

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT SWAT.

Service Appeal No. 9603/2020

Date of institution 24.08.2020

Ikram Khan, Senior Clerk, Attached to District Jail Swat.

VERSUS

Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department Peshawar and two others.

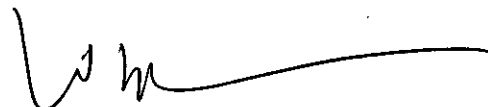
O R D E R
Post Script
03.11.2021

Later on appellant's counsel namely Mr. Asad-ur-Rehman, Advocate, appeared and stated at the bar that he wants to withdraw the instant appeal with the permission to file a fresh, if the need so arises. In this respect, he submitted written application, which is placed on file.

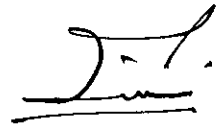
Mr. Riaz Ahmed Paindakhel, Assistant Advocate General endorsed no objection on the application.

In light of the above, the application is allowed and the appeal in hand stands dismissed as withdrawn, however the appellant shall be at liberty to file a fresh appeal, if the need so arises. File be consigned to the record room.

ANNOUNCED
03.11.2021



(Atiq-Ur-Rehman Wazir)
Member (Executive)
Camp Court Swat



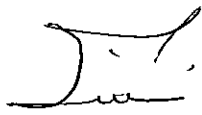
(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

03.11.2021

Appellant in person present. Mr. Ahmad Zeb, Junior Clerk alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

Appellant submitted copies of memorandum of appeal, which is placed on file and copy of the same is handed over to learned Deputy District Attorney as well as representative of the department. Adjourned. To come up for submission of reply/comments as well as arguments before the D.B on 05.01.2022 at Camp Court Swat.

(Atiq-Ur-Rehman Wazir)
Member (Executive)
Camp Court, Swat


(Salah-Ud-Din)
Member (Judicial)
Camp Court, Swat

It is also prayed that the respondents may b directed to consider the promotion of the petitioner from the date of his eligibility, and he may also be given the back benefits as per the law."

The Honourable High Court vide order dated 10.03.2020 has sent the Writ Petition to this Tribunal on request of the counsel for the appellant then petitioner treating the same as service appeal before this Tribunal. The appellant is directed to file the memorandum of appeal in proper form within 10 days in office at Peshawar. However, the Writ Petition as converted into service appeal is admitted for regular hearing subject to all just and legal objections, including that of limitation. 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 in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 03.11.2021 before the D.B at camp court, Swat.

Appellant Deposited
Security & Process Fee

27/9/21


Chairman
Camp Court, Swat.


07.04.2021

Due to COVID-19, the case is adjourned to 09.06.2021 for the same.


Reader

26.07.2021

To come up for preliminary hearing on 26.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel for the date fixed.


Chairman

25.08.2021

Counsel for the appellant present. Preliminary arguments have been heard.

The petitioner (present appellant) had approached the Honourable Peshawar High Court, Mingora Bench through Writ Petition No. 960-M/2019 with the prayer as copied below:-

"In view of the above, it is respectfully prayed that the decision of the respondents, by refusing/declining the right of promotion to petitioner to the post of Assistant Superintendent, at the stage of fitness after the written examination, be declared as illegal and arbitrary. Accordingly, the respondents may be directed to promote the petitioner to the post of Assistant Superintendent.

It is further prayed that it may be held that the amended rules, as attached to the instant Writ Petition as annexure-L, are not applicable to the extent of the petitioner.

10.12.2020

Due to COVID-19, case is adjourned to 03.02.2021 for the same as before.



Reader

03.02.2021

Nemo for appellant.

Preceding date was adjourned on account of Covid-19, therefore, notice be issued to appellant/counsel for 07.04.2021 for preliminary hearing before S.B at Camp Court, Swat.



(Rozina Rehman)
Member (J)
Camp Court, Swat



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

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

Office: 0946-885005
Fax: 0946-885004
E-Mail: darulqazawat2011@gmail.com

No. 2023 / Writ Petition Branch;

Dated: 20-08-2020

To

The Chairman,
Khyber Pakhtunkhwa Service Tribunal,
Old Judicial Complex, District Peshawar. (091-9212281)



Subject: Writ Petition No. 960-M/2019

Ikram Khan

----- Petitioner

Versus

Govt. of KPK & others

----- Respondents

Memo:

Enclosed please find here with the certified copy of judgment dated 10-03-2020, passed by the Hon'ble Division Bench of this Court in the above titled case along with original Writ Petition (53-Pages) for compliance of directions contained therein.

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

Encl. a.a

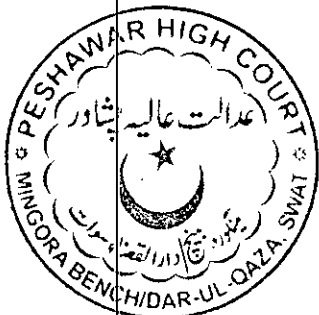
Signature
Additional Registrar

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**FORM OF ORDER SHEET**

Court of

Case No..... of.....

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2
10-03-2020	<p><u>W.P No. 960-M/2019 with Interim Relief</u></p> <p>Present: Barrister Asad-ur-Rahman, for the petitioner.</p> <p>Mr. Wilayat Ali Khan, A.A.G for the respondents. C -</p> <p style="text-align: center;">*****</p> <p><u>WIOAR AHMAD, J.-</u> This order is directed to decide the petition filed by petitioner namely Ikram Khan, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 (hereinafter referred to the 'Constitution'), with the following prayer;</p> <p style="text-align: center;">“It is respectfully prayed that the decision of the respondents, by refusing/declining the right of promotion to petitioner to the post of Assistant Superintendent, at the stage of fitness after the written examination, be declared as illegal and arbitrary. Accordingly, the respondents may be directed to promote the petitioner to the post of Assistant Superintendent.</p> <p style="text-align: center;">It is further prayed that it may be held that the amended rules, as attached to the instant writ petition as Annexure L, are not applicable to the extent of the petitioner.</p> <p style="text-align: center;">It is also prayed that the respondents may be directed to consider the promotion of the petitioner from the date of his eligibility, and he may also be</p>



Abdul Sabooch*

(D.B)

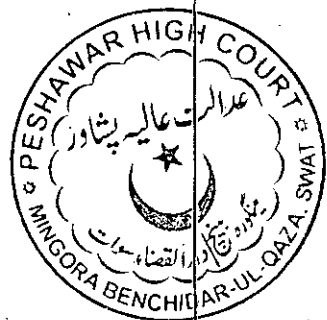
HON'BLE MR. JUSTICE SYED ARHAMAD ALI
HON'BLE MR. JUSTICE WIOAR AHMAD

given the back benefits as per the law.

Any other relief which this Honorable Court deems fit may also be granted."

2. This case was heard at some length, however when learned counsel for petitioner was asked with regard to jurisdictional contour of this Court in view of the clear bar contained in Article 212 of the Constitution, he has stated that this Court has no jurisdiction to entertain the petition in hand. He however requested that this petition may be converted into a service appeal and same may be sent to the Khyber Pakhtunkhwa Service Tribunal for adjudication.

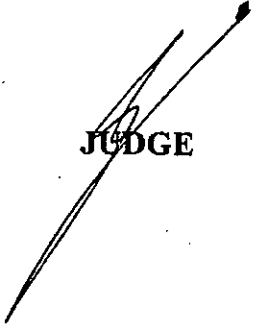
3. Request of learned counsel for petitioner seems genuine. The instant petition is converted into an appeal in view of the law laid down by the august Supreme Court of Pakistan in its judgment given in the case of Muhammad Akram vs DCO, Rahim Yar Khan and others reported as 2017 SCMR 56 and office is directed to transmit the same along with annexures and comments etc, to the Khyber Pakhtunkhwa Service Tribunal, who shall decide the appeal of petitioner according to law.



Office shall however retain copy of the same for office record.

Announced
Dt: 10.03.2020


JUDGE


JUDGE

Certified to be True Copy


EXAMINER

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

Office
17/3

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

Moran Sh. Wa

VERSUS

Govt of swat

1. This petition has been presented by _____
2. Signature of council/petitioner requires on _____
3. Enactment under which the petition was file is not mentioned correct.
4. Approved file cover is not used.
5. Affidavit is not duly attested/appended.
6. Checklist has not been filed/duly filled in/signed
7. Petition/annexures are not properly paged according to index.
8. Certified copies of annexures/page # _____ have not been filed.
9. Copies of annexure/pages # 7 are not legible. *a/w 2nd copy*
10. Certificate be furnished that whether nay petition on the subject matter has earlier been filed in this court.
11. There should be separate application for each prayer/case.
12. Copy of application is not delivered to A.G.
13. The appeal, revision, application is time barred.
14. Value for the purpose of court fee and jurisdiction has not been mentioned in the relevant column of the opening sheet.
15. Opening sheet has not been filled in properly.
16. The P/A of the council engaged is not attested/signed by all petitioners/appellants.
17. Chamber address and phone number of council has not been mentioned on index/wakalatnama.
18. Memo of parties name & address not filed.
19. Petitioner's/Attorney of Petitioners' CNIc #/present address/permanent address/phone #/Cell #/Fax #/E-mail address has not been mentioned in memo of addresses of the parties.
20. No. of referred cases is not given/correct.
21. Petition received by post is not entermain-able except through jail. *(39) Authority letters*
22. Petition containing overwriting is not entertain-able. Fair petition be filed. *on behalf of respondents*
23. Appeal/Revision is not competent. *be attached.*
24. List of books have not been mentioned at the end of the petition.
25. Case does not relate to _____
26. Petition should be drafted by a person competent to do so.
27. _____ spare copies be filed.
28. In what jail the petitioner is confined.
29. Revision/appeal may be filed on the prescribed form.
30. Copies of annexure _____ are not translated.
31. Court fee stamps are not been affixed.
32. Power of Attorney is not attested by the jail authority.
33. Certified copies of impugned orders/decree sheets/pleadings/evidence/ground of revision/appeal before District Judge have not been filed.
34. District Judge or any other Judicial Officer cannot be made as respondent on top of the petition.
35. Index has not been filed/signed/duly completed/or it carries overwriting.
36. The Petition has not been flagged/marked with annexures' marks.
37. Power of attorney for petitioner/petitioners has not been filed.
38. Every miscellaneous application should be followed by an affidavit.

SCANNED

READER

Returned with objections at Sr. Nos. 9, 39, 36 for removal to be re-submitted on or before 15-02-2020

[Signature]
Additional Registrar
PHC, Bench Mingora/Dar-ul-Qaza, Swat.

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

Writ Petition No.960-M/2019

Ikram Khan Senior Clerk,

Attached to District Jail Swat.....**Petitioner**

VERSUS

1. Secretary to Govt. of Khyber Pakhtunkhwa
Home and T.As Department Peshawar.

2. Inspector General of Prisons
Khyber Pakhtunkhwa Peshawar

3. Director (Admin)
For Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar.....**Respondents**

INDEX

S.NO.	DESCRIPTION OF DOCUMENTS	Annex	Page No.
1-	Comments	-	1-2
2-	Affidavit	-	3
3-	Home Department Notification/Amended Service Rules 2018.	A	4-6
4-	Office letter No. 17256 dated 27-05-2019	B	7


DEPONENT

FILED TODAY

04 FEB 2020

Additional Registrar

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

9603/20

Writ Petition No.960-M/2019
Ikram Khan Senior Clerk,
Attached to District Jail Swat.....

Petitioner

VERSUS

1. Secretary to Govt. of Khyber Pakhtunkhwa
Home and T.As Department Peshawar.
2. Inspector General of Prisons
Khyber Pakhtunkhwa Peshawar
3. Director (Admin)
For Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar.....

Respondents

Respectfully Sheweth,

ON FACTS

1. No comments.
2. Admitted to the extent as per order / Judgement dated 26/02/2019 of this Honorable Court the petitioner placed before Departmental Promotion Committee on 16/05/2019 for consideration. The Committee observed that the petitioner was not considered in earlier DPC meeting held on 09/05/2018. Now as per amended Service Rules vide Home Department Notification No.SO(P&R)HD/1-33/2017/Vol-VI dated 05/11/2018 (Annex-A) minimum qualification for the promotion of Senior Clerk to the post of Assistant Superintendent BPS-14 has been prescribed as B.A/BSc with mandatory promotion course / clearance of departmental examination and the promotion quota has also been reduced from 15 percent to 10 percent. Moreover, there is no vacant post available for promotion of Senior Clerk to the post of Assistant Superintendent Jail in 10% promotion quota so in the light of amended Service Rules / non-availability of vacant post for promotion quota as well as lack of BA/BSc qualification and non fulfilment of mandatory promotion course by the petitioner, the DPC could not considered him suitable for promotion at this stage.
3. As elaborated in Para-2 above.

*Reasons are verified
relevant documents all
Dated 05/11/2018
The Petitioner
Cust.*

*Additional Registrar
Khyber Pakhtunkhwa
at Dar-ul-Qaza, Swat.
4/1/2020*

FILED TODAY
04 FEB 2020
Additional Registrar

- 2
4. The respondents fully complied the order / judgement of Honorable Court in true letter and spirit by putting the petitioner case before the DPC under the relevant laws / rules. The learned Additional Registrar of August Court was accordingly informed vide letter dated 27-05-2019 (**Annex-B**). Hence plea of the petitioner is not cover under the Law / Rules in vogue.
 5. As the Service Rules have been amended prior to the Judgment of this Honourable Court dated 26-02-2019, vide Home Department Notification No.SO(P&R)HD/1-33/2017/Vol-VI dated 05/11/2018 (**Annex-A**) so the amended Rules are equally applicable to the Petitioner.
 6. Not admitted correct. The act of Respondents is in accordance with law / Rules.

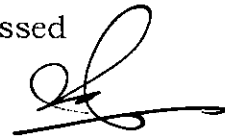
OBJECTION ON GROUNDS

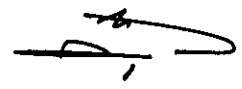
1. That the decision of Departmental Selection /Promotion Committee is legal and in accordance with law/rules.
2. That amended Service Rules as mentioned in para-5 are the relevant rules applicable to the case of Petitioner.
3. That the amended Service Rules are not only applicable to the Petitioner but to all other servants of the Prisons Department. When the petitioner came to know about the amendments he filed the instant Writ Petition despite having initiated COC Petition on the same grounds as that of the instant Writ Petition.
4. As elaborate in Para-A.
5. Under the amended Service Rules the petitioners does not fulfil the required criteria as elaborated in para-2.
6. As mentioned in para-A.
7. Admitted not correct, as elaborated in para-2.
8. Other grounds will be raised at the time of arguments.

Prayer: -

The petitioner while having initiated COC No. 57-M/2019 in earlier Writ Petition No. 99-M/2019 has once again intentionally misled the honorable court by initiating instant Writ Petition so in view of the above submission it is therefore most Humbly prayed that the instant Writ Petition may graciously be dismissed


DEPUTY DIRECTOR (ADMN)
INSPECTORATE OF PRISONS
(RESPONDENTS NO.03)


INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
(RESPONDENT NO.02)


SECRETARY TO
GOVT OF KHYBER PAKHTUNKHWA
HOME AND T.AS DEPARTMENT PESHAWAR
(RESPONDENTS NO.1)

FILED TODAY

04 FEB 2020

Additional Registrar

3

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

In the matter of
Writ Petition No.960-M/2019
Ikram Khan Senior Clerk,
Attached to District Jail SwatPetitioner.

VERSUS

Government of Khyber PakhtunkhwaRespondents.

AFFIDAVIT

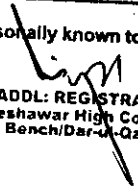
I, Mr. Sayyar Ahmed, Deputy Superintendent/cum Superintendent District Jail Swat hereby solemnly affirm and declare on oath that the contents of the para-wise comments submitted by Respondents are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Court.

Identified by
Addl: Advocate General
Khyber Pakhtunkhwa
Peshawar
Additional Advocate General
Khyber Pakhtunkhwa
at Dar-ul-Qaza, Swat.


DEPONENT

S.No. 816
Certified that the above was verified on Solemn
affirmation before me on this 04th day
of Feb 2020 by Sayyar Ahmed
S/o Gul Muhammad R/o Mardan who
was identified by A.A.G.

FILED TODAY
04 FEB 2020
Additional Registrar

Who is personally known to me.

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

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

19
Amendment 'A'

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 18th DECEMBER, 2018.

GOVERNMENT OF KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Dated Peshawar, the 05th November, 2018.

51
No. SO(P&R)/HD 1-33/2017/Vol-VI:- In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Home & Tribal Affairs Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in the Khyber Pakhtunkhwa Prisons Department (Recruitment and Appointment) Rules, 1980, the following amendments shall be made, namely:

AMENDMENTS

In the Appendix:-

(a) against Serial No.3-E, in column 6, for the existing entry, the following shall be substituted, namely:

"By Promotion, on the basis seniority-cum-fitness, from amongst the Assistant Programmer, Assistant Network Administrators and Computer Operators with at least five years service as such:
Provided that if no suitable person is available for promotion then by initial recruitment."

Note: Joint seniority of Assistant Network Administrators, Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion."

c.t.c
/

(b) against Serial No. 4, in column 6, for the existing entry, the following shall be substituted, namely:

(a) Thirty per cent by initial recruitment; and
 (b) seventy per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Assistant Superintendent Jail (BPS-16), who have successfully qualified Departmental Training and Examination, if any prescribed and with at least five years service as such.”;

(c) against Serial No.5, in column 2, the word and brackets “(Admn)” shall be deleted;

(d) against Serial No.6-D, in column 6, for the existing entry, the following shall be substituted, namely:

“By initial recruitment.”;

(e) against Serial No.6-F, in column 6, for the existing entry, the following shall be substituted, namely:

“By initial recruitment.”;

(f) for Serial No. 9, the following shall be substituted, namely:

1.	2.	3.	4.	5.	6.
9.	Assistant Superintendent Jail.	i. Atleast Second Class Bachelor's Degree or its equivalent qualification from a recognized University; and ii. <u>Physical standard:</u> (height 173 cm) and (chest 85 cm without expansion and 90 cm with expansion).	Matriculation or its equivalent qualification from a recognized Board.	20 to 30 years.	(a) Thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Head Warders, with at least five years service as Head Warder or Chief Head Warder, subject to- i. Successful completion of promotion course for Assistant Superintendent Jail; and ii. Clearance of mandatory departmental examination of Assistant Superintendent Jail; (b) ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks, having qualification of BA/B.Sc or its equivalent qualification from a recognized University, with at least five years service as Junior Clerk and Senior Clerk, subject to- i. successful completion of promotion course for Assistant Superintendent Jail; and ii. clearance of mandatory departmental examination of Assistant Superintendent Jail; and (c) sixty per cent by initial recruitment.”; and

C.T.C.

(g) after serial No. 9, as so substituted, the following new entries shall be inserted, in the respective columns, namely:

1	2.	3.	4	5	6
61	Assistant Superintendent Jail (Female).	i. Atleast Second Division Bachelor's Degree or its equivalent qualification from a recognized University; and ii. <u>Physical standard:</u> (height 158 cm) (maximum weight 70 kg for 158 cm height & 2 kg plus for each extra 3 cm height).	Matriculation or its equivalent qualification from a recognized Board.	20 to 30 years.	(a) Thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Head Warders(Female), with atleast five years service as Head Warder/Chief Head Warder (Female), subject to- i. successful completion of promotion course for Assistant Superintendent Jail; ii. clearance of mandatory departmental examination of Assistant Superintendent Jail; and (b) seventy per cent by initial recruitment."; and

(h) against Serial No. 31, in columns 3 and 6, for the existing entries, the following shall respectively be substituted, namely:

3.	6.
"(a) For fresh candidates. (i) Atleast Secondary School Certificate, in Second Division or its equivalent qualification from a recognized Board; and (ii) Minimum physical standard: Height: 5'7" (five feet and seven inches) Chest: 33x34 inches without expansion and 33x34 ^{1/2} inches with expansion; and (b) For Ex-Military / paramilitary personnel. i. atleast Secondary School Certificate, or its equivalent qualification from recognized Board; and ii. Height: 5'6" (five feet and six inches) Chest: 32x33 inches without expansion and 32x33 ^{1/2} inches with expansion.	By initial recruitment: Provided that preference shall be given to ex-military / para-military personnel, retired from service within the last five years and not dismissed or retired from service on medical board grounds, having atleast five years service at credit with discharge certificate, graded as "Satisfactory / Good / Exemplary". <i>C.T.C.</i>

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT PESHAWAR



-7- Annex - 8

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

463

091-9210334, 9210406

09 091-9213445

<https://www.facebook.com/kpkprisons>
prisonsig@gmail.com

No. 17256 /-

Dated. 27-5-2019 /-

To,

The Additional Registrar,
Peshawar High Court Mingora Bench,
Darul Qaza Swat.

Subject: **W.P NO 99-M OF 2019 TITLED AS "IKRAM KHAN VS GOVT OF KHYBER PAKHTUNKHWA & OTHERS."**

Sir,


I am directed to refer to your letter No. 1040/WE dated 13-03-2019 on the subject and to convey that the case was placed before DPC on — 16-05-2019 for consideration. According to the minutes of DPC meeting dated 16-05-2018, the committee observed that Mr. Ikram Senior Clerk was not considered in the DPC meeting held on 09-05-2018. Furthermore, as per amended service rules notified vide Home Department Notification No. SO(P&R)/HD/1-33/2017/Vol-VI dated 05-11-2018, minimum qualification for promotion of Senior Clerk to the post of Assistant Superintendent Jail (BPS-14) has been prescribed as B.A / B.Sc and the promotion quota reduced from 15% to 10%, due to which there is no vacancy available for promotion of Senior Clerk (BPS-14) to the post of Assistant Superintendent Jail (BPS-14).


In view of prevailing service rules, besides non-availability of vacancy under this promotion quota, Mr. Ikram Senior Clerk does not possess the prescribed minimum qualification i.e B.A / B.Sc and also has not undergone the mandatory promotion course, hence the committee decided that he could not be considered at this stage.

This is for kind information please.

Endst: No. _____

Copy of the above is forwarded to the Superintendent District Jail Swat for information of the official concerned with reference to his letter No. 1338/WE dated 09-03-2019.


ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR


ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

To,

The Additional Registrar,
Peshawar High Court Mingora Bench,
Darul Qaza Swat.

Better copy

Subject: **W.P NO.99-M OF 2019 TITLED AS "IKRAM KHAN VS GOVT OF KHYBER PUKHTUNKHWA & OTHERS.**

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In view of prevailing service rules, besides non-availability of vacancy under this promotion quota, Mr. Ikram Senior Clerk does not possess the prescribed minimum qualification i.e B.A / B.Sc and also has not undergone the mandatory promotion course, hence the committee decided that he could not be considered at this stage.

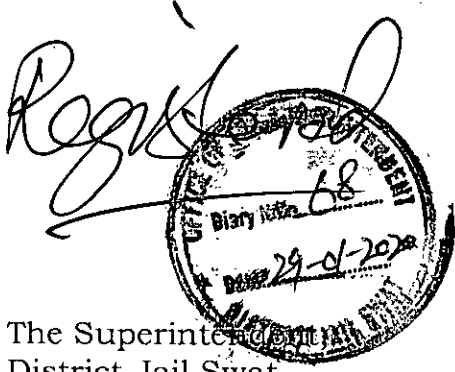
This is for kind information please.

Sd/-
**ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PUKHTUNKHWA PESHAWAR**

Endst: NO. _____/

Copy of the above is forwarded to the Superintendent District Jail Swat for information of the official concerned with reference to his letter No. 1338/WE dated 09/03 2019.

Sd/-
**ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PUKHTUNKHWA PESHAWAR**



OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 3011-WE /-

Dated 22-01-2020 /-

To,


The Superintendent
District Jail Swat.

Subject: **WRIT PETITION NO. 960-M/2019 TITLED IKRAM KHAN SENIOR CLERK
VS GOVT OF KHYBER PAKHTUNKHWA & OTHERS**

Memo;

I am directed to refer to this office letter No. 29578-We dated, 01-10-2019 on the subject and to forward herewith Joint Para-wise comments (in original) in the above cited Writ Petition duly signed by all concerned with the direction to submit the said comments through an affidavit before the Peshawar High Court Mingora Bench Dar-ul-Qaza at Swat within two days (02) positively, under intimation to all concerned.

Moreover, You are hereby authorized to attend the Peshawar High Court Mingora Bench Dar-ul-Qaza at Swat on each date of hearing on behalf of Respondents. Progress of each date of hearing may be intimated to this office regularly for kind perusal of the Competent authority.

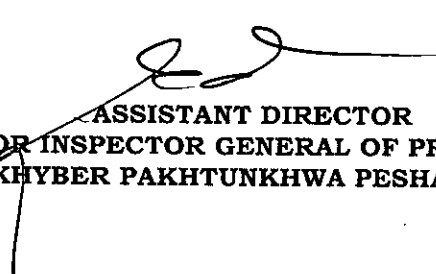

ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Endst; No. _____ /-

Copy of the above is forwarded to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Home & T.As Department Peshawar.
2. Additional Registrar, Peshawar High Court Mingora Bench Dar-Ul-Qaza at Swat.
3. Additional Advocate General Khyber Pakhtunkhwa Mingora Bench Dar-ul-Qaza at Swat.

For information please.


ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

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

Kyam Khan

VERSUS

Goult -

1. This petition has been presented by Barrister Reader Rahman Adv.
2. Signature of council/petitioner requires on _____
3. Enactment under which the petition was file is not mentioned correct.
4. Approved file cover is not used.
5. Affidavit is not duly attested/appended.
6. Checklist has not been filed/duly filled in/signed
7. Petition/annexures are not properly paged according to index.
8. Certified copies of annexures/page # 7 to 38 have not been filed.
9. Copies of annexure/pages # _____ are not legible.
10. Certificate be furnished that whether nay petition on the subject matter has earlier been filed in this court.
11. There should be separate application for each prayer/case.
12. Copy of application is not delivered to A.G.
13. The appeal, revision, application is time barred.
14. Value for the purpose of court fee and jurisdiction has not been mentioned in the relevant column of the opening sheet.
15. Opening sheet has not been filled in properly.
16. The P/A of the council engaged is not attested/signed by all petitioners/appellants.
17. Chamber address and phone number of council has not been mentioned on index/wakalatnama.
18. Memo of parties name & address not filed.
19. Petitioner's/Attorney of Petitioners' CNI #/present address/permanent address/phone #/Cell #/Fax #/E-mail address has not been mentioned in memo of addresses of the parties.
20. No. of referred cases is not given/correct.
21. Petition received by post is not entertain-able except through jail.
22. Petition containing overwriting is not entertain-able. Fair petition be filed.
23. Appeal/Revision is not competent.
24. List of books have not been mentioned at the end of the petition.
25. Case does not relate to _____
26. Petition should be drafted by a person competent to do so.
27. _____ spare copies be filed.
28. In what jail the petitioner is confined.
29. Revision/appeal may be filed on the prescribed form.
30. Copies of annexure _____ are not translated.
31. Court fee stamps are not been affixed.
32. Power of Attorney is not attested by the jail authority.
33. Certified copies of impugned orders/decreed sheets/pleadings/evidence/ground of revision/appeal before District Judge have not been filed.
34. District Judge or any other Judicial Officer cannot be made as respondent on top of the petition.
35. Index has not been filed/signed/duly completed/or it carries overwriting.
36. The Petition has not been flagged/marked with annexures' marks. 2nd copy.
37. Power of attorney for petitioner/petitioners has not been filed.
38. Every miscellaneous application should be followed by an affidavit.

(39) legal notices
to the opposite party
be attached.

for Reader
READER

Returned with objections at Sr. Nos. 8, 39, 36 for removal to be
re-submitted on or before 30-9-19

Additional Registrar
PHC, Bench Mingora/Dar-ul-Qaza, Swat.

URGENT FORM

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR UL

QAZA, SWAT.

(Constitutional Jurisdiction)

Writ Petition No. 960 /2019

Ikram Khan

PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs
Department and others

RESPONDENTS

May this Honourable Court treat this Writ Petition as Urgent for early hearing on the grounds respectfully submitted herein below;

- (A) That the instant Writ Petition is filed for addressing the injustice caused by the act of Respondents.
- (B) That the vacant post which has been impugned in the instant Writ Petition can be filled any time. Therefore, the instant Writ Petition will become infructuous if it is not fixed at the earliest.
- (C) That the principles of natural justice also demands that the Petitioner be heard as early as practicable.

FILED TODAY

21 SEP 2019

[Signature]
Additional Registrar

Through:

[Signature]

Barrister Asad ur Rehman

(Barrister of Lincoln's Inn)

Advocate High Court


Petitioner

CHECK LIST

1.	Case Title:	Ikram Khan Vs Govt. of KPK & others	
2.	Petition is duly signed.	Yes	No
3.	The law under which the Petition preferred has been mentioned.	—	
4.	Approved file cover is used.	—	
5.	Affidavit is duly attested and appended.	—	
6.	Case and Annexures are properly paged and numbered according to index.	—	
7.	Copies of Annexures are legible and attested. (if not, then better copies duly attested have been annexed).	—	
8.	Certified copies of all the requisite documents have been filed.	—	
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	—	
10.	Case within time.	—	
11.	The value for the purpose of Court fee and jurisdiction has been mentioned in the relevant column.	—	
12.	Court fee in shape of Stamp Paper is affixed, (For Writ Rs.500/- For other required).	—	
13.	Power of Attorney is in proper form.		—
14.	Memo of addressed filed.	—	
15.	List of Book mentioned in the Petition.		—
16.	The requisite number of spare copies attached. (Writ Petition-3, Nos Civil Appeal (SB-1, SB-2) Civil Revision (SB-1, SD-2).	—	—
17.	Case (Revision/ Appeal/ Petition etc) is filed on the prescribed form	W.P	
18.	Power of Attorney is attached by Jail Authority (for Jail Prisoners only).	X	X

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

Name: Barrister Asad ur Rehman

Signature: 

Dated: 20/09/2019

FOR OFFICE USE ONLY

Case No. _____

Case received _____

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

Dated in Court _____

FILED TODAY

21 SEP 2019


Additional Registrar

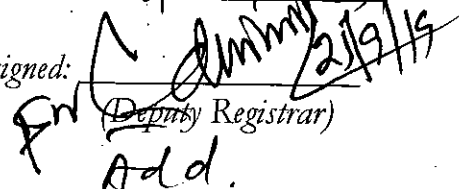
Signature _____


(Reader)

Dated _____

21-9-19

Countersigned: _____


(Deputy Registrar)
Add.

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR UL

QAZA, SWAT.

(Constitutional Jurisdiction)

Writ Petition No. 960 /2019

Ikram Khan

PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs
Department, and others.

RESPONDENTS

INDEX

S #	Description of documents	Annexures	Pages
1.	Memo of Writ Petition with Interim Relief	1-4
2.	Affidavit	5
3.	Addresses of the Parties	6
4.	Copy of Writ Petition No.99-M/2019	A	7-12
5.	Copy of Judgment dated 26-02-2019	B	13-21
6.	Copies of Letters dated 09-03-2019 and 27-05-2019	C	22-24
7.	Copies of Relevant rules and amended Rules	D	25-38
8.	Court Fees		39
9.	Power of Attorney/Wakalatnama		40

FILED TODAY

21 SEP 2019

[Signature]
Additional Registrar

Re-Filed Today

23 SEP 2019

[Signature]
Additional Registrar

Petitioner

Through counsel

[Signature]
Barrister Asad ur Rehman

(Barrister of Lincoln's Inn)

Advocate High Court

Cell# 03334646814

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

OPENING SHEET FOR WRIT PETITION

Case No. _____
Date of Filing: _____
District : _____

Case Type: Writ Petition Nature of Original Proceedings:

ORIGINAL SUIT		REVIEW/APPELLATE / REVISION			ORDER	BENCH
FORUM	DATE	S.No	Forum	Date	<input type="checkbox"/> Interlocutory <input type="checkbox"/> Final Order	<input type="checkbox"/> Single Bench <input checked="" type="checkbox"/> Divisional Bench <input type="checkbox"/> Full Court

Petitioner(s)* IKRAM KHAN CNIC 15602 0532889 3
Mobile # 0345 810 82 12
Address Dawlat khel Damber, Babozai Swat

Petitioner(s)
Counsel* Br. Asad-ur-Rehman CNIC _____
Mobile # 0333 46 46 814
Address _____

Respondent(s)* Govt. of KPK through Secretary etc CNIC _____
Mobile # NIL
Address _____

Original Order/ action / Inaction complained of
The act of the Respondent No.2 by not promoting the Petitioner to the post of Assistant Superintendent Jail despite his eligibility to the said post.

Prayer (in brief)
The Respondents be directed to promote the Petitioner to the post of Assistant Superintendent Jail.

Law/rules governing the original proceedings /Action / Inaction

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980

Signature of petitioner or Counsel:  Dated: 19/9/2019
FILED TODAY

21 SEP 2019


Additional Registrar

①

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

(Constitutional Jurisdiction)

Appeal No. 9603/2020

Writ Petition No. 960/2019

1. Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat.

PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department, Peshawar.
2. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
3. Director (Admin) for Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF THE ISLAMIC
REPUBLIC OF PAKISTAN**

Respectfully Submitted:

1. That the Petitioner filed a Writ Petition No.99-M of 2019 against the Respondents, and requested there to direct the Respondents to promote the Petitioner to the post of Assistant Superintendent Jail after considering him in accordance with the relevant rules.

(Copy of the Writ Petition is attached as Annexure A)

2. That this Honourable Court, vide order/judgment dated 26/02/2019, allowed the Writ Petition of the Petitioner by directing the Respondents to re-consider the case of the Petitioner, in accordance with the relevant rules, and to put his case before the Departmental Selection/Promotion Committee. It is pertinent to set out here that the ambiguity, if there was any at all, regarding the relevant rules applicable to the Petitioner was removed by this Honourable Court which is evident from the judgment itself.

(Copy of the Judgment/Order dated 26/02/2019 is attached as Annexure B)

FILED TODAY

21 SEP 2019

Additional Registrar

- 3. That the Petitioner approached the office of the Respondents to implement the order of this Honourable Court, on number of occasions, but they were not paying any heed to the requests of the Petitioner.
- 4. That the Petitioner, finally, wrote to Respondent No.1 on the 9th of March 2019 and requested there once again for honouring/implementing the judgment of this Honourable Court. However, to the utter surprise of the Petitioner, the Respondent No.3 replied, through a letter addressed to the learned Additional Registrar of this Honourable Court, on the 27th of May 2019 and set out there that the Petitioner could not be considered at this stage. It is pertinent to set out here that the whole reasoning of the Respondent in the said letter is based on irrelevant rules and baseless grounds.

(Copies of the letters dated 09/03/2019 and 27/05/2019 are attached as Annexure C)

- 5. That it is crystal clear from the earlier writ petition of the Petitioner, annexed here as Annexure A, and Judgment of this Honourable Court dated 26-02-2019, annexed here as Annexure B, that the relevant rules applicable to the case of the Petitioner are *"The Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980"*. Hence, the amended rules, which came quite late, having no retrospective effect, are not applicable to the Petitioner.

(The Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980 and amended rules notified vide Home Department Notification No. SO (P&R)/HD/1-33/2017/Vol-VI dated 05/11/2018 are attached as Annexure D)

- 6. That the act of Respondents in refusing to implement the Judgment/Order of this Honourable Court, in its true letter and spirit, is unbelievable and very unfortunate.
- 7. That the Petitioner does not have any other remedy but to invoke the inherent jurisdiction of this Honourable Court, once again, on the basis of the following grounds.

GROUNDS

- A. The decision of the Departmental Selection/Promotion Committee, by ignoring the Petitioner, is arbitrary and illegal.
- B. The Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980 are the relevant rules applicable to the case of the Petitioner.
- C. The amended Service Rules issued by Home Department Notification, dated 05-11-2018, which are made basis for refusing promotion to the Petitioner, are not applicable to him.

FILED TODAY

21 SEP 2019

[Signature]
Additional Registrar

- D. The act of the Respondents is against the spirit of Article 24 of the Constitution of Pakistan.
- E. There is no justification in denying the right of Promotion to the Petitioner.
- F. The decision of Respondents is unprecedented.
- G. The Petitioner fulfills all the conditions for promotion in accordance with the relevant rules as set out above.
- H. Other grounds will be raised at the time of arguments.

PRAYER

In view of the above, it is respectfully prayed that the decision of the Respondents, by refusing/declining the right of Promotion to Petitioner to the post of Assistant Superintendent, at the stage of fitness after the written examination, be declared as illegal and arbitrary. Accordingly, the Respondents may be directed to promote the Petitioner to the post of Assistant Superintendent.

It is further prayed that it may be held that the amended rules, as attached to the instant Writ Petition as Annexure L, are not applicable to the extent of the Petitioner.

It is also prayed that the Respondents may be directed to consider the promotion of the Petitioner from the date of his eligibility, and he may also be given the back benefits as per the law.

Any other relief which this Honourable Court deems fit may also be granted.


PETITIONER


Through

Counsel

FILED TODAY

21 SEP 2019


Additional Registrar


Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

INTERIM RELIEF

By way of interim relief, the Respondents may be directed not to fill the remaining posts for Assistant Superintendent Jail, which are still vacant, till the final decision of the Writ Petition.

Advocate

Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

LIST OF BOOKS

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980.

CERTIFICATE

As per the instructions of my client, a Writ Petition No 99-M/2019 was earlier filed before this Honourable Court which has been decided on 26-02-2019. However, the Petitioner is filing the instant Writ Petition on the same subject matter as a new cause of action has aroused.

Advocate

FILED TODAY

21 SEP 2019

Additional Registrar

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR UL

QAZA, SWAT.

(Constitutional Jurisdiction)

Writ Petition No. *960* /2019

Ikram Khan

VERSUS

Government of KPK and others

AFFIDAVIT

I Ikramullah son of Parwanat Khan, resident of Daulat Khail Village Qambar , Tehsil Babozai District Swat, do hereby state on oath that the contents of the instant Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Court.

Deponent

Ikram Khan
Ikram Khan

S.No. *3624*
Certified that the above was verified on Solemn affirmation before me on this *21st* day of *SEP* 2019 by *Ikramullah* S/o *Parwanat Khan* who was identified by *Self* ~~with a person~~ known to me.

For *[Signature]* *21/9/19*
ADDL. REGISTRAR
Peshawar High Court
Mingora Bench/Dar-ul-Qaza, Swat.

FILED TODAY

21 SEP 2019

[Signature]
Additional Registrar

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

(Constitutional Jurisdiction)

Writ Petition No. *962* /2019

PETITIONER

VERSUS

- 1. Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat.

PETITIONER

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department Peshawar etc.

RESPONDENTS

MEMO OF ADDRESSES

Petitioner's address:

- 1. Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat.

CNIC No: *15602-0532889-3* Cell No: 03458108212

Respondents' addresses

- 1. Government of Khyber Pakhtunkhwa through Secretray Home and Tribal Affairs Department, Peshawar.
- 2. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
- 3. Director (Admin) for Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

Petitioner

Through Counsel

Barrister Asad ur Rehman

FILED TODAY

21 SEP 2019

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Additional Registrar

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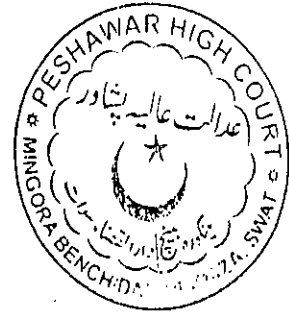
Annex "A"



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

(Constitutional Jurisdiction)

Writ Petition No... 99-M/2019



1. Ikram Khan S/o Parwanat Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai, District Swat.

PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department, Peshawar.
2. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
3. Director (Admin) for Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

CTC
[Signature]

WRIT PETITION UNDER ARTICLE 199 OF THE ISLAMIC
REPUBLIC OF PAKISTAN

Respectfully Submitted:

1. That the material facts leading to the institution of the instant Writ Petition are that the Petitioner was appointed as Warder (BPS-05), in the Respondents' Department, on 28-09-2002. Initially, the appointment was on contract basis and was for two years.

ATTESTED

Examiner

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

(Appointment Order of the Petitioner is attached as Annexure A)

2. That the Petitioner completed his contractual period, and was confirmed/regularized afterwards. This change in the status of the employment of the Petitioner is unequivocally reflected from the service book of the Petitioner.

(Relevant Portion of Service Book of the Petitioner is attached as Annexure B)

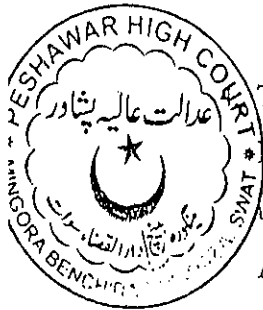
Additional Registrar

FILED TODAY

24 JAN 2019

3. That the Petitioner was later on promoted from Warder (BPS-05) to Junior Clerk (BPS-05), by the Departmental Selection/Promotion Committee, on 03-01-2006.

(Petitioner's Promotion order dated 03-01-2006 is attached as Annexure C)



That the then Government of NWFP and Government of Pakistan (Finance Division) through notifications dated 28-07-2007 and 29-07-2007 respectively upgraded certain government posts including the post of the Petitioner.

Accordingly, the Petitioner was upgraded from BPS-05 to BPS-07.

(Notifications, dated 28-07-2007 and 29-0-7-2007, are attached as Annexure D)

5. That the post of the Petitioner was further upgraded by the Government of Khyber Pakhtunkhwa Finance Department's notification, dated 20-05-2014, from BPS-07 to BPS-11.

(Notification dated 20-05-2014 is attached as Annexure E)

6. That finally the Petitioner was promoted to Senior Clerk (BPS-14) from Junior Clerk (BPS-11), by the Respondent No.2, on 14-09-2015 along with other colleagues.

(Order dated 14-09-2015 is attached as Annexure F)

7. That the Respondents decided to fill some vacancies at their respective department. Amongst others, there were some vacancies for the post of Assistant Superintendent Jail as well. The Petitioner wanted to apply for the post of Assistant Superintendent Jail as he was fully eligible for it.

8. That the Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980 were the relevant rules for eligibility and other guiding principles of the candidates. Accordingly, the Petitioner was eligible for the said post by promotion from the post of Senior Clerk.

(Copy of the KPK Prisons Department Rules, 1980 is attached as Annexure G)

FILED TODAY

24 JAN 2019

Additional Registrar

CTC

A

ATTESTED

Examiner

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

9. That the Petitioner, being eligible for promotion to the post of Assistant Superintendent Jail, was given an option by the Respondent 2 for promotion to the post of Assistant Superintendent Jail (BPS-14) or Office Assistant (BPS-16).

(Copy of Option Letter dated 04-08-2016 is attached as Annexure H)

That, in response to the given option, the Petitioner opted for promotion to the post of Assistant Superintendent Jail (BPS-14).

(Copy of the Option opting letter is attached as Annexure I)

11. That the Petitioner was asked to sit in the Departmental exam, which was one of the conditions of the said promotion, by the Respondent No.2. Accordingly, the written examination was conducted from 20-11-2017 to 24-11-2017. The Petitioner Passed the examination in one go, and was all set for promotion.

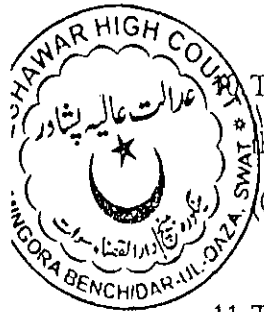
(All the documentary evidence, including the result, of the examination is attached as Annexure J)

12. That the Petitioner was waiting for his promotion after the written examination. However, to the utter surprise of the Petitioner, the Selection/Promotion committee whilst analyzing the fitness of the Candidates, issued an order, dated 11-05-2018, where the colleagues of the Petitioner were promoted to Assistant Superintendent Jail (BPS-14). But the name of the Petitioner has not been included in the said order without any reason.

(Order dated 11-05-2018 is attached as Annexure K)

13. That the Petitioner has been declined promotion without any reason as he fulfilled all the conditions for promotion at the relevant time. Hence, the decision of promotion committee, to ignore the Petitioner, is arbitrary and illegal.

14. The Respondent No.2 issued a notification, dated 09-11-2018, where the rules of KPK Prison Department were shown amended. The rules are definitely prejudicing the Petitioner. However, since the rules came after the meeting of the Selection/Promotion committee and have no retrospective effect, the



ATTESTED

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

FILED TODAY

24 JAN 2019

Additional Registrar

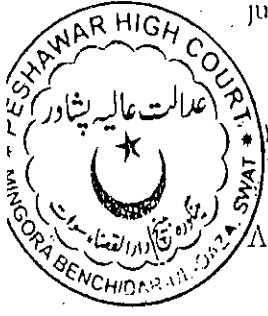
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Petitioner will submit only to the extent that the said amended rules are not applicable to him.

(Copy of the amended rules is attached as Annexure L.)

15. That the Petitioner does not have any other remedy but to invoke the inherent jurisdiction of this Honourable Court on the basis of the following grounds;



GROUNDS

- A. The decision of the Departmental Selection/Promotion Committee, by ignoring the Petitioner, is arbitrary and illegal.
- B. The act of the Respondents is against the spirit of Article 24 of the Constitution of Pakistan.
- C. There is no justification in denying the right of Promotion to the Petitioner.
- D. The decision of Respondents is unprecedented.
- E. The Respondents failed to show any single reason of denying promotion to the Petitioner.
- F. The Petitioner was eligible and fit for Promotion, and that is why he was asked to go through the strenuous process of selection/promotion by the Respondent No.2.
- G. The Petitioner fulfills all the conditions for promotion in accordance with the relevant rules as set out above.*
- H. Other grounds will be raised at the time of arguments.

CTC
[Signature]

ATTESTED

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

PRAYER

In view of the above, it is respectfully prayed that the decision of the Respondents, by refusing/declining the right of Promotion to Petitioner to the post of Assistant Superintendent, at the stage of fitness after the written examination, be declared as illegal and arbitrary.

FILED TO
24 JAN 2019

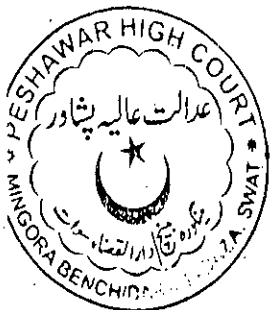
Additional Registrar

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Accordingly, the Respondents may be directed to promote the Petitioner to the post of Assistant Superintendent.

It is further prayed that it may be held that the amended rules, as attached to the instant Writ Petition as Annexure L, are not applicable to the extent of the Petitioner.


Any other relief which this Honourable Court deems fit may also be granted.



PETITIONER

Through

Counsel


Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

CTC
Am

FILED TODAY

24 JAN 2019

Additional Registrar

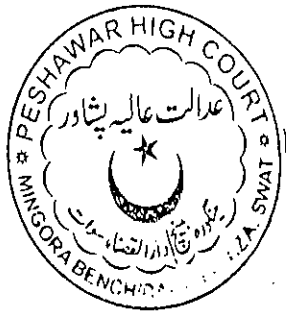
ATTESTED

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

12

INTERIM RELIEF

By way of interim relief, the Respondents be directed not to fill the remaining 2 posts for Assistant Superintendent Jail, which are still vacant, till the final decision of the Writ Petition.



Advocate

Barrister Asad ur Rehman
(Barrister of Lincoln's Inn)
Advocate High Court

CTA

LIST OF BOOKS

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Khyber Pakhtunkhwa Prisons Department Manual for Service Recruitment Rules, 1980

CERTIFICATE

As per the instructions of my client, no such like Writ Petition has earlier been filed by the Petitioner on the subject matter before this Honourable Court.

Advocate

FILED TODAY
24 JAN 2019

Additional Registrar

ATTESTED

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

ANNK. "B" (13) (13)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No. 99-M/2019
With Interim Relief (N)

Ikram Khan.....(Petitioner)

VS

*Government of Khyber Pakhtunkhwa &
others*.....(Respondents)

Present: *Barrister Asad-ur-Rahman* for the petitioner.

Mr. Wilayat Ali Khan, A.A.G for the
respondents.

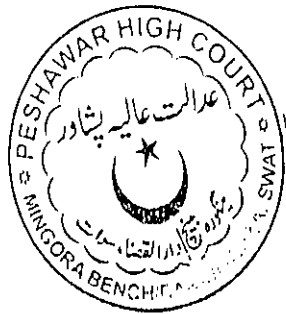
Date of hearing: 26.02.2019

JUDGMENT

SYED ARSHAD ALI, J.- Through the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Ikram Khan the petitioner has invoked the Constitutional jurisdiction of this Court with the following prayer:-

"It is respectfully prayed that the decision of the respondents by refusing/declining the right of promotion to petitioner to the post of Assistant Superintendent at the stage of fitness after the written examination be declared as illegal and arbitrary.

Accordingly the respondents may be directed to promote the petitioner to the post of Assistant Superintendent.

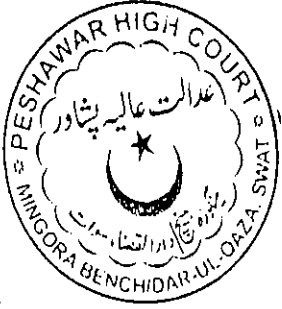


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Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

It is further prayed that it may be held that the amended rules as attached to the instant writ petition as Annexure L are not applicable to the extent of the petitioner.

Any other relief which this Hon'ble Court deems fit may also be granted"



2. Arguments heard and record of the case was perused.

3. It is evident from record that through appointment letter dated 28.09.2002, the present petitioner was appointed as Warder (BPS-5) in the office of Superintendent Headquarter Prison, Peshawar on contract basis for two years. Later through order dated 03.01.2006, on the recommendation of the Departmental Selection/Promotion Committee, the present petitioner was promoted to the rank of Junior Clerk (BPS-5). However, through Notification dated 28.07.2007, the post of Junior Clerk was upgraded from BPS-5 to BPS-7. The said post was further upgraded from BPS-7 to BPS-11 through Notification dated 20.05.2014. On 14.09.2015, the present petitioner along with other officials were promoted to the post of Senior Clerk (BPS-14) on regular basis and since then he has

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

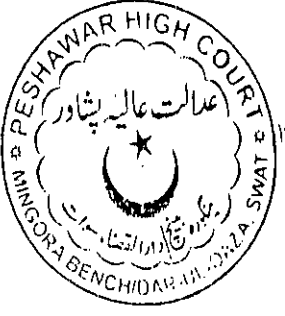
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been performing his services as Senior Clerk (BPS-14) on regular basis.

4. Since, the petitioner being a Senior Clerk under the relevant rules was eligible for promotion for the post of Assistant BPS-16 and Assistant Superintendent Jail BPS-14, therefore, his option was solicited by the department regarding his line of promotion as to whether he wanted to join the line of promotion to the office of Assistant Superintendent Jail BPS-14 or Assistant BPS-16. The petitioner had opted for line of promotion to the post of Assistant Superintendent Jail BPS-14 which was conveyed to the Inspector General of Prison Khyber Pakhtunkhwa, Peshawar by the Superintendent District Jail, Swat on 04.08.2016.

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

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5. One of the requirements for promotion to the post of Assistant Superintendent Jail was that the incumbent/Senior Clerk must pass the required departmental examination, therefore the present petitioner appeared in the departmental examination along with other incumbents and has successfully passed the said

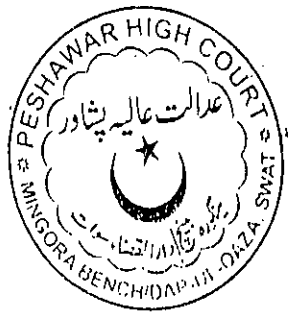
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examination as evident from the result sheet available on the file.

6. Indeed the petitioner is aggrieved of the conduct of the respondents, whereby he was found unfit for promotion to the post of Assistant Superintendent Jail BPS-14 owing to his deficiency in the required length of service i.e. 15 years of service. According to the petitioner, at the relevant time the total service rendered by the present petitioner in the department was 16 years, whereas in the comments filed by the respondent No. 2 and according to the opinion of the respondents, the total service rendered by the present petitioner was less than 13 years. Indeed the department has not counted the services rendered by the petitioner from 28.09.2002 till 03.01.2006 when the petitioner was posted as Warder.

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

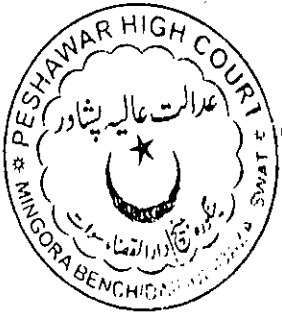
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7. Thus, the controversy between the parties is that as to whether the aforesaid services rendered by the present petitioner as Warder is countable towards his required length of service for the post of Assistant Superintendent Jail. In order to effectively understand the said issue, it

would be appropriate to reproduce the relevant rule which is as under:-

Khyber Pakhtunkhwa Prisons Department Manual for Service/Recruitment Rules, 1980.

S.No.	Nomenclature of Post	Minimum qualification for appointment by initial recruitment or by transfer	Minimum qualification prescribed for promotion	Age Limit	Method of Recruitment
1	Assistant Superintendent Jail (BPS-14)	Degree from a recognized University	Matriculation or equivalent qualification from a recognized Board	18 to 30 years	<p>a) Fifteen percent by promotion on the basis of seniority-cum-fitness amongst the Chief Warders, who have successfully completed training courses at Central Jail Staff Training Institute Lahore and who passed Departmental Examination with one year service as such or, if not suitable Chief Warden is available, then by promotion from among the Head Warders with at least 3 years services as such; provided they have successfully completed training course at Central Jail Staff Training Institute Lahore and passed Departmental Examination.</p> <p>b) Fifteen percent by promotion from amongst the FA/F.Sc. Senior Clerks (BPS-7) of the NWFP Prisons Department with 15 years service, subject to clearance of Departmental Examination; and</p> <p>c) Seventy percent by initial recruitment.</p>



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✓ 8.

Perusal of the said rule shows that the case of the present petitioner falls in Para-b of column No. 6 (method of recruitment). According to the said requirement, 15% of the Assistant Superintendent Jail are to be filled from the incumbents/Senior Clerk in the department having 15 years service and subject to clearance of

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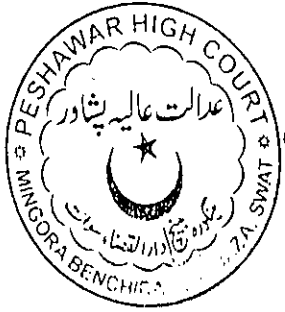
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departmental examination. Admittedly the present petitioner has passed the departmental examination. However, the respondents/department is of the view that 15 years service means the service rendered by the present petitioner as Junior Clerk & Senior Clerk (Ministerial Staff) and the period of his service which he has rendered as a Warder is not countable towards his length of service for the purpose of promotion. If we accept the said interpretation offered by the department, it would amount to read something in the rules which has not been provided in the rules.

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9. According to the aforesaid requirement, the incumbent/Senior Clerk must have at his credit 15 years of service which would obviously mean service in the department and the rules neither in explicit nor in implied terms makes any distinction between the various categories of services. Indeed it is settled law that when the law maker has not provided any word or has omitted any word in a legal instrument, then neither the Court nor the department has any authority to read the same within the said rules/statue. In this regard, reliance is placed on "Abdul Haq Khan and others vs Haji Ameerzuda and others reported as PLD

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 Peshawar High Court Bench
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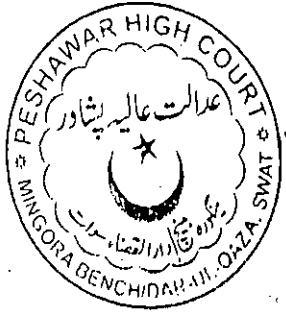
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2017 Supreme Court 105, wherein it has been held by the august Supreme Court of Pakistan that:-

"the reading in of words or meaning into a statute when its meaning is otherwise clear is not permissible. As a matter of statutory interpretation, Courts generally abstain from providing 'casus omissus' or omissions in a statute, through construction or interpretation. An exception to this rule is, when there is a self-evident omission in a provision and the purpose of the law as intended by the legislature cannot otherwise be achieved, or if the literal construction of a particular provision leads to manifestly absurd or anomalous results, which could not have been intended by the legislature. However, this power is to be exercised cautiously, rarely and only in exceptional circumstances.

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The said view has further been expressed by the august Supreme Court of Pakistan in case titled "The Collector of Sales Tax, Gujranwala vs Messrs Super Asia Mohammad Din & sons and others reported as 2017 SCMR 1427", wherein it has been observed that:-

"In-fact the Courts should refrain from supplying an omission in the statute because to do so steered the courts from the realms of interpretation or construction into those of legislation."

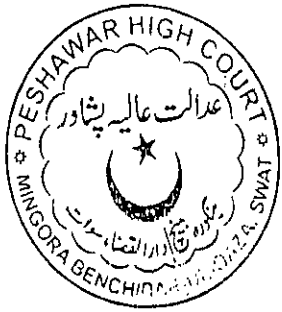
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Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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10. In view of the above, we hold that the service rendered by the present petitioner as Warder is countable towards his length of service for the purpose of promotion to the post of Assistant Superintendent Jail BPS-14. Resultantly, we direct the respondents to re-consider the case of the present petitioner by counting his service rendered by him as a Warder towards his length of service for the post of Assistant Superintendent Jail BPS-14 and thus place his case before the Departmental Selection/Promotion Committee.

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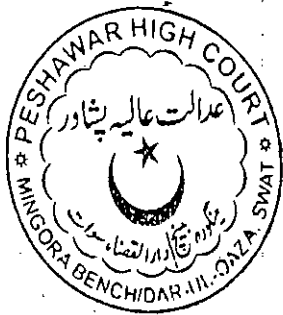
11. Before parting with this judgment, we have noticed that some others candidates holding similar position as that of the present petitioner were also deprived of their services rendered in the non-ministerial capacity. Thus, this judgment will be equally applicable to all similar employees in the department in view of the law laid down by the august Supreme Court of Pakistan in 2009 SCMR 1 titled "Government of Punjab through Secretary Education Lahore & others vs Sameena Parveen and others", wherein it has been held that:-

"If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil

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Examiner
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Mingora Dar-ul-Qaza, Swat.

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servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to the other civil servants also, who may not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum."



Announced
Dt: 26.02.2019

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Certified to be true copy

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30-03-19
EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Section 22 of Qanoon-e-Shahadat Order 1984

S.No..... 14
Name of Applicant..... 2. Karam Khan
Date of Presentation of Applicant..... 30-03-19
Date of Completion of Copies..... 30-03-19
No of Copies..... 22-P
Urgent Fee..... -
Fee Charged..... 44/-
Date of Delivery of Copies..... 30-03-19

Office
06/03/2019

ANNEX. "C"

28

OFFICE OF THE SUPERINTENDENT DISTRICT PRISON SWAT

No.1338/WE

March-9th, 2019

To,

The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPLICATION IN RESPECT OF IKRAM SENIOR CLERK FOR
CONSIDERATION IN PROMOTION BOARD

Respected Sir,

Enclosed please find herewith an application of Mr. Ikram Senior Clerk on the
subject, forwarded for information and necessary action.

o/c
SUPERINTENDENT
DISTRICT PRISON SWAT
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The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Through Superintendent District Prison Swat.

Subject: REQUEST FOR CONSIDERATION IN PROMOTION BOARD

Respected Sir,

It is submitted that I was eligible for promotion to the post of Assistant Superintendent Jail (BPS-14), but Departmental Selection/ Promotion Committee No.02 held on 09.5.2018 didn't considered my promotion for the said post without any genuine reason, consequently I felt that justice has not been done with me, and I had no other option but to file a case in Peshawar High Court (Dar Ul Qaza) Mingora Bench for my promotion.

The August Court accepted my pray, and decided the case in my favour.


It is therefore requested that I may please be considered for promotion in the next Departmental Promotion Board, and seniority may also be please given to me as per DPC held on 09.5.2018. (Attested Judgment Copy of August Court is enclosed please).

Yours Obediently,

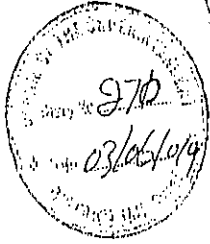

Ikram

Senior Clerk.

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OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091- 9210334, 9210406 09 091- 9213445

<https://www.facebook.com/kpkprisons>
prisonslg@gmail.com

No. _____/1-

Dated. 27-5-2019 /1-

To,

The Additional Registrar,
Peshawar High Court Mingora Bench,
Darul Qaza Swat.

Subject: W.P NO 99-M OF 2019 TITLED AS "IKRAM KHAN VS GOVT OF KHYBER PAKHTUNKHWA & OTHERS.

Sir,

I am directed to refer to your letter No. 1040/WE dated 13-03-2019 on the subject and to convey that the case was placed before DPC on 16-05-2019 for consideration. According to the minutes of DPC meeting dated 16-05-2018, the committee observed that Mr. Ikram Senior Clerk was not considered in the DPC meeting held on 09-05-2018. Furthermore, as per amended service rules notified vide Home Department Notification No. SO(P&R)/HD/1-33/2017/Vol-VI dated 05-11-2018, minimum qualification for promotion of Senior Clerk to the post of Assistant Superintendent Jail (BPS-14) has been prescribed as B.A / B.Sc and the promotion quota reduced from 15% to 10%, due to which there is no vacancy available for promotion of Senior Clerk (BPS-14) to the post of Assistant Superintendent Jail (BPS-14).

In view of prevailing service rules, besides non-availability of vacancy under this promotion quota, Mr. Ikram Senior Clerk does not possess the prescribed minimum qualification i.e B.A / B.Sc and also has not undergone the mandatory promotion course, hence the committee decided that he could not be considered at this stage.

This is for kind information please.

Encls: No. 17257 /1

Copy of the above is forwarded to the Superintendent District Jail Swat for information of the official concerned with reference to his letter No. 1338/WE dated 09-03-2019.

CTC

Line No. 6

ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

CTC

ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

KHYBER PAKHTUNKHWA PRISONS DEPARTMENT MANUAL FOR SERVICE/ RECRUITMENT RULES 1980
(Up- dated 31-03-2011)

S.NO	NOMENCLATURE OF POST	MINIMUM QUALIFICATION FOR APPOINTMENT BY INITIAL RECRUITMENT OR BY TRANSFER	MINIMUM QUALIFICATION PRESCRIBED FOR PROMOTION	AGE LIMIT	METHOD OF RECRUITMENT
1	2	3	4	5	6
1.	Inspector General of Prisons (BPS-20)	-	-	-	a) By promotion, on the basis of selection on merit from amongst Assistant Inspector General, Prisons and Superintendent Central Prisons with at least 17 years service in BPS-17 and above, or b) If no suitable candidate is available, then by transfer
2.	Assistant Inspector General of Prisons/ Superintendent Central Prisons (BPS-19)	-	-	-	a) By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents, District Jails, who have passed Departmental examination, if any, prescribed and have rendered at least 12 Years service in BPS-17, and above as such; Or b) If no suitable candidates then by transfer.
3.	Superintendent District Jails (BPS-18)	-	---	-	By promotion, on the basis of seniority-cum-fitness from among the Deputy Superintendent Jail, who have successfully qualified Departmental Training & Examination, if any prescribed and at least five years service as such.

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Annex

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S.NO	NOMENCLATURE OF POST	MINIMUM QUALIFICATION FOR APPOINTMENT BY INITIAL RECRUITMENT OR BY TRANSFER	MINIMUM QUALIFICATION PRESCRIBED FOR PROMOTION	AGE LIMIT	METHOD OF RECRUITMENT
1	2	3	4	5	6
3-A	Deputy Director (BPS-18)	—	—	—	(a) Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Assistant Directors (Admn) with at least five years service as such: Provided that if no suitable officer is available for promotion, then by transfer of Superintendent of District Jail; and (b) Fifty percent by transfer / deputation from Communication & Works Department and Planning and Development Department.
3-B	Psychologist (BPS-17)	MA Psychology from a recognized University.	-	21 to 35	By Initial recruitment.
4.	Deputy Superintendent Jails (BPS-17)	(i) Second Class Bachelor's Degree from a recognized University; and (ii) LL.B from a recognized University. Note; Knowledge of Computer will be compulsory.	-	21 to 30 years	(a) Thirty three percent by initial recruitment; and (b) Sixty seven percent by promotion, on the basis of seniority-cum-fitness, from the amongst the Senior Assistant Superintendent Jail (BPS-16) who have successfully qualified Departmental Training and Examination, if any prescribed with at least five years service as such; and
4.A	Senior Assistant Superintendent Jail (BPS-16)	-	-	-	By promotion on the basis of seniority-cum-fitness, from amongst the Assistant Superintendent Jail (BPS-14), with at least five years service as such.

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5.	Assistant Director(Admn) (BPS-17)				By promotion on the basis of seniority-cum-fitness from amongst Office Superintendents and Budget & Accounts Officers with at least five years service as such. Note:- Joint seniority shall be maintained.
6.	Office Superintendents (BPS-16)				By promotion on the basis of seniority-cum-fitness, from among holders of the posts of Assistants with at least 5 years service as such
6.A	Budget & Accounts Officer (BPS-16)				"By promotion on the basis of seniority-cum-fitness from amongst the Assistant with at least five years service as such; provided that if no suitable person is available for promotion, then by transfer."
6-B	Senior English Teacher (BPS-16)	BA/BSc with B.Ed from a recognized University or equivalent.	-	21 to 35 years.	By initial recruitment.
6-C	Librarian (BPS-16)	Diploma in Library Science from a recognize University.	-	21 to 35 years.	By initial recruitment.
7	Assistant (BPS-14)	Degree from a recognized University	-	18 to 30 Years	a) Twenty five percent (25%) of the posts shall be filled by initial recruitment; and b) Seventy five percent (75%) of the posts shall be filled by promotion, on the basis of seniority-cum-fitness, from among holders of the posts of Senior Clerk/ Store Keeper/ Account Clerks with at least 3 years service as such.

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7-A	Instructor (Tailoring) (BPS-14)	<p>(a) Diploma in relevant filed from a Government Polytechnic Institute / College of Technology with two years experience on the relevant filed; or;</p> <p>(b) Secondary School Certificate with trade proficiency certificate in the relevant trade from a Government Technical Training Centre / Apprenticeship Training Centre or recognized institute with five years practical experience with relevant trade.</p>		21 to 30 Years	By initial recruitment. CTC
7-B	Instructor (Electrician) (BPS-14)	<p>(a) Diploma in relevant filed from a Government Polytechnic Institute / College of Technology with two years experience on the relevant filed; or;</p> <p>(b) Secondary School Certificate with trade proficiency certificate in the relevant trade from a Government Technical Training Centre / Apprenticeship Training Centre or recognized institute with five years practical experience with relevant trade.</p>		21 to 30 years	By initial recruitment.

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J.C. A

8.	Senior Scale Stenographer (B-16)	i) Bachelor's Degree or equivalent qualification from a recognized university; and ii) A speed of 100 words per minute in shorthand in English & 40 words per minute in type		18 to 30 Years	By initial recruitment
8-A	Stenographer (BPS-14)	i) Intermediate certificate from a recognized Board; and: ii) A speed of 60 words per minute in shorthand in English and 35 words per minute in typing iii) Knowledge of Computer in using MS-Word, and MS-Excel.		18 to 30 Years	By initial recruitment
8-B	Computer Operator (BPS-12)	Second Class Bachelor Degree in Computer Science from a recognized University / Institution.		18 to 28 years	By initial recruitment.
9.	Assistant Superintendent Jail (BPS-14)	Degree from a recognized University.	Matriculation or equivalent qualification from a recognized Board	18 to 30 Years	(a) Fifteen percent by promotion on the basis of seniority-cum-fitness amongst the Chief Warders, who have successfully completed training courses at Central Jail Staff Training Institute Lahore and who passed Departmental Examination with one year service as such or, if no suitable Chief Warden is available, then by promotion from among the Head Warders with at least 3 years services as such; provided they have successfully completed training course at Central Jail Staff Training Institute Lahore and passed Departmental Examination. (b) Fifteen percent by promotion from amongst the FA/FSC, Senior Clerks (BPS-7) of the NWFP Prisons Department with 15 years service, subject to clearance of Departmental Examination; and (c) Seventy percent by initial recruitment;

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10.	Senior Clerk/Store Keeper/ Accounts Clerks (BPS-9)	-	-	-	By promotion on the basis of seniority-cum-fitness from among the holders of the posts of Junior Clerks/ Assistant store Keeper and Assistant Jailors with at least two years service as such.
10.A	Dental Technician (B-9)	-	-	-	By Transfer.
10.B	Lady Health Visitor(B-9)	-	-	-	By Transfer.
11.	Teachers- (a) Senior Vernacular (BPS-8)	FA/FSC from a recognized Board, with S.V or equivalent certificate from a recognized Institution	-	18 to 30 Years	By initial recruitment.
	(b) Junior Vernacular (BPS-6)	Secondary School certificate from a recognized Board with PTC certificate from a recognized Institution	-	18 to 30 Years	By initial recruitment
	(c) Dinyat Teacher (BPS-6)	Sanad from a recognized Religious Institution	-	18 to 30 Years	By initial recruitment.
	(d) C.T Teacher (BPS-12)	F.A/F.Sc and C.T or equivalent qualification from a recognized University / Board.	-	18 to 30 Years	By initial recruitment.
	(e) PST (BPS-9)	Secondary school certificate from a recognized Board with PTC certificate from a recognized Institution.	-	18 to 30 Years	By initial recruitment.
	(f) Physical Training Instructor (BPS-9)	Secondary school certificate from a recognized Board with Diploma in Physical Education.	-	18 to 30 Years	By initial recruitment.
12	Junior Clerks / Assistant Store Keeper/ Assistant Jailor. (BPS-7)	Matriculation or equivalent qualification from a recognized Board.	Matriculation or equivalent qualification from a recognized Board.	18 to 30 Years	i) Eighty percent of the post shall be filled by initial recruitment; and ii) Twenty percent of the posts shall be filled by promotion from among holder of the posts of Naib Qasid / Warder with at least 2 years service as such.

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13.	Junior Technician Pharmacy (BPS-9)	(a) Secondary School Certificate with Science from a recognized Board; and (b) A certificate from a recognized Institution in the relevant field.	-	18 to 30 Years	By initial recruitment.
14.	Junior Technician Pathology (BPS-9)	(a) Secondary School Certificate with Science from a recognized Board; and (b) a certificate from a recognized Institution in the relevant field	-	18 to 30 Years	By initial recruitment .
15	Chief Warder (BPS-9)	-	-	-	By promotion on the basis of seniority-cum-fitness from amongst the holders of posts of Head Warders with at least three years experience as such, subject to the clearance of Departmental Professional Examination prescribed in their own cadre/ executive side.
16.	Head Warder (BPS-7)	-	-	-	a) By promotion on the basis of seniority-cum-fitness from amongst the holders of post of Warder, with at least three years service as such and b) Warders appointed prior to the amendments made in the existing rules on 4-11-2002 may be exempted from the condition of passing of Departmental Examination, prescribed in their own cadre / executive side".
17	Tailor Master (BPS-5)	Skill in cutting and Tailoring	-	18 to 45 Years	By initial recruitment
18.	Carpenter(BPS-5)	Skilled in carpentry	-	18 to 45 Years	By initial recruitment
19.	Weaving Master (BPS-5)	Certificate of skill in line	-	18 to 45 Years	By initial recruitment
20.	Motor Mechanic (BPS-5)	A Certificate of skill in line	-	18 to 45 Years	By initial recruitment

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20-A	Electrician (BPS-05)	Matriculation or equivalent qualification from a recognized Board with electrician Certificate level course from a recognized Technical / vocational centre /concerned board.	---	18 to 30 Years	By initial recruitment
21.	Lady Embroider (BPS-5)	Qualified in Embroidery and Weaving work from a recognized Institution	---	18 to 45 Years	By initial recruitment
22.	Armourer (BPS-3)	Middle pass and qualified in Aromoury	---	18 to 45 Years	By initial recruitment
23.	Band Master (BPS-3)	Middle pass and qualified Band Master	---	18 to 45 Years	By initial recruitment
24.	Drill Instructors (BPS-3)	a). Middle pass b). Qualified Drill Instructor.	---	18 to 45 years	By initial recruitment or by promotion from amongst holders of the post of warders.
25.	Engine Man(BPS-3)	Qualified Boiler	---	18 to 45 Years	By initial recruitment.
26.	Gate Keeper(BPS-3)	Middle pass and Ex-Junior Commissioned Officer	---	25 to 45 Years	By initial recruitment; or if no qualified person is available by promotion from among the holders of the posts of warders who are literate.
26-A	Cook (BPS-1)	Literate with three years practical experience in any Hotel or Guest House as Cook.	-	18 to 32 Years	By initial recruitment.
26-B	Waiter / Bearer (BPS-1)	Literate with three years practical experience in any Hotel or Guest House as Waiter Bearer.	-	18 to 32 Years	By initial recruitment.
27.	Pipe Fitter (BPS-1).	Qualified in Pipe Fitting	---	18 to 45 Years	By initial recruitment after practical test.
28	Mason (BPS-5)	Knowledge in masonry	---	18 to 45 Years	By initial recruitment after practical tests
29.	Driver. (BPS-4)	Qualified in driving.	---	18 to 45 Years	By initial recruitment.

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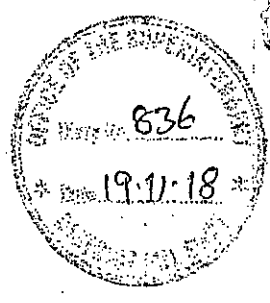
30.	Restorer(BPS-2)	Middle Pass	---	18 to 45 Years	By initial recruitment
31.	Warder (BPS-5)	SSC or equivalent examination from recognized board	---	18 to 30 years	By initial recruitment
32.	Mali (BPS-1)	Expert in Gardening	---	18 to 45 Years	By initial recruitment
33.	Naib Qasid (BPS-1)	Primary Pass	---	18 to 45 Years	By initial recruitment
34.	Chowkidar (BPS-1)		---	18 to 45 Years	By initial recruitment
35.	Bahishti (BPS-1)		---	18 to 45 Years	By initial recruitment
36.	Sweeper (BPS-1)		---	18 to 45 Years	By initial recruitment
37.	Black-smith (BPS-1)	Skill in line.	---	18 to 45 Years	By initial recruitment

Note: substituted / added.

- i) See Finance Department letter NO.FD(PRC)5-4/84 dated 01-04-1992 regarding up-gradation of the post at S.No.9,15,16 and 31 (Annex "A").
- ii) See Notification No.1/33-SO(Prs)HD/97 dated 14-6-1997 regarding amendment in method of recruitment of the post at S.No.5. (Annex "B") (File No.1/89-J-97 at Page-97/Cr).
- iii) For the existing maximum age limit of 25 years and 28 years where over occurring, the words and figures 30 years and 32 years shall be substituted. Please see Notification No.SOR-I(S&GAD)4-1/80(Vol.III) dated 12-6-1999 (Annex "C") (File 1/89-J-99 at page-119/Cr).
- iv) See Notification No.1/33-SO(Prs)/HD/2002 dated 4-11-2002 regarding amendments against the column-6 of the post at S.No.2,3,4,9,15 and 16. (Annex "D") (File No.1/89-J-1996 at page-493/Cr)
- v) See Notification No.SOR-IV(S&GAD)3-16/94(A) dated 10-4-1996 regarding amendment of education qualification of S.No.8 and 8A (Senior Scale Stenographer) (Junior Scale Stenographer) (Annex "E") (File 1/89-J-1994 at P-235/Cr).
- vi) See Notification No.SOR-IV(E&AD)3-16/2003 dated 22-5-2003 regarding insertion in Column-3 of S.No.8-A (Annex "F") (File No.1/89-J-2001 at Page-487/Cr).
- vii) See Notification No.1/33-SO(Prs)HD/05 dated 01-08-2005 regarding amendment in column-6 clause (b) against S.No.9.
- viii) See Notification No.1/33-SO(Prisons)HD/2005 dated 01-09-2005 regarding amendments in column-6 against serial No.7 (Annex "G") (File No.1/89-J-2004 at Page-249/Cr).

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- ix) See Notification No.1/33-SO(Prisons)HD/05 dated 20-3-2006 regarding insertion of method of recruitment of S.No.6-A (Budget and Accounts Officer BPS-16) (Annex "H") (File No.1/89-J-2004 at Page-297/Cr).
- x) See Home Department letter No.1/33-SO(Prs)HD/07 dated 15-2-2008 regarding insertion of method of recruitment against S.No.8A(i).
- xi) See Notification No.1/33-SO(Prs)HD/07 dated 3rd April 2008 regarding amendments / insertion in column-6 against S.No.1,2,3,3A,4,7, and 16 (Annex "J") (File No.1/89-J-2004 at Page-809)
- xii) See Notification No.1/33-SO(Prs)HD/09 dated 16th May 2009 regarding insertion of methods of recruitments for the posts at S.No.3B,6B,6C,7A,7B,8B,11D,11E,11F, 26A and 26B (Annex "K") (File No.2/89-J-2008 at Page-355)
- xiii) See Notification No. 4/44-SO(Prs)HD/2004 dated 4-9-2004 regarding amendment in Rule 1113 of NWFP Prisons Rules 1985 for education qualification for the post of warder at S.No.31.
- xiv) See Notification No.1/33-SO(PRISONS)HD/2010 dated 09-02-2010 for amendments /insertion of rules against S.No.13,14 & 20 -A.
- xv) Notification No.1/33-SO(PRISONS)HD/2010 dated 15-03-2010 regarding amendments / insertion of rules against S.No.3, 3-A, 4 & 4-A.
- xvi) See Notification No.1/33-SO(Prs)HD/10 dated 19-4-2010 regarding insertion of method of recruitment against S.No.10-A and 10-B.
- xvii) See Notification No.KC.FD/SO(FR) 7-3/2001 dated 12-7-2010 regarding up-gradation of the pay scale of Computer Operator at S.No.8-A
- xviii) Seen Notification No.1/33-SO(Prs)HD/10 dated 25-2-2011 regarding amendment in nomenclature of the post as well as up-gradation of Pay Scale from BPS-16 to 17 of S.No.5 above .
- J P
- CTR



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OFFICE OF THE *Amir*
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
 091-9210334, 9210406 091-9213445

Facebook ID: www.facebook.com/kpkprisons/
 Email ID: prisonsig@gmail.com

No. 33190-33918 1.. *WE*
 Dated 9-11-2018 1..

To

1. All Superintendents Circle Headquarters Prisons in the Khyber Pakhtunkhwa.
2. All Superintendents of Jails/Lockups/Internment Centres in the Khyber Pakhtunkhwa.

Subject:- **NOTIFICATION REGARDING AMENDMENTS IN THE EXISTING SERVICE RULES OF Khyber Pakhtunkhwa PRISONS DEPARTMENT.**

Memo:

I am directed to refer to the subject and to forward herewith a copy of Notification No. SO(P&R)HD/1-33/2017/Vol-VI dated 05-11-2018 regarding amendments in the existing Service Rules for the below noted posts for information and record please: -

1. Net Work Administrator(BPS-17).
2. Deputy Superintendent Jail (BPS-17).
3. Assistant Director(BPS-17).
4. Assistant Programmer (BPS-16).
5. Assistant Net Work Administrator (BPS-16);
6. Assistant Superintendent Jail (BPS-14).
7. Assistant Superintendent Jail (Female) (BPS-14).
8. Warder(BPS-05).

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[Signature]

[Signature]
ASSISTANT DIRECTOR (ADMIN)
FOR INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

[Signature]
[Signature]

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[Signature]



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Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
Peshawar, dated the 05th November, 2018

NOTIFICATION

No. SO (P&R) HD 1-33/2017/VOI-VI:- In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Home & Tribal Affairs Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in the Khyber Pakhtunkhwa Prisons Department (Recruitment and Appointment) Rules, 1980, the following amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(a) against Serial No.3-E, in column 6, for the existing entry, the following shall be substituted, namely:

"By Promotion, on the basis seniority-cum-fitness, from amongst the Assistant Programmer, Assistant Network Administrators and Computer Operators with at least five years service as such:
Provided that if no suitable person is available for promotion then by initial recruitment.

Note: Joint seniority of Assistant Network Administrators, Assistant Programmers and Computer Operators shall be maintained for the purpose of promotion."

(b) against Serial No. 4, in column 6, for the existing entry, the following shall be substituted, namely:

"(a) Thirty per cent by initial recruitment; and
(b) seventy per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Assistant Superintendent Jail (BPS-16), who have successfully qualified Departmental Training and Examination, if any prescribed and with atleast five years service as such."

(c) against Serial No.5, in column 2, the word and brackets "(Admn)" shall be deleted;

(d) against Serial No.6-D, in column 6, for the existing entry, the following shall be substituted, namely:

"By initial recruitment";

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(e) against Serial No.6-F, in column 6, for the existing entry, the following shall be substituted, namely:

"By initial recruitment.";

(f) for Serial No. 9, the following shall be substituted, namely:

1.	2.	3.	4.	5.	6.
"9	Assistant Superintendent Jail	<ul style="list-style-type: none"> i. Atleast Second Class Bachelor's Degree or its equivalent qualification from a recognized University; and ii. <u>Physical standard:</u> (height 173 cm) and (chest 85 cm without expansion and 90 cm with expansion). 	Matriculation or its equivalent qualification from a recognized Board.	20 to 30 years.	<ul style="list-style-type: none"> (a) Thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Head Warders, with atleast five years service as Head Warder or Chief Head Warder, subject to- <ul style="list-style-type: none"> i. Successful completion of promotion course for Assistant Superintendent Jail; and ii. Clearance of mandatory departmental examination of Assistant Superintendent Jail; (b) ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks, having qualification of BA/B.Sc or its equivalent qualification from a recognized University, with at least five years service as Junior Clerk and Senior Clerk, subject to- <ul style="list-style-type: none"> i. successful completion of promotion course for Assistant Superintendent Jail; and ii. clearance of mandatory departmental examination of Assistant Superintendent Jail; and (c) sixty per cent by initial recruitment."; and

(g) after serial No. 9, as so substituted, the following new entries shall be inserted, in the respective columns, namely:

1.	2.	3.	4.	5.	6.
"9-A	Assistant Superintendent Jail. (Female).	<ul style="list-style-type: none"> i. Atleast Second Division Bachelor's Degree or its equivalent qualification from a recognized University; and ii. <u>Physical standard:</u> (height 158 cm) (maximum weight 70 kg for 158 cm height & 2 kg plus for each extra 3 cm height). 	Matriculation or its equivalent qualification from a recognized Board.	20 to 30 years.	<ul style="list-style-type: none"> (a) Thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Chief Head Warders(Female), with atleast five years service as Head Warder/Chief Head Warder (Female), subject to- <ul style="list-style-type: none"> i. successful completion of promotion course for Assistant Superintendent Jail; ii. clearance of mandatory departmental examination of Assistant Superintendent Jail; and (b) seventy per cent by initial recruitment."; and

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(h) against Serial No. 31, in columns 3 and 6, for the existing entries, the following shall respectively be substituted, namely:

3.	6.
<p>“(a) For fresh candidates.</p> <p>(i) Atleast Secondary School Certificate, in Second Division or its equivalent qualification from a recognized Board; and</p> <p>(ii) Minimum physical standard: Height: 5’7” (five feet and seven inches) Chest: 33x34 inches without expansion and 33x34$\frac{1}{2}$ inches with expansion; and</p> <p>(b) For Ex-Military / paramilitary personnel.</p> <p>i. atleast Secondary School Certificate, or its equivalent qualification from a recognized Board; and</p> <p>ii. Height: 5’6” (five feet and six inches) Chest: 32x33 inches without expansion and 32x33$\frac{1}{2}$ inches with expansion.</p>	<p>By initial recruitment:</p> <p>Provided that preference shall be given to ex-military / para-military personnel, retired from service within the last five years and not dismissed or retired from service on medical board grounds, having atleast five years service at credit with discharge certificate, graded as “Satisfactory/Good/Exemplary.”</p>

Endst.No. & date even/:

Copy forwarded to:-

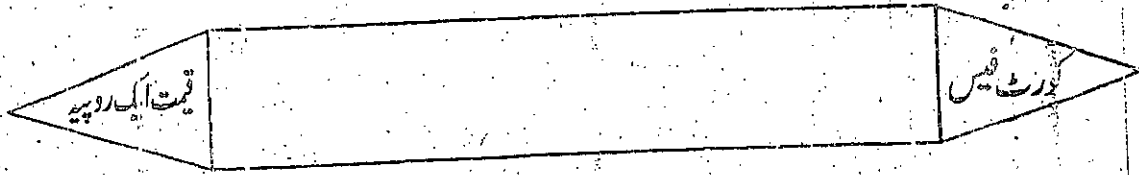
1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
5. The Manager, Government Printing Press Peshawar for publication in the Government Gazette. He is further requested to send 10 copies of the said Gazette Notification to the Law Department as well as this Department and Prisons Department for record.
6. P.S to Home Secretary Khyber Pakhtunkhwa.

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT PESHAWAR

SECTION OFFICER (P&R)

27657
11-11-2018

بعد الت عالیہ سنار ہائی کورٹ بیج / درالقلماء سنگورہ سوات



W.P No _____
of 2019

منجانب
ہم حکومت
اکرام خان

مورخہ
مقدمہ
دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام پشاور ہائی کورٹ بیج / درالقلماء احمد الحسن ایدو لکٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا ایمل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا ایسے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے یا ہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا ادکالت نامہ لکھو یا ک سند رہے

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اکرام خان

واہ شدہ القلماء

اکرام خان

بمقام 0345-8108212

Accepted
کے لئے منظور ہے

Asad ur Rehman
Barrister
033-4646819

FILED TODAY

21 SEP 2019

Additional Registrar

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NOTICE

To

Government of Khyber Pakhtunkhwa through Secretary Home and
Tribal Affairs Department, Peshawar

Dear Sir,

I am filing a Writ Petition in the Peshawar High Court Mingora
Bench/ Dar ul Qaza at Mingora Swat on behalf of Ikram Khan Son of
Parwant Khan, R/o Daulatkhel Village Qambar, Tehsil Babozai,
District Swat, against the impugned order of the learned trial Court.
(Copy of the Writ Petition along with annexures is send with this
notice for your information please).



Barrister Asad Ur Rehman

Advocate High Court


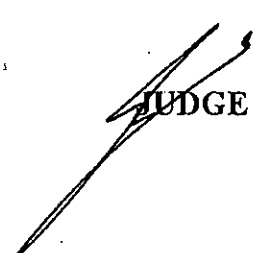
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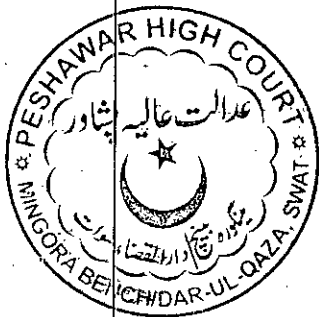
PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No. 9603 of

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	2	3
	30-09-2019	<p><u>W.P No. 960-M/2019 with Interim Relief</u></p> <p>Present: Petitioner in person.</p> <p>Mr. Wilayat Ali Khan, A.A.G for the respondents.</p> <p>*****</p> <p>The learned A.A.G present in Court in some other cases accepts notice on behalf of the respondents who shall file para-wise comments within fortnight.</p> <p>Adjourned to a date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>



File
09/10



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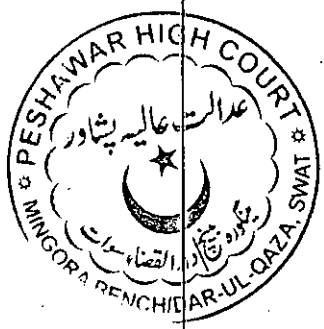
PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No. 9603 of

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	10-02-2020	<p><u>W.P No. 960-M/2019 with Interim Relief</u></p> <p>Present: Barrister Asad-ur-Rahman, for the petitioner.</p> <p>Mr. Wilayat All Khan, A.A.G for the respondents.</p> <p>*****</p> <p>The former seeks adjournment as he wants to further prepare the case. Allowed. Adjourned to 10.03.2020.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;">  JUDGE </p>



Before the learned Service Tribunal
Camp court Guwat.

CM in Appeal No: 9603/2020

Ikram Khan versus Government of KPK etc.

Application for withdrawal of the instant
Appeal with the permission to file a
fresh if any need arises

Respectfully Submitted:

1. That the instant Appeal is pending adjudication before this Honourable Court, and is fixed for hearing today.
2. That the Respondent department has informed the Applicant that they want to address the grievance of the Applicant. Therefore, the Applicant wants to ~~withdraw the instant~~ withdraw his ~~instant~~ Appeal.

In view of the above submissions, the Applicant may be allowed to withdraw his Appeal, as set out in the captioned subject, to file a fresh one if any need arises.

I have got no objection. Through counsel
3/11/2021 AA C, Asad-Ur-Rehman
(Advocate High court)

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

Appeal No. 9603 of 2020

Ikram Khan VERSUS State

Application for early fixation of the above titled Appeal

Respectfully Sheweth:

1. That the above titled Appeal is pending in this Hon'ble Court, in which next date of hearing fixed 26-08-2021.
2. That in the fixed date of hearing mentioned above the counsel of the appellant will engage in Peshawar High Court Peshawar, due to this the next date of hearing begin fixed on 25-08-2021.

It is, therefore, humbly prayed that the above titled
Appeal may kindly be fixed for early hearing.

Appellant


Ikram Khan