


18.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

Learned counsel for the appellant submitted application for withdrawal of the instant service appeal on the ground that as per instruction of appellant the present service appeal served its purpose. Application is allowed, which is placed on file.

In light of the above, the present service appeal is dismissed as withdrawn. No order as to costs. File be consigned to the record room.

Announced
18.01.2022


(Atiq-Ur-Rehman Wazir)
Member (E)

KP Service Tribunal, Peshawar.

Service ~~Tribunal~~ ^{Appeal} No. 7859/2021

Habib ullah vs Esttb Deptt

Application for withdrawal
of the above mention appeal

R/shaweth:-

I That the above mention service Appeal is pending before this Honorable Tribunal for reply today.

II That as per instruction of appellant the present / subject Service Appeal ~~is~~ ^{is} etc Purpose.

It is therefore most humbly requested that the application may be accepted as Prayed for Habib ullah

Through

~~By~~
syed Noman Ali

Date 18-1-2022

S.A No. 7859/21

22.12.2021 Counsel for the appellant present. Preliminary arguments heard.

It has been contended on behalf of the appellant that the case of the appellant came before the PSB on 23.09.2021 and in minutes of the meeting of same date, the PSB observed that the appellant is exempted from training mandatory for promotion. He has not yet completed prescribed length of service for promotion. He was recommended for appointment to BS-19 on acting charge basis. It has been further contended that when the case of the appellant again come before the PSB in its meeting held on 31.07.2021 after completion of his prescribed length of service, the PSB while relying on amended policy issued vide notification dated 28.08.2020 observed that the officer has not attained the age of 58 years, therefore, he has to undergo MCMC before consideration for regular promotion. Consequently he was not recommended for promotion and was allowed to continue on acting charge basis. Stance of the appellant is that once having been exempted from the mandatory training due to the policy in field at the time of his earlier consideration by the PSB, it was not warranted for PSB to deviate from its earlier decision. Points raised need consideration. This appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 18.01.2022 before S.B.

APPEAL ADMITTED
Security & Process Fee

24/12/21

An application for interim relief seeking suspension of order dated 13.12.2021 till disposal of main appeal has been filed with the memorandum of appeal. Copy of the said letter has been annexed with the application. Accordingly, the appellant has been nominated for MCMC with direction to complete the codal formalities. In view of the points taken into consideration for admission of this appeal herein above, the operation of order dated 13.12.2021 is suspended to the extent of appellant till disposal of the appeal.


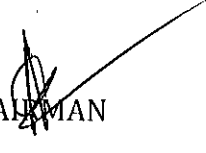


Chairman

FORM OF ORDER SHEET

Court of _____

Case No. - 7859/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/12/2021	<p>The appeal of Mr. Habibullah presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>07/02/22</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: Habibullah vs Govt of KP

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Syed Noman Ali Bilal</u>	✓	
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?		
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?		
15.	Whether numbers of referred cases given are correct?		
16.	Whether appeal contains cuttings/overwriting?		✗
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?		
22.	Whether index filed?	✓	
23.	Whether index is correct?		
24.	Whether Security and Process Fee deposited? on		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Syed Noman Ali Bilal

Signature:

[Handwritten Signature]

Dated:

10-10-21

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 7839 /2021

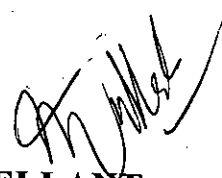
HabibUllah

V/S


Govt Of KP

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-08
2.	Copy of PSB Minutes 2019	---A---	09-10
3.	Copy of promotion order	---B---	11-12
4.	Copy of rules 2018	---C---	13
5.	Copy of rules 2020	---D---	14
6.	Copy of PSB 2021	---E---	15-16
7.	Copy of Departmental appeal	---F---	17-18
8.	Copy of Judgment	---G---	19-24
9.	Copy of letter dated 07.01.2021	---H---	25
10.	Vakalat nama	-----	26


APPELLANT
HabibUllah

THROUGH


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

(7)

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 7859 /2021

Diary No. 8029

Dated 10/12/2021

HabibUllah, Addl: Secretary /PS to Chief Secretary (A.C.B BPS-19),
Govt of KP, Establishment Deptt: Khyber Pakhtunkhwa, Peshawar.

(APPELLANT)

VERSUS

1. The Govt Of KP, through Chief Secretary, Civil Secretariat Peshawar, Government of Khyber Pakhtunkhwa.
2. The Chief Secretary, Civil Secretariat Peshawar, Government of Khyber Pakhtunkhwa.
3. The PSB Board through Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE PSB MEETING DATED 31.07.2021 and FOR
DIRECTING THE RESPONDENT DEPARTMENT TO
CONSIDER THE APPELLANT FOR REGULAR
PROMOTION FROM BPS-18 TO BPS-19 AND AGAINST
NOT TAKING ACTION ON ON THE DEPARTMENTAL
APPEAL TILL DATE.**

Filed to-day

Registrar

10/12/2021

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
RESPONDENTS MAY BE DIRECTED TO CONSIDER THE
APPELLANT FOR PROMOTION ON REGULAR BASIS
FROM BPS-18 TO BPS-19 BEING THE APPELLANT HAS
ALREADY COMPLETED THE REQUIRED LENGTH OF**

2

SERVICE IN MARCH, AS PER REQUIREMENT OF RULE-09 (1) OF THE APT RULES, 1989 AND THE ELIGIBILITY OF PROMOTION HAD ALREADY BEEN DECIDED BY THE COMPETENT AUTHORITY IN 2019, WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the undersigned was promoted to PMS-18 on regular basis w.e.f 06-11-2016. That the appellant had throughout good service record and had performed his duties up to the entire satisfaction of his superiors.
2. That eligibility for promotion/appointment of the undersigned to PMS BS-19 was agreed/decided/recommended by the Provincial Selection Board in 2019 and exempted the appellant from mandatory period under Rule-9 (1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, promotion, Transfer) Rules, 1989 and subsequently notified on 03-10-2019. The ibid rule stipulates that where the appointing authority considered it to be in the public interest to fill a post reserved the rules for Departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charges basis. Provided that no such appointment shall be made, if the prescribed length of service is short by more than three years. **CopY of the PSB Minutes and promotion order is attached as annexure-A & B**

3. That on 14-11-2018, the Provincial Government had notified amendment in the Promotion Policy 2009 giving exemption to the officers from the mandatory trainings of MCMC and SMC/NMC who have attained the age of 50 years and 58 years respectively (F/A) it is worth mentioning that exemption from the mandatory training of MCMC in respect of the undersigned was considered under the ibid notification in respect of the undersigned was considered under the ibid notification by the PSB dated 23.09.2019 at the time of finalization of recommendation under Rule-9 (1) of the APT Rules, 19. **Copy of the rules is attached as annexure-C.**
4. That on 28-08-2020 Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009 was again amended to the effect that "officer who his likely to retire within two years from service on attaining the age of superannuation on the scheduled date of commencement of training shall be exempted from the respective mandatory training of MCMC, SMC and NMC. **Copy of the rules is attached as annexure-D.**
5. That the undersigned was due for regular promotion to PMS BS-19 in March, 2021 after completion of 12 years service in BPS-17, but unfortunately not considered by the PSB in its meeting o 31-07-2021 due to amendment in the Promotion Policy i.e 02 years exemption from the mandatory training of MCMC/SMC. **Copy of the PSB is attached as annexure-E.**
6. That the appellant being aggrieved filed departmental appeal . But the same was not responded within statutory period of 90 days. **Copy of Departmental Appeal is attached as Annexure - "F"**.
7. That now the appellant comes to this august tribunal for the redressal of his grievances on the following grounds amongst others.

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GROUND:

- A) That the appellant was entitled to regular promotion w.e.f. march 2021 after completing requisite length of service for regular promotion but he was deprived from his due promotion due to the inaction of the department. Which is illegal and against the law and rules.
- B) That the appellant was deprived from his right of promotion in an arbitrary manner which is the violation of Article 2, 4 and 25 of the Constitution of Pakistan.
- C) In this connection it is appointed out that the competent authority had already approved eligibility of the undersigned for promotion/appointment under Rule-9 (1) of the APT Rules, 1989 on 03-10-2019, junior officers of BS-17 have been promoted to BS-18 have been promoted to BS-18 on regular basis. Furthermore, the amendment of 02 years exemption cannot be given effect retrospective with particular reference to promotion of junior officers to BS-18. It is worth mentioning that in case of contradiction in policy matters and rules, the latter would always prevail. In this connection it is appointed out that the competent authority had already approved eligibility of the undersigned for promotion/appointment under Rule-9 (1) of the APT Rules, 1989 on 03-10-2019, junior officers of BS-17 have been promoted to BS-18 have been promoted to BS-18 on regular basis. Furthermore, the amendment of 02 years exemption cannot be given effect retrospective with particular reference to promotion of junior officers to BS-18. The same principle was held in appeal no: titled Innayatullah vs Edu and decided in the favor of appellant. **Copy of the judgment is attached as annexure-G.**
- D) That the Honourable Supreme Court of Pakistan has held in many cases that in absence of any stoppage of promotion order by the government/competent authority, the civil servant is entitled from the date of availability of post. Thus, the appellant is entitled to regular promotion with effect from his due date.

- E) That as there is no any order regarding the stoppage of promotion of appellant, therefore, the appellant has legal vested rights to be considered for promotion from the date when post is available for him in his quota. **(97-SCMR-1997-515)**.
- F) That according to Superior Court Judgment reported as ***1997 SCMR 515*** in which it is held that delay in making promotion had entirely due to reason that officer of that department not carry out fairly simple exercise with reasonable period so the appellant is entitled to the promotion from due date.
- G) That the Honorable Apex Court is also given the verdict that every civil servants is the legal right to be dealt with in-accordance with the law and rules under the which is legal service rights are protected. Thus the appellant has legal and genuine claim.
- H) That it is, well settled principle of justice that no one should be suffered from the arbitrary acts of public functionaries and the public functionaries are required to act in accordance with rules and law with fair means. But in case of appellant such principle has been violated.
- I) That the respondents did not promote the appellant and caused financially as well as service career loss , willfully to appellant which is against the law in vogue.
- J) That the apex Court has already clearly held in case of Anita Turab **(PLD-2013 Supreme Court Page No. 195)** that matter of tenure, appointment, posting, transfer and promotion, of service could not be dealt with in an arbitrary manner but could only be sustained if it was in-accordance with law. Whenever there was statutory provision or rules or regulation of government the matter of appointment of Civil Servants that must be followed honestly and scrupulously and discretionary must be exercised and structured, transparent and reasonable manner, thus the verdict of the Honorable Supreme Court fully favours the appellant's case.
- K) That once the appellant was exempted from the MCMC which is evident from the PSB of 2019, then the appellant cannot be deferred on this ground. The appellant due to exemption from the MCMC not nominated for the same which is evident from the letter dated 07.01.2021. **copy attached as annexure-H.**

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L) That the appellant was not treated according to law, rules and norms of justice and thus, deprived from his due right of promotion.


M) That the appellant seeks permission to advance other 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

HabibUllah

THROUGH


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

7

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

HabibUllah

V/S

Govt Of KP

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

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BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

HabibUllah

V/S

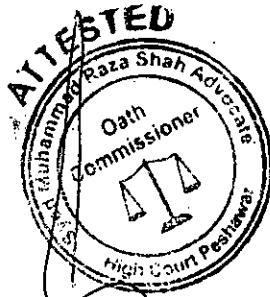
Govt Of KP

AFFIDAVIT

I, HabibUllah , (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.


DEPONENT

HabibUllah



10 DEC 2021

ESTABLISHMENT DEPARTMENT

(Meeting of PSB held on 23.09.2019)

SUBJECT: PROMOTION OF PCS (EG/PMS) OFFICERS FROM BS-18 TO BS-19

Secretary Establishment apprised the Board that number of scheduled posts in BS-19 falling to the share of PCS (EG/SG/PMS) is 102 where ninety six (96) officers are working. Besides, nine (09) officers have been recommended for promotion to BS-20, hence, fifteen (15) posts in BS-19 are lying vacant.

2. According to the Service Rules, the post of PCS (EG)/PMS in BS-19 is required to be filled as under:-

- i. "Promotion to the posts in BS-19 shall be made on the basis of seniority-cum-fitness from amongst the officers holding posts in BS-18 who have completed the minimum length of service as prescribed by Government.
- ii. By promotion on the basis of seniority cum fitness from amongst PMS officers holding posts in BS-18 and having at least 12 years service against posts in BS-17 and above and have passed the prescribed Departmental Training/Examinations"

3. The service record of the officers included in the panel was discussed as follows: -

S.#	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
PCS (EG)		
1.	Mr. Muntazir Khan	<p>His date of birth is 08.05.1961. He joined Government service on 25.01.1988 and was promoted to BS-17 on 23.12.2006. He was promoted to BS-18 on 09.10.2012. He is already working in BS-19 on acting charge basis. According to the Establishment Department, he has been exonerated in disciplinary proceedings initiated in a VR case. He has been granted exemption from training mandatory for promotion due to age factor. The Board in its meeting held on 17.05.2019 recommended to defer his promotion as his PERs for the year 2016 to 2018 were not available. He has now completed his PERs dossier. No other enquiry is pending against him. His service record upto 2018 is generally good.</p> <p>The Board recommended the officer for promotion to BS-19 on regular basis subject to final decision of the Supreme Court of Pakistan in Suo Motu Case No. 17 of 2016. He will be on probation for a period of one year</p>
2.	Mr. Atta ur Rehman	<p>His date of birth is 12.02.1960. He joined Government service on 25.01.1988 and was promoted to BS-17 on 31.12.2006. He was promoted to BS-18 on 09.10.2012. He is already working in BS-</p>

		<p>training mandatory for promotion.</p> <p>The Board recommended to defer his promotion.</p>
45.	Mr. Javedullah Mehsood	<p>His date of birth is 15.10.1967. He joined government service on 01.07.1995 and was promoted to BS-17 on 08.09.2009. He was promoted to BS-18 on 13.01.2017. He is exempted from training mandatory for promotion due to age factor. He has not yet completed prescribed length of service for promotion. No enquiry is pending against him. His service record upto 2018 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p>
46.	Mr. Misal Khan	<p>His date of birth is 02.01.1960. He joined government service on 30.10.1979 and was promoted to BS-17 on 03.03.2009. He was promoted to BS-18 on 27.05.2016. He is exempted from training mandatory for promotion due to age factor. He has not yet completed prescribed length of service for promotion. No enquiry is pending against him. His service record upto 2018 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p>
47.	Mr. Habib Ullah-I	<p>His date of birth is 09.09.1966. He joined government service on 01.01.1985 and was promoted to BS-17 on 03.03.2009. He was promoted to BS-18 on 09.09.2016 due to age factor. He is exempted from training mandatory for promotion. He has not yet completed prescribed length of service for promotion. No enquiry is pending against him. His service record upto 2018 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p>
48.	Mr. Manzoor Elahi	<p>His date of birth is 19.06.1960. He joined government service on 29.09.1979 and was promoted to BS-17 on 03.03.2009. He was promoted to BS-18 on 27.05.2016. He is exempted from training mandatory for promotion due to age factor. He has not yet completed prescribed length of service for promotion. No enquiry is pending against him. His service record upto 2018 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on</p>

APPROVED
BY THE BOARD



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

B- (M) 103

Dated Peshawar October 3, 2019

NOTIFICATION

NO.SO(E-I)E&AD/5-1/2019. The Competent Authority, on the recommendations of Provincial Selection Board, in its meeting held on 23.09.2019, is pleased to appoint the following PMS BS-18 officers in to PMS BS-19, on acting charge basis, with immediate effect:-

S. #.	NAMES OF OFFICERS	PRESENT POSTING
1.	Mr. Khalid Mahmood	Additional Deputy Commissioner (F&P) Lakki Marwat.
2.	Mr. Hafizullah	Additional Deputy Commissioner, Tank
3.	Mr. Javedullah Mehsood	Director, LG&RD Merged Areas
4.	Mr. Misal Khan	Deputy Secretary(L&O) Merged Areas Sectt.
5.	Mr. Habibullah	Deputy Secretary-cum-PS to Chief Secretary
6.	Mr. Manzoor Elahi	Additional Secretary, Agriculture Department.
7.	Mr. Mirzali	Deputy Secretary, Merged Areas Sectt.
8.	Mr. Muhammad Saeedullah	Additional Secretary (Regulation-II) E&A Department.
9.	Ms. Mussarrat Ismail Butt	Posted in Establishment Division, on deputation basis.
10.	Mr. Abdul Kabir Khan	Additional Commissioner, Mardan Division, Mardan
11.	Mr. Javed Ali	Deputy Secretary-cum-Dy. Director, STI
12.	Mr. Muhammad Rehman	Deputy Secretary, Home & T.As Deptt.
13.	Mr. Javed Khan	Deputy Secretary, Finance Deptt.
14.	Mr. Nasir Aman	Additional Secretary (Reg. I) E&A Department.
15.	Mr. Muhammad Yaqoob Barki	Additional Commissioner, D.I.Khan

2. The officers mentioned at Sr. No. 6, 8, 10, 14 & 15 are allowed to actualize their promotion against their already occupied posts. However, posting/transfer notification in respect of officers mentioned at Sr. No. 1, 2, 3, 4, 5, 7, 9, 11, 12, & 13 will be issued later on.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

ENDST. OF EVEN NO. & DATE

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Administrative Secretaries in Khyber Pakhtunkhwa.
6. All Divisional Commissioners, Khyber Pakhtunkhwa.
7. Accountant General, Khyber Pakhtunkhwa
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. Director General, Information & Public Relations Peshawar.
10. District Accounts Officer concerned Districts.
11. PSO to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Secretary Establishment, E&A Department.
14. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA, AS(HRD)/AS(E)/ DS(E./SO(E.II)/SO(E.IV) E&AD.
15. PS to Secretary (Admin.)/S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department.
16. Officers concerned.
17. Controller, Govt. Printing Press, Peshawar.

SECTION OFFICER (ESTT. I)
PHONE # 091-9210529.



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

109
19

Dated Peshawar, the October 16, 2019

NOTIFICATION

NO.SO(E-I)E&AD/5-1/2019. Consequent upon their appointment in PMS BS-19, on acting charge basis, as notified vide this Department's Notification of even No. dated 03.10.2019 and up-gradation/re-designation the posts from BS-18 to BS-19 as personal to the incumbents, by the Finance Department vide letter No. SOF(FR)/FD/7-18/2019 dated 10.10.2019, the Competent Authority is pleased to order posting/transfer, of the following officers, in the public interest, with immediate effect:-

SR.#	NAMES OF OFFICERS	FROM	TO
1.	Mr. Habib ullah-I (PMS BS-19 a.c.b.)	Deputy Secretary, cum-PS To Chief Secretary, Khyber Pakhtunkhwa	Additional Secretary/PS to Chief Secretary, against the personally upgraded post.
2.	Mr. Javed Khan (PMS BS-19 a.c.b.)	Deputy Secretary, Finance Department	Additional Secretary (Litigation) Finance Department, against the personally upgraded post.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

ENDST. OF EVEN NO. & DATE

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
6. Accountant General, Khyber Pakhtunkhwa
7. Director General, Information & Public Relations Peshawar.
8. PSO to Chief Secretary, Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment, E&A Department.
11. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA, AS(HRD)/AS(E)/ DS(E.)/ SO(E.II)/SO(E.V) E&AD.
12. PS to Secretary (Admn.)/D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department.
13. Officers concerned.
14. Controller, Govt. Printing Press, Peshawar.

(ISHTIAQ AHMAD)
SECTION OFFICER (ESTT. I)
PHONE # 091-9210529

APPROVED



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

C 13

Dated Peshawar, the November 14, 2018

NOTIFICATION

No.SO(Policy)E&AD/I-16/2018. - The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)1-3/2008 dated 28.1.2009, the following further amendment shall be made, namely:-

AMENDMENT

1. For sub-para (k) of Para-III, the following shall be substituted:
“(k) The officers who attained the age of 50 years or above on the scheduled date of commencement of the training of Mid Career Management Course (MCMC) shall be exempted from the said training. Similarly, the officers who attained the age of 58 years or above on the scheduled date of commencement of the training of Senior Management Course (SMC)/National Management Course (NMC) and National Defense Course (NDC) shall be exempted from respective mandatory training. The exemption already extended to professional and technical cadres will continue as the professionals/technocrats undertake their specialized training separately.”

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, P&D Department.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar Peshawar High Court, Peshawar.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. All Special Secretaries, Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.

Dr. Irum Shaheen
(DR. IRUM SHAHEEN)
SECTION OFFICER (POLICY)

Sept
19/11

19/11



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

Dated Peshawar, the August 28, 2020

NOTIFICATION

No.SO(Policy)E&AD/I-16/2018. - The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)I-3/2008 dated 28.1.2009, the following further amendment shall be made, namely:-

AMENDMENT

1. For subpara (k) of Para-1H, the following shall be substituted:
- "(k) Officer who is likely to retire within two years from service on attaining the age of superannuation on the scheduled date of commencement of training shall be exempted from the respective mandatory training of Mid-Career Management Course (MCMC), Senior Management Course (SMC)/National Management Course (NMC) and National Defense Course (NDC)."

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

ENDS: NO & EVEN DATE

Copy is forwarded to:-

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


(WARDAH LATHIF)
DEPUTY SECRETARY (POLICY)

APPROVED
6
DATE

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ITEM NO. (03)

ESTABLISHMENT DEPARTMENT

(Meeting of PSB held on 31.07.2021)

SUBJECT: PROMOTION OF PCS (PMS) OFFICERS FROM BS-18 TO BS-19

Secretary Establishment apprised the Board that number of scheduled posts in BS-19 falling to the share of PMS are One Hundred and Twelve (112) against which Ninety Five (95) officers are already working. Thus, seventeen (17) posts in BS-19 are lying vacant due to retirement, creation and promotion. Seventeen (17) officers have been recommended for promotion to BS-20. Total clear vacancies for promotion are thirty four (34).

2. According to the Provincial Management Service Rules, 2007, the posts of PMS in BS-19 are required to be filled as under:-

"By promotion on the basis of seniority cum fitness from amongst PMS officers holding posts in BS-18, and having at least 12 years service against posts in BS-17 and above and have passed the prescribed Departmental Training/Examination. However, exemption from training is allowed to officers who is likely to retire within two years from service on attaining the age of superannuation.

3. The service record of the officers included in the panel were discussed as follows: -

S.#	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1.	Syed Muhammad Suhail.	His date of birth is 29.10.1967. He joined government service on 19.11.1990 and was promoted to BS-17 on 27.05.2008. He has already been appointed to BS-19 on acting charge basis since 13.05.2019. He has completed prescribed length of service for promotion. No enquiry is pending against him. His PER dossier is complete. His service record upto 2020 is generally good. His quantified score is 63 and the Board awarded him 9 out of 15 marks. The Board recommended the officer for promotion to BS-19 on regular basis. He will be on probation for a period of one year.
2.	Mr. Javedullah Mehsood.	His date of birth is 15.10.1967. He joined government service on 01.07.1995 and was promoted to BS-17 on 07.11.2008. He has already been appointed to BS-19 on acting charge basis since 03.10.2019. He has completed prescribed length of service for promotion. No enquiry is pending against him. His PER dossier is complete except PER for the year 2020 which is in process. His service record upto 2020 is generally good. His quantified score is 64 and the Board awarded him 5 out of 15 marks. The Board recommended the officer for promotion to BS-19 on

APPROVED
31.07.2021

		regular basis subject to submission of PER for the year 2020. He will be on probation for a period of one year.
3.	Mr. Habib Ullah-I. <i>provided to PS to CS for his record</i> <i>SA</i> <i>So/Per.</i>	His date of birth is 09.09.1966. He joined government service on 01.01.1985 and was promoted to BS-17 on 03.03.2009. He has already been appointed to BS-19 on acting charge basis on 03.10.2019. He has completed prescribed length of service for promotion. As per Promotion Policy, amended vide Notification dated 28.08.2020, an officer who is likely to retire within two years on attaining the age of superannuation on the scheduled date of commencement of training shall be exempted from MCMC. The officer has not attained 58 years, therefore, he has to undergo MCMC before consideration for regular promotion. The Board did not recommend his promotion. He will continue on acting charge basis.
4.	Mr. Mirzali.	His date of birth is 11.02.1966. He joined government service on 05.08.1989 and was promoted to BS-17 on 03.03.2009. He has already been appointed to BS-19 on acting charge basis since 03.10.2019. An enquiry is pending against him. He has completed prescribed length of service for promotion. As per Promotion Policy, amended vide Notification dated 28.08.2020, an officer who is likely to retire within two years on attaining the age of superannuation on the scheduled date of commencement of training shall be exempted from MCMC. The officer has not attained 58 years, therefore, he has to undergo MCMC before consideration for regular promotion. The Board did not recommend his promotion on regular basis. He will continue on acting charge basis.
5.	Muhammad Saeedullah.	His date of birth is 01.03.1966. He joined government service on 07.11.1990 and was promoted to BS-17 on 03.03.2009. He has already been appointed to BS-19 on acting charge basis since 03.10.2019. No enquiry is pending against him. He has completed prescribed length of service for promotion. No enquiry is pending against him. His PER dossier is complete. His service record upto 2020 is generally good. His quantified score is 64 and the Board awarded him 12 out of 15 marks. The Board recommended the officer for promotion to BS-19 on regular basis. He will be on probation for a period of one year.
6.	Ms. Mussarrat Ismail Butt.	Her date of birth is 01.01.1962. She joined government service on 13.12.1983 and was promoted to BS-17 on 03.03.2009. She has already been appointed to BS-19 on acting charge basis since 03.10.2019. She has completed prescribed length of service for promotion. No enquiry is pending against her. As per Promotion Policy, amended vide Notification dated 28.08.2020, an officer who is likely to retire within two years on attaining the age of

APPROVED
2021

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department.

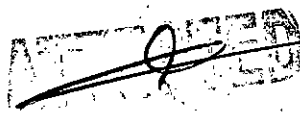
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Subject: DEPARTMENTAL APPEAL REGARDING CONSIDERATION OF PROMOTION TO PMS BS-19 ON REGULAR BASIS.

Respected Sir,

The following few lines are submitted for your kind consideration: -

- i. That the undersigned was promoted to PMS BS-18 on regular basis w.e.f. 06-11-2016.
- ii. That eligibility for promotion/appointment of the undersigned to PMS BS-19 was agreed/decided/recommended by the Provincial Selection Board in 2019 under Rule-9(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, Transfer) Rules, 1989 and subsequently notified on 03.10.2019. The ibid rule stipulates that where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for **departmental promotion** and the most senior civil servant belonging to the cadre or service concerned, **who is otherwise eligible for promotion**, does not possess the specified length of service the authority may appoint him to that post on acting charge basis. Provided that no such appointment shall be made, if the prescribed length of service is short by more than three years.
- iii. That on 14.11.2018, the Provincial Government had notified amendment in the Promotion Policy 2009 giving exemption to the officers from the mandatory trainings of MCMC and SMC/NMC who have attained the age of 50 years and 58 years respectively (F/A). It is worth mentioning that exemption from the mandatory training of MCMC in respect of the undersigned was considered under the ibid notification by the PSB at the time of finalization of recommendations under Rule-9(1) of the APT Rules, 1989.
- iv. That on 28.08.2020 Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009 was again amended to the effect that "officer who his likely to retire within two years from service on attaining the age of superannuation on the scheduled date of commencement of training shall be exempted from the respective mandatory training of MCMC, SMC and NMC (F/B).
- v. That the undersigned was due for regular promotion to PMS BS-19 in March, 2021 after completion of 12 years service in BPS-17, but unfortunately not considered by the PSB in its meeting on 31.07.2021 due to amendment in the Promotion Policy i.e 02 years exemption from the mandatory training of MCMC/SMC.



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In this connection it is pointed out that the competent authority had already approved eligibility of the undersigned for promotion/appointment under Rule-9(1) of the APT Rules, 1989 on 03.10.2019 and not considering the regular promotion of the undersigned to PMS BS-19 under the Promotion Policy is violative of the ibid rule. Moreover, against the posts of PMS BS-18 vacated by the officers including the undersigned on 03.10.2019, junior officers of BS-17 have been promoted to BS-18 on regular basis. Furthermore, the amendment of 02 years exemption cannot be given effect retrospectively with particular reference to promotion of junior officers to BS-18. It is worth mentioning that in case of contradiction in policy matters and rules, the latter would always prevail.

Since the undersigned has already completed the required length of service in March, 2021 as per requirement of Rule-9(1) of the APT Rules, 1989 and the eligibility of promotion had already been decided by the competent authority in 2019, therefore, it is humbly requested that the undersigned may be promoted to PMS BPS-19 on regular basis.

Yours sincerely,

(Handwritten Signature)
 (Habibullah)
 PMS BS-19(acb)
 6/9/2021

ATTESTED



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
31.08.2016		<p align="center"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p align="center">Appeal No. 323/2015</p> <p>Mr Inayatullah Versus The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and 3 others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Usman Ghani, Senior Government Pleader alongwith M/S Khursheed Khan, SO and Hameedur Rahman, A.D for the respondents present.</p> <p>2. Mr. Inayatullah, S.C.T, GHS Nasapa Payan, District Peshawar hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with a prayer to direct the respondents to consider him for promotion to the post of SST (General) on the basis of batch-wise/year-wise merit or on the basis of provincial-wise seniority against 40% quota fixed by the Government, from due date with all back and consequential benefits.</p> <p>3. Brief facts of the case of the appellant are that he was appointed as C.T teacher in Education Department vide order dated <u>04.10.1989</u>. That the respondent-department made promotions/appointments to the post of SSTs/SETs on batch-</p>

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wise merit till year 2004 where-after no such orders were passed till 2012. That new rules were promulgated in the year, 2012 for promotion of SST (General) wherein 40% quota was allocated for promotion of SCT/CT to SST (General) and thereafter promotions of SST (General) were made on the basis of the said rules on 28.10.2014 wherein rules were not followed as the posts of SSTs were of provincial cadre and required to be filled in by provincial-wise seniority while the same were filled in on the basis of district-wise seniority and as such the appellant deprived from his due right of promotion where-against he preferred departmental appeal on 27.11.2014 which was not responded and hence the instant service appeal on 24.03.2015.

4. Learned counsel for the appellant has argued that the post of SST is a provincial cadre post which was erroneously treated as district cadre post. That no promotion after the year, 2004 till 2012 were made despite the fact that the appellant was entitled to consideration for promotion as he was fulfilling pre-requisites and vacancy for his promotion was available. That the appellant was having legitimate expectancy of consideration for promotion. That delay on the part of the respondents from the year, 2004 till the year 2012 would not deprive the appellant from his right for consideration of promotion against a vacancy accruing at that time. That rules framed in the year, 2012 cannot be given retrospective effect for filling the vacancy accrued for promotion prior to promulgation of the new rules.

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~~APPEAL~~

~~APPEAL~~

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5. Reliance was placed on cases-law reported as 2002-PLC(C.S) 1388 (Punjab Service Tribunal), 2015 PLC (C.S) 215 (Peshawar High Court), 2010 PLC (C.S) 760 (Supreme Court of Pakistan), 2012-SCMR-965 (Supreme Court of Pakistan), 2009-PLC (C.S) 178 (Federal Service Tribunal) and 1997-SCMR-515 (Supreme Court of Pakistan).

6. Learned Senior Government Pleader for respondents has argued that the appellant is to be promoted in due course and that his promotion is to be considered in the light of newly promulgated rules. That the appellant cannot be considered for promotion with retrospective effect. That the policy of the provincial government at the relevant time was appointment through initial recruitment. That the appeal of the appellant is time-barred and as such the same is liable to dismissal.

7. We have heard arguments of learned counsel for the parties and perused the record.

8. It was not disputed before us that no promotions whatsoever were made after the year 2004. We are however not in a position to undertake exercise to ascertain as to whether such promotions were not made due to non-availability of vacancies for promotion or for want of non-availability of eligible civil servants. In case of Government of Punjab through Secretary Education and another Versus Rana Ghulam Sarwar Khan and 111 others reported as 1997-SCMR-515; the August Supreme Court of Pakistan has observed that delay in making promotion occurring due to failure of department in carrying out

31.08.16

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simple exercise within a reasonable period would not justify setting aside the judgment of Punjab Service Tribunal directing the Government to promote civil servants from specified date. In case of WAPDA Lahore through its Chairman and others Versus Haji Abdul Aziz and others reported as 2012-SCMR-965 (Supreme Court of Pakistan) it was observed that amendment in rules affecting seniority of employees would not be given retrospective effect to the dis-advantage of employees who were entitled to promotion prior to the amendment against vacancies available at that time. In the case of Muhammad Amjad and others Versus Dr. Israr Ahmad and others reported as 2010-PLC (C.S) 760 (Supreme Court of Pakistan) it was observed by the August Supreme Court of Pakistan that State functionaries were mandated to act with certain amount of reasonableness. It was also observed that a civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available. The August Supreme Court of Pakistan declined to interfere in the judgment passed by the Service Tribunal wherein authorities were directed to consider case of promotion of concerned civil servant from the date when vacancy in his quota was available. In case of Engineer Musharaf Shah Versus Government of Khyber Pakhtunkhwa through Chief Secretary and 2 others reported as 2015-PLC(C.S)215 (Peshawar High Court) it was observed that a civil servant had a right to be considered for promotion and refusal of such right of petitioners of consideration for promotion is to be deemed as a final order. In

31.08.16

case of Hafiz Sanaullah Versus Director (Admin) Power-II, WAPDA, Lahore and another reported as 2009-PLC (C:S) 178 (Federal Service Tribunal) it was observed that the prayer of the appellant seeking move-over w.e.f. 1.12.1986 through service appeal instituted on 13.09.2000 was maintainable as the appellant was having continuous cause of action as he stood deprived of extension of his pay by move-over and a fresh cause of action was accruing in his favour every month. In case of Muhammad Hasnain Shah Versus the Deputy Inspector General of Police, Multan Range and 27 others reported as 2002-PLC (C.S) 1388 (Punjab Service Tribunal) it was observed that in matter of promotion and other emoluments cause of action was recurring and limitation would therefore not fore-close such right.

9. Since the new rules were promulgated vide notification dated 13.11.2012 and, therefore, in view of the case-law discussed above such rules cannot be given retrospective effect. Therefore such rules cannot be applied to civil servant having legitimate expectancy of consideration for promotion against a vacant post available for promotion prior to the date of promulgation of the said rules. It is also made clear from the cases-law referred to above that un-reasonable delay on the part of the department in conducting fairly simple exercise within reasonable period would not deprive a civil servant from his right of consideration for promotion from a specified date. We therefore, hold that delay spreading over a period of more than

31.08.16

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7 years would not deprive the appellant from seeking consideration for promotion from a specified date i.e. a date when vacancy for promotion has become available..

10. Withholding or delaying the process of promotion would neither entitle the respondents to agitate the plea of limitation nor, such a delay, would deprive the appellant from claiming his right for consideration for promotion more particularly when such a claim is based on a recurring and continuous cause of action.

11. In the light of the afore-stated discussion we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for promotion and in case he is found eligible for promotion against a seat available for promotion on a date prior to promulgation of new rules notified vide order dated 13.11.2012 then appellant shall be considered for promotion against such vacancy in the light of rules in vogue at the relevant time. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Azim Khan Afridi)
Chairman

(Pir Bakhsh Shah)
Member

ANNOUNCED
31.08.2016

31.08.2016



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

28

No. SO (HRD-1)/ED/2-3/2019-20/MCMC
Dated Peshawar, the, 07/01/2021.

To

The Deputy Secretary (T-I),
Government of Pakistan,
Cabinet Secretariat,
Establishment Division,
Islamabad.

SUBJECT:-

NOMINATION OF BS-18 OR EQUIVALENT OFFICERS FOR 31ST MID CAREER MANAGEMENT COURSE (MCMC) AT NATIONAL INSTITUTE OF MANAGEMENT, LAHORE, KARACHI, PESHAWAR AND QUETTA FROM 01/02/2021 TO 09/04/2021

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith nomination of the following PMS (BS-18) officers for the upcoming 31st Mid Career Management Course (MCMC):-

1. Syed Muhammad Sohail, Project Director, Swabi Development Authority.
2. Mr. Javed Ullah, Additional Secretary, Local Government Department.
3. Mr. Muhammad Saeedullah, Additional Secretary(R-II) E&AD.
4. Mr. Abdul Kabir Khan, Additional Commissioner, Mardan.
5. Mr. Javed Ali, Registrar, KP Appellate Tribunal on Sales Tax on Service.
6. Mr. Muhammad Rehman, Additional Secretary Industries.
7. Mr. Muhammad Yaqoob Burki, Project Director, Karak Dev. Authority.
8. Mr. Ghazi Nawaz, Project Director, Bannu Development Authority.
9. Mr. Muhammad Nasir Khan, Addl: Secretary, Population Welfare Deptt.
10. Syed Kazim Hussain Shah, Member(G), Governor's Inspection Team.
11. Mr. Muhammad Kashif Nadeem, Project Director, Bannu Dev. Authority.
12. Mr. Muhammad Irshad-I, Additional Secretary Housing.
13. Mr. Habibullah Arif, Additional Secretary Zakat Ushr.
14. Mr. Naeem Akhtar, DMO, EMA.
15. Mr. Khalid Khan, Deputy Commissioner Lower Kohistan.
16. Mr. Fahad Wazir, Additional Secretary Agriculture Deptt.
17. Mr. Muhammad Hayat, Additional Secretary CM Secretariat.
18. Mr. Zeeshan Abdullah, Director PDMA.
19. Mr. Noor Alam Khan, ADC DIkhan.
20. Mr. Minhas-ud-Din, DMO EMA.
21. Mr. Noorul Amin-I, ADC (F&P) Tank.
22. Mr. Shah Saud, Deputy Commissioner Upper Chitral
23. Mr. Muhammad Sher, Deputy Secretary, ST & IT.
24. Mr. Irfanullah Khan Wazir, Deputy Secretary, Irrigation.
25. Mr. Muhammad Riaz Khan, ADC(F&P) Khyber.
26. Ms. Naghmana, Director(HR) PDMA.
27. Mr. Arshad Ali, Addl: Secretary P&D.
28. Mr. Abdul Nasir Khan, Addl: Secretary Higher Education.

Annex-II, Certificate to the effect that no Disciplinary Proceeding is pending against the above officers and updated List of PMS BS-18 officers are enclosed.

Yours faithfully,

SECTION OFFICER (HRD-I)

Endst No. & Date Even.

Copy forwarded to the:-

1. Section Officer(E-I) Establishment Department.
2. PS to Secretary Establishment Department.
3. PS to Special Secretary(Estb) Establishment Department.
4. PS to Additional Secretary(HRD) Establishment Department.
5. PA to Deputy Secretary (HRD) Establishment Department.

SECTION OFFICER (HRD-I)

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal Peshawar

Habib Ullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt of KP (Respondent)
(Defendant)

I/We, Habib Ullah (Appellant)

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

[Signature]
(CLIENT)

ACCEPTED

[Signature]
SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

No. SO (HRD-1)/ED/2-3/2020-21/MCMC33^N

Dated Peshawar, the 13/12/2021.

To

1. Mr. Habibullah-I, Additional Secretary cum PS to Chief Secretary.
2. Mr. Mirzali Khan, Director PSA.
3. Mr. Habibullah Arif, Deputy Commissioner, Mardan.
4. Mr. Yasir Ali Khan, Additional Secretary, Energy & Power Department.
5. Mr. Wajid Ali Khan, Deputy Secretary, Higher Edu: Department.
6. Ms. Naj-mu-Sahar, Dy: Director, PPSA.
7. Mr. Altaf Hussain, Deputy Secretary, Zakat.
8. Ms. Shama Niamat, Addl: Deputy Commissioner, (F&P) Peshawar.
9. Mr. Fiaz Alam, Addl: Secretary, Information Department.
10. Mr. Wasil Khan, Addl: Secretary, Irrigation Department.
11. Mr. Hazrat Ali, Deputy Secretary, IPC Department.
12. Mr. Naik Muhammad, ADC (F&P) Mardan.
13. Mr. Dil Nawaz Khan, Director LG&RD merged areas.
14. Mr. Habibullah Khan-II, Deputy Secretary, Excise & Taxation.
15. Mr. Abdul Haleem Khan, Deputy Director, KP Revenue Authority.
16. Mr. Tariq Mehmood, Director PERRA Abbottabd.
17. Mr. Khalid Iqbal, Deputy Commissioner, Tribal Distt: South Waziristan.
18. Mr. Rashid Khan, Deputy Secretary, Zakat.
19. Syed Saiful Islam Shah, Deputy Commissioner Lower Kohistan.
20. Mr. Baidullah Shah, Deputy Secretary ST&IT Department.
21. Mr. Jehangir Azam Wazir, Deputy Secretary, Home Department.
22. Mr. Muhammad Naeem Khan-II, ADC F&P Kurram.
23. Mr. Muhammad Tayyab Abdullah, P&D Department.
24. Mr. Nasir Ali, Deputy Secretary Irrigation Department.
25. Mr. Irfan Ullah Mahsud, Deputy Secretary, Industries Department.
26. Mr. Hameedullah, Deputy Secretary, LG&RD Department.
27. Mr. Baseer Ali Rehman Khan, Deputy Secretary, Home Department.
28. Mr. Khaliq Dad Khan, Deputy Secretary, Population Department.
29. Mr. Miss Irum Naz, Secretary to Commissioner Mardan.
30. Mr. Khan Mohammad, Dy. Provincial Coordinator Finance Department.
31. Mr. Muhammad Tariq, Deputy Commissioner, Kolai Palas.

SUBJECT:- NOMINATION OF BS-18 OR EQUIVALENT OFFICERS FOR 33RD MID CAREER MANAGEMENT COURSE (MCMC) AT NATIONAL INSTITUTE OF MANAGEMENT, LAHORE, KARACHI, PESHAWAR AND QUETTA FROM 14/02/2022 TO 22/04/2022.

Dear Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority has been pleased to nominate you for the 33RD Mid-Career Management Course (MCMC).

2. You are, therefore, requested to kindly provide latest Annual Medical Examination Report and Panel Proforma (copy enclosed) properly filled in, immediately for onward submission to Establishment Division, Government of Pakistan, Islamabad.

Yours faithfully,

SECTION OFFICER (HRD-I)

Enclst No. & Date Even.

Copy forwarded to:-

1. PS to Secretary Establishment Department.
2. PS to Additional Secretary (HRD) Establishment Department.
3. PA to Deputy Secretary (HRD) Establishment Department.

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 7859 /2021

Mr. Habibullah

V/S

Govt of KPK etc.

.....
**APPLICATION FOR SUSPENSION ORDER DATED
13.12.2021 TILL THE DISPOSAL OF MAIN
APPEAL.**
.....

RESPECTFULLY SHEWETH:

1. That the above titled appeal is pending before this august Tribunal and fixed for hearing on _____.
2. That the appellant's promotion is badly affected due to Arbitrary Act of the deptt, So the appellant challenge the same in service tribunal.
3. That now the deptt nominated appellant for mid-career course vide order dated 13.12.2021. Because the appellant was already exempted for the said course by the competent authority.
4. That the appellant has a good prima facie case and all the ingredients are in favour of appellant.
5. That the grounds of the appeal may also be considered integral part of the application.
6. That if the respondents are not restrained till the Disposal of the above mention appeal. then the appellant will suffer from irrespective loss.

It is, therefore, most humbly prayed that the order 13.12.2021 may kindly be suspended till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Habibullah
P. **APPELLANT**
Habibullah

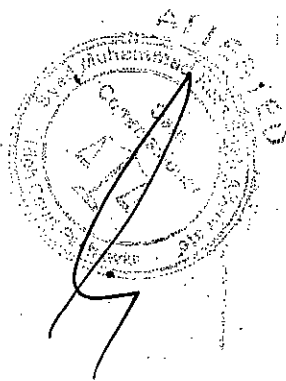
THROUGH:

Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

& *Uzma Syed*
UZMA SYED
ADVOCATE, HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct.



[Signature]
Deponent

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 7859 /2021

Mr. Habibullah

V/S

Govt of KPK, etc.

.....
**APPLICATION FOR SUSPENSION ORDER DATED
13.12.2021 TILL THE DISPOSAL OF MAIN
APPEAL.**
.....

RESPECTFULLY SHEWETH:

1. That the above titled appeal is pending before this august Tribunal and fixed for hearing on _____.
2. That the appellant's promotion is badly affected due to Arbitrary Act of the deptt, So the appellant challenge the same in service tribunal.
3. That now the deptt nominated appellant for mid-career course vide order dated 13.12.2021. Because the appellant was already exempted for the said course by the competent authority.
4. That the appellant has a good prima facie case and all the ingredients are in favour of appellant.
5. That the grounds of the appeal may also be considered integral part of the application.
6. That if the respondents are not restrained till the Disposal of the above mention appeal. then the appellant will suffer from irrespective loss.

It is, therefore, most humbly prayed that the order 13.12.2021 may kindly be suspended till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Habibullah
F. **APPELLANT**
Habibullah

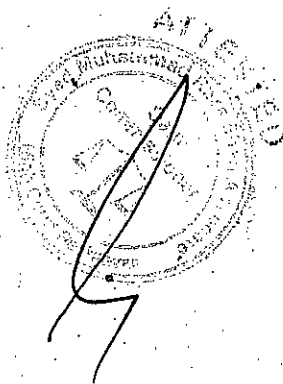
THROUGH:

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

& *Uzma Syed*
UZMA SYED
ADVOCATE, HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct.



[Signature]
Deponent

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 7859 /2021

Mr. Habibullah

V/S

Govt of KPK etc.

.....
**APPLICATION FOR SUSPENSION ORDER DATED
13.12.2021 TILL THE DISPOSAL OF MAIN
APPEAL.**
.....

RESPECTFULLY SHEWETH:

1. That the above titled appeal is pending before this august Tribunal and fixed for hearing on 07-2-2022
2. That the appellant's promotion is badly affected due to Arbitrary Act of the deptt, So the appellant challenge the same in service tribunal.
3. That now the deptt nominated appellant for mid-career course vide order dated 13.12.2021. Because the appellant was already exempted for the said course by the competent authority.
4. That the appellant has a good prima facie case and all the ingredients are in favour of appellant.
5. That the grounds of the appeal may also be considered integral part of the application.
6. That if the respondents are not restrained till the Disposal of the above mention appeal. then the appellant will suffer from irrespective loss.

It is, therefore, most humbly prayed that the order 13.12.2021 may kindly be suspended till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Hab
F. No. **APPELLANT**
Habibullah

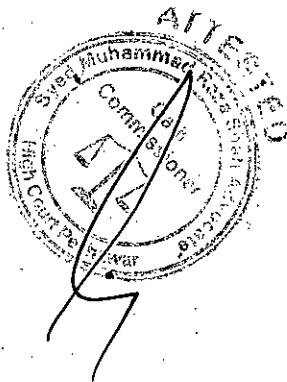
THROUGH:

Noman
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

Uzma
&
UZMA SYED
ADVOCATE, HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct.



[Signature]
Deponent

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 7859/2021

habibullah

V/S

Govty of KP:.

.....

**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 07.02.2022
BEING STAY MATTER CASE.**

.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal for promotion.
2. That the instant appeal was at preliminary hearing stage and fixed for 07.02.2022. but there is urgency in the instant appeal being promotion matter and the date was fixed so long. Which is against the interest of justice.
3. That it will be in the interest of justice to fix the early date in the instant case being seniority case to meet the end of justice.


It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 02.07.2022. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.


Applicant/Respondent

THROUGH:


(Syed Noman Ali Bukhari)
ADVOCATE HIGH COURT.

Allowed.
Be fixed for
22/12/2021.


21/12/2021

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 7859 /2021

Mr. Habibullah

V/S

Govt of KPK etc.

.....

**APPLICATION FOR SUSPENSION ORDER DATED
13.12.2021 TILL THE DISPOSAL OF MAIN
APPEAL.**

.....

RESPECTFULLY SHEWETH:

1. That the above titled appeal is pending before this august Tribunal and fixed for hearing on _____.
2. That the appellant's promotion is badly affected due to Arbitrary Act of the deptt, So the appellant challenge the same in service tribunal.
3. That now the deptt nominated appellant for mid-career course vide order dated 13.12.2021. Because the appellant was already exempted for the said course by the competent authority.
4. That the appellant has a good prima facie case and all the ingredients are in favour of appellant.
5. That the grounds of the appeal may also be considered integral part of the application.
6. That if the respondents are not restrained till the Disposal of the above mention appeal. then the appellant will suffer from irrespective loss.

It is, therefore, most humbly prayed that the order 13.12.2021 may kindly be suspended till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Hab
F. **APPELLANT**
Habibullah

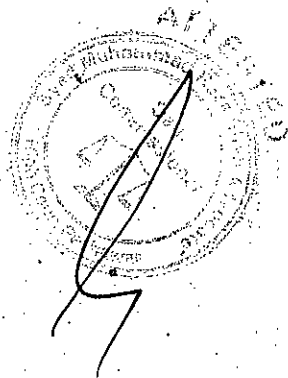
THROUGH:

Noman
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

Uzma
&
UZMA SYED
ADVOCATE, HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct.



H
Deponent