whether to be promoted on regular basis or appointed on acting charge basis?
 ix. Mandatory training, if any S.M.C
 x. Minimum required score on EI, 70

Regular = 01 post
 Acting charge appointment = 01 post

Dated 03/10/2020

SECRETARY
 C&W

Secretary to
 Government of Punjab
 Government of Punjab

9

PANEL OF OFFICERS FOR CONSIDERATION

PSB-I

Sr. No.	Sl. No.	Name of Officer with qualification	Date of Birth	Date of 1 st entry into Govt Service	Date of Appointment/ promotion to BS-19	Date of regular Appointment/ promotion to the present scale	Whether fulfill the prescribed length of service	Quantified score	Missing PERs (if any)	Disciplinary proceedings (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	2		4	5	6	7	8	9	10	11	12	13	14	15	16
1	1	Riaz Arshad B.Sc/MS (Civil) Peshawar	25.11.1960	26.05.1988	09.12.2014	09.12.2014	Yes	63.64	---	---	---	---	---	CE (Reconstn) PERRA A'abad (OPS)	Exempted from SMC training as he has attained the age of 58 years
2	2	Muhammad Ayub B.Sc/MS (Civil) Kohat	03.02.1961	26.09.1987	09.12.2014	09.12.2014	Yes	66.53	---	---	---	---	---	CE (CDO) C&W Peshawar (OPS)	Exempted from SMC training as he has attained the age of 58 years
3	3	Abdul Sattar B.Sc (Civil) Orakzai	07.03.1961	26.05.1988	01.09.2016	01.09.2016	Yes	67.14	---	---	---	---	---	SE (Southern) C&W Circle Tribal Districts at Bannu	Exempted from SMC training as he has attained the age of 58 years
4	4	Arshad Khan B.Sc (Civil) Mardan (Swabi)	02.10.1961	26.05.1988	21.11.2019	21.11.2019	Yes	58.13	---	---	---	---	---	Director (P&D) PKHA Peshawar	Exempted from SMC training as he has attained the age of 58 years
5	5	Noor-us-Saeed Shah B.Sc (Civil) Mardan	02.03.1962	26.05.1988	05.06.2015	05.06.2015	Yes	64.85	---	---	---	Yes Annex-V	---	Principal Design Engineer O/O CE (CDO) Peshawar	---
6	6	Amer Nadeem Durrani B.Sc (Civil) Peshawar	28.04.1962	26.05.1988	05.06.2015	05.06.2015	Yes	66.48	---	---	Yes	Nil	---	MD (OPS) PKHA Peshawar	The officer was involved in VR case with NAB amounting to Rs.5,10,011/-. In pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-VI).

1. Certified that the officers included in the panel are eligible for promotion/ appointment to the post of BS-20 on acting charge basis in all respects.
2. Certified that the officers included in the panel are not involved in any NAB case nor entered into plea bargain or VR with National Accountability Bureau (NAB) except Sr.No.6

Signature: _____
 Date: 23/10/2020
 Secretary
 Govt. of Punjab
 Civil Department

(11) 6

CERTIFICATE

It is certified that:-

1. The officers included in the panel are eligible in terms of length of service required for promotion.
2. No disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officer included in the panel.
3. The seniority list of the officers, included in the panel issued on 04.08.2020 is final (**Annex-VII**).
4. As per record, the officers included in the panel are neither involved in any NAB case nor entered into plea bargaining/VR agreement with NAB authorities except Sr.No.6.

SECRETARY
C&W

Dated 08/10/2020

Secretary to
Govt. of Punjab, Chandigarh
C&W Department



Annex-III
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(PSB)/ED/1-3/2020/P-114
Dated Peshawar, the November 18, 2020

To

P-3/c
The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.

20/11/2020 AS/DSA
Diary No: *5712*
Date: *18-11-2020*
Secretary C&W Deptt.

SUBJECT: PROMOTION OF SUPERINTENDING ENGINEERS BS-19 TO THE POSTS OF CHIEF ENGINEER BS-20 C&W DEPARTMENT ON REGULAR BASIS.

Dear Sir,

I am directed to refer to C&W Department letter No. SOE/C&WD/4-2/2020, dated 09.10.2020 on the subject and to say that the case has been examined in Regulation Wing and observed that the department has shown two vacant posts in the working paper, one for regular promotion and the other for appointment on acting charge basis. However, the post proposed for regular promotion has become vacant due to conditional retirement of Mr. Muhammad Shahab Khattak on 04.04.2020 in wake of Peshawar High Court judgment dated 19.02.2020. The Board in the previous meeting held on 12.06.2020 did not consider promotion against such posts and observed that clear vacancy is required to be available for promotion. Establishment Department has moved a Note to Law Department for obtaining advice as to whether promotion / appointment on acting charge can be considered against posts fallen vacant in wake of Peshawar High Court judgment or otherwise, but their response is still awaited. Moreover, the Board in its meeting held on 03.05.2018 while considering the promotion of Superintending Engineer BS-19 to the post of Chief Engineer BS-20 observed that PKHA being autonomous body, the promotion / appointment on acting charge basis of a Civil Servant against the post of its Managing Director could not be made.

2. I am, therefore, directed to convey that as there is no clear vacancy on which the panelists could be considered either for promotion or appointment on acting charge basis, the working paper and other documents received with the letter quoted above are returned herewith in original.

Yours faithfully,

18/11/2020
SECTION OFFICER (PSB)

Endst. Even no & dated.

A copy is forwarded to Section Officer (R-V) Establishment Department.

SECTION OFFICER (PSB)

Annex-IV

13



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/2020
Dated Peshawar, the Feb 23, 2021

To

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: **PROMOTION OF SUPERINTENDING ENGINEERS (BS-19) TO
THE RANK OF CHIEF ENGINEERS (BS-20) C&W DEPARTMENT
ON REGULAR BASIS**

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along-with related documents duly completed in all respect for promotion of Superintending Engineers (BS-19) to the rank of Chief Engineers (BS-20) on regular basis for placing before Provincial Selection Board (PSB) for consideration, please.

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. PS to Secretary C&W Department, Peshawar
2. PA to Additional Secretary C&W Department, Peshawar
3. PA to Deputy Secretary (Admin) C&W Department, Peshawar

Zahoor
23.02.2021
SECTION OFFICER (Estb)

19

5

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: **Communication & Works Department**

1. Nomenclature of the post/Basic Scale **Chief Engineer (BPS-20)**
2. Service/Group/Cadre **Engineering (C&W)**
3. Sanctioned strength of the Cadre **Total regular posts 10 Nos**
Annex-I

		Direct	Promotion	Transfer
4. i.	Percentage of share		100%	
ii.	No. of posts allocated to each category	-	10	-
iii.	Present occupancy position	-		-
	1) Regular		05	
	2) Acting charge		00	
iv.	No. of vacancies in each category:	-		-
	a. Regular		05	
	b. Acting charge		00	

- v. How did the vacancy(ies) under promotion quota accrue and since when

Position of 05 Nos Regular Post

- a. Due to New creation (Annex-II) --- 05 Nos

Total: --- 05 Nos

- vi. Recruitment Rules

By selection, on merit from amongst Superintending Engineers/Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc. Engineering (Civil) from a recognized University and have successfully completed Senior Management Course Training (Annex-II).

- vii. Required length of service

At least 17 (seventeen) years of service in BPS-17 and above

- viii. Whether to be promoted on regular basis or appointed on acting charge basis?

Regular = 05 posts

- ix. Mandatory training, if any S.M.C

- x. Minimum required score on EI. 70


SECRETARY
C&W

Dated 23 /02/2021

15

PANEL OF OFFICERS FOR CONSIDERATION

Sl. No.	Sarr. No.	Name of Officer with qualification	Date of Birth	Date of 1 st entry into Govt Service	Date of Appointment/promotion to BS-19	Date of regular Appointment/promotion to the present scale	Whether fulfill the prescribed length of service	Quantified score	Missing PERS (if any)	Disciplinary proceedings (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	2	3	4	5.	6	7	8	9	10	11	12	13	14	15	16

PSB-II

1	1	Mulhammad Ayub B.Sc/M.S (Civil)	03.02.1961 Kohat	26.09.1987	09.12.2014	09.12.2014	Yes	66.53	---	---	---	---	---	CE (CDO) C&W Peshawar (OPS)	Exempted from SMC training as he has attained the age of 58 years
2	2	Abdul Sattar B.Sc/M.S (Civil)	07.03.1961 Orakzai	26.05.1988	01.09.2016	01.09.2016	Yes	67.14	---	---	---	---	---	SE (Southern) C&W Circle Tribal Districts at Bannu	Exempted from SMC training as he has attained the age of 58 years
3	3	Arshad Khan B.Sc (Civil)	02.10.1961 Swabi	26.05.1988	21.11.2019	21.11.2019	Yes	58.13	---	---	---	---	---	Director PKHA Peshawar	Exempted from SMC training as he has attained the age of 58 years
4	4	Noor-us-Saeed Shah B.Sc (Civil)	02.03.1962 Mardan	26.05.1988	05.06.2015	05.06.2015	Yes	64.85	---	---	---	Yes Annex-IV	---	Principal Design Engineer O/O CE (CDO) C&W Peshawar	---
5	5	Amer Nadeem Durani B.Sc (Civil)	28.04.1962 Peshawar	26.05.1988	05.06.2015	05.06.2015	Yes	66.48	---	---	Yes	Nil	---	MD PKHA Peshawar (OPS)	Exempted from SMC training as he has attained the age of 58 years. Moreover, the officer was involved in VR case with NAB amounting to Rs.5,10,011/- in pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-V).

16

6	Yaqub-Ud-Din B.Sc (Civil)	01.05.1962 Abbottabad	26.09.1987	01.09.2016	01.09.2016	Yes	67.49	---	---	---	---	Nil	---	SE C&W Circle Mardan	Exempted from SMC training as he has attained the age of 58 years
7	Shakir Habib B.Sc (Civil)	30.03.1964 Kohat	26.05.1988	05.06.2015	05.06.2015	Yes	68.00	---	---	---	---	Nil	---	SE C&W Circle Peshawar	---
8	Ahmad Nabi Sultan B.Sc (Civil)	30.01.1964 Swat	26.09.1987	01.09.2016	01.09.2016	Yes	56.87	01.01.2016 to 31.12.2019	---	---	---	Nil	---	CE (OPS) C&W Abbottabad	---
9	Hamid Ajmal Khan B.Sc (Civil)	01.08.1962 Abbottabad	26.05.1988	01.09.2016	01.09.2016	Yes	63.05	---	---	---	---	Nil	---	SE (HQ) O/O CE C&W Abbottabad	Exempted from SMC training as he has attained the age of 58 years. Moreover, the officer was involved in VR case with NAB amounting to Rs.1,00,431/- in pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-V)
10	Fazli Wahab B.Sc (Civil)	01.09.1961 Swat	26.05.1988	01.09.2016	01.09.2016	Yes	54.31	01.01.2016 to 31.12.2019	---	---	---	Nil	---	SE P BMC C&W Peshawar	Exempted from SMC training as he has attained the age of 58 years
11	Muhammad Nawaz B.Sc (Civil)	15.02.1962 Mohmand	26.05.1988	21.11.2019 (conditionally)	21.11.2019 (conditional ly)	Yes	55.51	01.01.2019 to 31.12.2019	---	---	---	Nil	---	SE (HQ) O/O CE (North) Peshawar	Exempted from SMC training as he has attained the age of 58 years. Moreover, the officer was involved in VR case with NAB amounting to Rs.1,61,515/- in pursuance of Supreme Court of Pakistan judgment dated 24.10.2016, he was proceeded against under E&D Rules 2011. After fulfillment of all codal formalities, a minor penalty of "Censure" has been imposed upon him (Annex-V)

(17)

12	Bakht Rawan B.Sc (Civil)	05.03.1962 Malakand	26.05.1988	09.10.2018	09.10.2018	Yes	51.06	01.01.2018 to 31.12.2019	---	---	Nil	---	Principal Design Engineer O/O CE (CDO) C&W Peshawar	Exempted from SMC training as he has attained the age of 58 years
13	Munir Hussain B.Sc/M.Sc (Civil)	10.04.1962 Mansehra	26.05.1988	05.01.2018	05.01.2018	Yes	66.14	---	---	Nil	---	Director PKHA Peshawar	Exempted from SMC training as he has attained the age of 58 years	
14	Muhammad Tariq B.Sc (Civil)	12.01.1964 Malakand	26.05.1988	09.10.2018	09.10.2018	Yes	59.03	01.01.2018 to 31.12.2019	Yes	---	Nil	PD PRIP C&W Peshawar	Formal inquiry under E&D Rules, 2011 against him has been initiated, as he is involved in inquiry case Establishment of Girls Degree College at Dargai District Charsadda (ADP No.425/80389 (2014-15) (Annex-VI)	
15	Jamil Ahmad B.Sc (Civil)	20.11.1962 Malakand	16.09.1987	22.01.2019	22.01.2019	Yes	58.01	01.01.2018 to 31.12.2019	---	---	Nil	SE C&W Circle Swat	Exempted from SMC training as he has attained the age of 58 years	

1. Certified that the officers included in the panel are eligible for promotion to the post of BS-20 on regular basis in all respects except Sr.No. 14.
2. Certified that the officers included in the panel are not involved in any NAB case nor entered into plea bargain or VR with National Accountability Bureau (NAB) except Sr.No.5, 09 & 11.

Signature: 

Date: 23-ΔΣ/02/2021

Secretary to
Govt of Khyber Pakhtunkhwa
C&W Department



**GOVERNMENT OF KHYBER
ESTABLISHMENT DEPARTMENT**

HWA

144
(12)

No. SO(PSB)/ED/1-3/2020/P-115
Dated Peshawar, the April 09, 2021

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.

Diary No: 3635

Date: 12-4-2021
Secretary C&W Deptt

**Subject: PROMOTION OF SUPERINTENDING ENGINEER (BS-19) TO
THE RANK OF CHIEF ENGINEERS (BS-20) C&W
DEPARTMENT ON REGULAR BASIS.**

Dear Sir,

I am directed to refer to C&W Department letter No. SOE/C&WD/4-2/2020, dated 23.02.2021 on the subject and to say that the case has been examined in Regulation Wing and observed that: -

- i. PER for the year 2020 is now due and are to be included in the quantification of PERs.
 - ii. The PSB-II proforma has not been correctly filled.
 - iii. The officers at Sr. No. 1 & 2 of the panel retired from service on 03.02.2021 & 07.03.2021, hence their names may be deleted from the panel.
 - iv. Quantification of PERs at Sr. No. 3, 8, 10, 11, 12, 14 & 15 have not been calculated correctly.
 - v. The conditional retirement notifications of the officers (if any) may be revised accordingly to the pattern issued alongwith this department circular dated 30.03.2021 and their posts may be reflected as vacant posts in the working paper.
2. The working paper and other documents received with the letter quoted above are returned herewith in original for doing the needful.

Yours faithfully,

9.4.2021
SECTION OFFICER (PSB)

Encl: As above.

ENDST. EVEN NO & DATED.

A copy is forwarded to Section Officer (R-V) Establishment Department.

SOE
SECTION OFFICER (PSB)
12.4.21



Annex-VI

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(Policy)E&AD/1-13/2019
Dated Peshawar, the 30th March, 2021

To

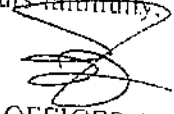
1. The Additional Chief Secretary, Khyber Pakhtunkhwa, Planning & Development Department.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Government of Khyber Pakhtunkhwa,
4. All Heads of Attached Department, Khyber Pakhtunkhwa.
5. All Divisional Commissioner, Khyber Pakhtunkhwa.

Subject: **KHYBER PAKHTUNKHWA CIVIL SERVANTS (AMENDMENT) ORDINANCE, 2021**

Dear Sir,

I am directed to refer to the subject and to enclose herewith a copy of the Khyber Pakhtunkhwa Civil Servants (Amendment) Ordinance, 2021 issued vide notification No. LEGIS:1 (21) 73 dated 26-03-2021. Specimen Notifications under Section 13(A)(1) and Section 13A(2) of ibid Ordinance are attached for further necessary action at your end please.


Yours faithfully,


SECTION OFFICER (POLICY)

ENDST: NO. & DATE EVEN

Copy forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
3. The Accountant General, Khyber Pakhtunkhwa.
4. The Registrar, Peshawar High Court, Peshawar.
5. PSO to Chief Secretary, Khyber Pakhtunkhwa.
6. All Section Officers in Establishment & Administration Department.
7. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
8. PS to Special Secretary (Reg), Establishment Department.
9. PS to Special Secretary (Estab), Establishment Department.


SECTION OFFICER (POLICY)

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, FRIDAY, 26TH MARCH, 2021.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT.

NOTIFICATIONDated Peshawar, the 26th March, 2021.

No. LEGIS:1 (21) 73 -- The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information:

**THE KHYBER PAKHTUNKHWA
CIVIL SERVANTS (AMENDMENT) ORDINANCE, 2021.**

(THE KHYBER PAKHTUNKHWA ORD. NO. II OF 2021)

An
Ordinance

*further to amend the Khyber Pakhtunkhwa Civil
Servants Act, 1973*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) in the manner hereafter appearing;

AND WHEREAS the Provincial Assembly is not in session and the Governor of the Province of the Khyber Pakhtunkhwa is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of the Khyber Pakhtunkhwa is pleased to make and promulgate the following Ordinance:

1. Short title and commencement.--- (1) This Ordinance may be called the Khyber Pakhtunkhwa Civil Servants (Amendment) Ordinance, 2021.

(2) It shall come into force from 31st July, 2019.

2. Substitution of section 13 of the Khyber Pakhtunkhwa Act No. XVIII of 1973. --- In the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), hereinafter referred to as the said Act, for section 13, the following shall be substituted; namely:

"13. Retirement from service.--- (1) A Civil Servant shall retire from service on the completion of sixtieth (60th) year of his age.

(2) A Civil Servant may opt to retire early from service, after completion of twenty five (25) years of qualifying service or attaining the age of fifty five (55) years, whichever is later.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the competent authority may in the public interest, direct that a Civil Servant may retire from service, from such date, as may be determined by the competent authority, after he has completed twenty (20) years of service, qualifying for pension or other retirement benefits, in the manner as may be prescribed.

Provided that no direction under this sub-section shall be made until the Civil Servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

Explanation.- In this section, the expression "competent authority" means the appointing authority prescribed in rule 4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989."

3. Insertion of section 13A of the Khyber Pakhtunkhwa Act No. XVIII of 1973. --- In the said Act, after section 13, as so substituted, the following new section shall be inserted, namely:

"13A. Protection of certain acts.--- (1) All the Civil Servants, who were conditionally retired from service on or after 31st day of July, 2019 shall, for all intents and purposes, be deemed to have been regularly retired from service on the date of attaining sixtieth (60th) years of age.

(2) Any Civil Servant, who has completed sixty (60) years of age but is not retired from service, by virtue of or in pursuance of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2019, shall be deemed to have been retired from service from the date when such Civil Servant has completed sixty (60) years of age.

(3) Any salary, allowances and other ancillary benefits received or drawn by such Civil Servant under this section on or after 31st day of July, 2019 shall be deemed to be validly received and drawn.

Peshawar,
Dated 25th March, 2021

SHAH FARMAN
Governor of the Khyber Pakhtunkhwa

MASOOD AHMAD
Secretary to Government of the Khyber Pakhtunkhwa
Law, Parliamentary Affairs and Human Rights
Department

Printed and published by the Manager,
State Printing Department, Khyber Pakhtunkhwa, Peshawar.

23

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION
DEPARTMENT
NOTIFICATION

Peshawar dated the, 2021

No. _____ In pursuance of section 13A(1) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), and in supersession of Notification No _____, dated _____ (refers to the notification of conditional retirement), Mr. _____ stands retired from Government Service with effect from _____ on attaining sixtieth (60th) year of age, as his date of birth is _____.

Notwithstanding the supersession of Notification mentioned in above Para, any leave encashment granted or LPR and other benefit, if any, availed thereunder, shall be deemed to be validly granted or availed.

**Secretary to
Government of Khyber Pakhtunkhwa
Establishment and Administrative
Department**

24

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION
DEPARTMENT

NOTIFICATION

Peshawar dated the, 2021

No. _____ .In pursuance of sub-section (2) of section 13(A) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), read with sub-section (3) thereof, Mr. _____ stands retired from Government Service with effect from _____ on attaining sixtieth (60th) year of age, as his date of birth is _____.

Any salary, allowances and other ancillary benefits received or drawn by him on or after ^(date of retirement) till date, shall be deemed to have been validly received and drawn.

**Secretary to
Government of Khyber Pakhtunkhwa
Establishment and Administrative
Department**

Annex-VII

25

To,

The Honorable Chief Minister
Khyber Pakhtunkhwa
(Competent Authority)

Diary No: 3027
Date: 25-3-2021
Secretary C&W Deptt
(BSU) / SOE

Through: **PROPER CHANNEL**

Subject: **PROMOTION TO BS-20**

Respected Sir,

I, Engr. Muhammad Ayub Superintending Engineer (BS-19) presently holding the post of Chief Engineer (CDO) C&W Department Peshawar submit the following few lines for your kind perusal and favorable consideration: -

1. Due to restructuring of C&W Department 05-No. new posts of Chief Engineer (BS-20) have been created vide Finance Department No.BO.I/FD/1-61/2020-21 dated 17/02/2021 (Annex-I).
2. As per seniority list of Superintending Engineers (BS-19) C&W Department as stood on 01/06/2020, the name of the undersigned is appearing at Sl. No.02 (Annex-II).
3. The officer at Sl. No.1 of the Seniority list has since been retired from Govt Service, hence the position of the undersigned right now is at Sl. No.1.
4. Administrative Department has already forwarded working papers to Establishment Department for placing before the Provincial Selection Board (PSB) on 23/02/2021 for consideration.
5. The undersigned has attained the age of superannuation i.e. 60-years on 02/02/2021. However, the PSB has not yet considered my promotion case. Now the age limit of employees re-fixed as 60 years as decided by Provincial Cabinet on 16/03/2021.
6. It is pertinent to mention here, that the Supreme Court of Pakistan has set aside the decision of Peshawar High Court Peshawar dated 19-02-2019 through Order dated 07-01-2021, meaning thereby the retirement age limit of Govt. Employees re-fixed i.e. 63-Years, while at that the undersigned was properly working as Chief Engineer (OPS) Central Design Office C&W Department, Peshawar. Hence, my plea taken in the aforesaid lines is justified and entitle for promotion on the basis that the Finance Department created 05-No post of Chief Engineers (BS-20) in C&W Department on 17-02-2021

Keeping in view the above, it is requested that a special PSB may please be convened for my promotion to BS-20 being still Govt. Servant or approve my promotion to BPS-20 through circular by PSB, please.

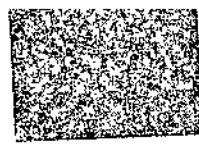
DA/ As above

25/03/21
(Engr. Muhammad Ayub)
CHIEF ENGINEER (CDO)
C&W Department Peshawar

Copy to the: -

1. Chief Secretary Govt of Khyber Pakhtunkhwa (Chairman Provincial Selection Board) with similar request as above please.
2. Secretary to Govt of Khyber Pakhtunkhwa C&W Department with the request to forward my application to the competent authority for favourable consideration please.

CHIEF ENGINEER (CDO)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/20

Dated Peshawar, the March 29, 2021

To

[Handwritten signature]
23-11

The Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department
Peshawar

Subject: PROMOTION TO BS-20

Dear Sir,

I am directed to refer to the subject noted above and to state that Engr. Muhammad Ayub and Engr. Abdul Sattar Superintending Engineers (BS-19) C&W Department have submitted applications with the request that a special PSB may be convened for their promotion to the rank Chief Engineer (BS-20) C&W Department (copy enclosed).

2. I am further directed to say that restructuring of C&W Department approved by the Competent Authority, whereby various positions, including 05 Nos posts of Chief Engineer (BS-20) have been created by the Finance Department on 17.02.2021. The referred posts are filled by way of promotion amongst Superintending Engineers (BS-19) C&W Department. Therefore, this department has submitted a working paper to Establishment Department through letter dated 23.02.2021 for placing before PSB for consideration. In the panel of working paper, the name of the aforesaid officers are at Sr.No. 1 & 2. Now the retirement age of Government employees has reverted back to 60 years; rather both the officers have attained the age of superannuation i.e. 60 years w.e.f. 03.02.2021 and 07.03.2021 respectively.

3. In view of above, this department is requested that the proforma promotion of Engr. Muhammad Ayub and Engr. Abdul Sattar Superintending Engineers (BS-19) C&W Department to the rank of Chief Engineer (BS-20) C&W Department may be considered with effect from their retirement dates i.e. 03.02.2021 and 07.03.2021 respectively, if promotion policy permits, please.

Yours' faithfully

[Handwritten signature]

29.03.2021

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar.

[Handwritten signature]

29.03.2021

SECTION OFFICER (Estb)



To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.

PROMOTION TO BS-20.

Dear Sir,

I am directed to refer to your letter No. SOE/C&WD/4-2/20 dated 29.3.2021 and to state that in light of the Provincial Government Promotion Policy and restored back on Court decision after retirement of the employee. Since, both the officers retired on superannuation on 03.2.2021 and 07.3.2021 respectively and proforma promotion in the instant case is not covered under Provincial Government Promotion Policy, therefore, may be regretted, please.

Yours faithfully,

SECTION OFFICER (REG-V)

Copy forwarded to PA to Deputy Secretary (R-III) Establishment Department.

Endst: of even No. & Date.

SECTION OFFICER (REG-V)

put-up in relevant file

20-4-21

script

Manam

16.4.21

S/E

DS (CA) / S/E
3714
14-4-2021
Date: Secretary, C&W Dept
19/4