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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL No.47/2022

FALAK NIAZ

VS

GOVERNMENT OF KHYBER PAKHTUNKHWA

Through

1. The Chief Secretary, Govt of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar. Respondent No.1
2. The Chief Secretary, Govt of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar
(Chairman Provincial Selection Board) Respondent No.2
3. The Secretary, Science & Technology and Information
Technology Department, Govt of Khyber Pakhtunkhwa, Respondent No.3
4. The Secretary Establishment,
Govt. of Khyber Pakhtunkhwa.
Civil Secretariat Peshawar. Respondent No. 4
5. The Director General,
Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar. Respondent No. 5
6. Mr. Muhammad Akif Khan, Assistant Director,
Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar Respondent No. 6

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Subject: Joint Para wise comments of the Respondents No.1 to 5

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. The appellant has no locus standi and cause of action to file the instant appeal.
2. The instant Appeal is based on equivocal and ambiguous statements.
3. The appellant has concealed the material facts from this honorable Service Tribunal.
4. The appellant has not come to this honorable Service Tribunal with clean hands.
5. The present Appeal is liable to be dismissed for non-joinder/ misjoinder of necessary and proper parties.
6. The instant appeal is against the prevailing law and rules.
7. The appellant is estopped by his own conduct to file the instant appeal.
8. The instant Appeal is not maintainable in the present form and also in the present circumstances of the issue.
9. The Hon'ble Tribunal has no jurisdiction U/S 4(b)(i) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 to entertain such kind of appeals. Reliance is placed on the judgments issued by this Tribunal in S.A No. 12449/2020 and S.A No. 12885/2020 (**Annex-Z**).

FACTS:

1. Pertains to the petitioner's personal identity, character and profile hence, no comments.
2. The appellant Mr. Falak Niaz was appointed on regular basis through the KP PSC (Khyber Pakhtunkhwa Public Service Commission) — vide Notification No. FS/E/PF/6-1/2015/15926-32 dated 20-11-2015 (**Annexure-D**).
3. **Correct** to the extent that the Directorate of Science & Technology and Directorate of Information Technology were Two (2) separate attached departments of the same administrative department, i.e., Department of Science and Technology and Information Technology.
4. **Correct** to the extent that the regular employees of the Erstwhile Directorate of Information Technology were given an option either to continue their regular services in the Directorate of Science & Technology or accept being absorbed in the KP IT Board as per Section 3(A) Clause (iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 dated 5th March, 2018. (**Annexure-E**). The Section 3(A) Clause (iii) is reproduced herein as follows: *"All the civil servants serving in Directorate of Information Technology, shall be given an option, either to continue as civil servant or may opt for the employment of the board. The option may be exercised within a period of thirty days after the commencement of the Khyber Pakhtunkhwa Information Technology Board (Amendment) Act, 2018. Those employees who do not opt for their absorption in the board, shall be absorbed in the Directorate of Science & Technology, where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under; and"*.

The regular employees of the erstwhile Directorate of Information Technology did not opt for employment in the KP IT Board and opted for continuation of their services and absorbed in the Directorate of Science & Technology. Consequently, Department of Science & Technology and Information Technology issued a Notification regarding appointment of the regular employees of erstwhile Directorate of Information Technology in the Directorate of Science & Technology (**Annexure-F**). The appellant has tried to give an impression that the employees were absorbed in the Directorate of Science & Technology from surplus pool and started their services anew which is a wrong conjecture. The Act clearly defines their status as being regular officiating employees who will continue their services in the Directorate of Science & Technology.

5. **Correct** to the extent that respondent no. 6 was initially appointed as Assistant Director (BPS-17) in the erstwhile Directorate of Information Technology dated 07-04-2014 (**Annexure-G**) before the absorption and continuation of service in the Directorate of Science and Technology.
6. Mr. Akif Khan was placed at serial No. 1 in the tentative seniority list dated 16-01-2020 (**Annexure-H**) and thereafter, a final seniority list was issued by the ST & IT Department dated 10-03-2021 (**Annexure-I**) after consultation with the Establishment Department wherein Mr. Akif Khan was also placed at Serial No. 1 as per his initial regular appointment date as he was appointed through KP Public Service Commission in the erstwhile Directorate of Information Technology before the appointment of the other officers of same cadre as reflected in the seniority list. As their services got merged in the Directorate General of Science & Technology alongwith with post with protection of their services. It was therefore natural that seniority will be determined according to the prevalent rules and regulations. The rules and regulations clearly show that a person appointed on regular basis earlier than other officers will be considered senior in comparison. Therefore, Surplus Pool Policy cannot be applied on the employees of erstwhile Directorate of information Technology as they were not rendered to surplus pool of the Establishment Department. The parent department of the Directorate of Information Technology and Directorate of Science & Technology is the same, i.e., ST & IT Department.

The appellant has referred to the meeting held on 30-06-2020 wherein he was placed at serial No. 2 However, that was a tentative seniority list and not a final seniority list. Thereafter, a final seniority list was issued by the ST & IT department after consultation with the Establishment Department wherein Mr. Akif Khan was placed at Serial No. 1 as per his initial regular appointment date. The relevant reference is made to Section 17, Clause (2) and Clause (3) of the APT Rules 1989

Clause (2) "*Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment. Clause (3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.*"(Annexure-J)

As Per Sl.No. 3 CIVIL SERVANTS (SENIORITY) RULES, 1993; [4A. "*In the event of merger of Ministries, Divisions, Attached Departments or Subordinate Offices, the inter se seniority of civil servants, other than those belonging to regularly constituted occupational Groups and Services, shall be determined in accordance with the date of regular appointment to a cadre or post*]" (Annexure-K). This rule alone is clear enough to rest the concerns of the appellant as Mr. Akif Khan was appointed to the post of Assistant Director before the appellant Mr. Falak Niaz. Therefore, as per the relevant rule, Mr. Muhammad Akif Khan is senior by virtue of being appointed on regular basis prior to the appointment of Mr. Falak Niaz.

7. No comments.
8. Respondent NO. 6 Mr. Muhammad Akif Khan was placed at S.No. 1 in the Final Seniority List while Mr. Falak Niaz Assistant Director was placed at S.NO. 3 because Mr. Muhammad Akif Khan (Respondent No. 6) being appointed earlier to Mr. Falak Niaz shall rank senior to the appellant.
9. No. comments.

GROUNDS

- A. **Incorrect.** The impugned actions / inactions of the respondents were in accordance with Law and rules.
- B. When the appeal itself is illegal and based on individual interests and the grounds taken are flimsy, then the appellant can no longer hope that the competent authority may pay heed to illegal requests.
- C. The plea is based on emotions and personal interests. If not so, then the appellant may be asked as to what was the mistake of the employees of the erstwhile Directorate of IT that their organization was abolished and their services rendered to the Directorate of S&T. These were administrative decisions taken by the government and the government employees were bound to abide by such decisions whether they liked it or not. Also, their services were rendered to the

Directorate of S&T on the basis of continuation. They were not declared surplus nor were their services rendered to the surplus pool of the establishment department for further adjustment. Their parent department was the same i.e ST & IT Department and their cadre was also the same so the decision was taken logically.

D. This statement is a figment of imagination based on mere wish, nothing more.

There is a constant reiteration of the same argument that merger can be only carried out through "Surplus Pool Policy". Well, the appellant may be reminded that Law assumes ascendancy over every other matter. Rules and policies are made under the law and not the other way around in the wider context. Law is promulgated after consideration of taking interests of people in totality and is never restricted to just individual cases. In the present case, the regular employees of the Erstwhile Directorate of Information Technology were given an option either to continue their regular services in the Directorate of Science & Technology or accept being absorbed in the KP IT Board as per Section 3(A) Clause (iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 dated 5th March, 2018. (Annexure-E). The Section 3(A) Clause (iii) is reproduced herein as follows: ***"All the civil servants serving in Directorate of Information Technology, shall be given an option, either to continue as civil servant or may opt for the employment of the board. The option may be exercised within a period of thirty days after the commencement of the Khyber Pakhtunkhwa Information Technology Board (Amendment) Act, 2018. Those employees who do not opt for their absorption in the board, shall be absorbed in the Directorate of Science & Technology, where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under; and"***

The regular employees of the erstwhile Directorate of Information Technology did not opt for employment in the KP IT Board and opted for continuation of their services and absorption in the Directorate of Science & Technology. Consequently, Department of Science & Technology & Information Technology issued a Notification regarding appointment of the regular employees

of erstwhile Directorate of Information Technology in the Directorate of Science & Technology (**Annexure-F**). The appellant has tried to give an impression that the employees were absorbed in the Directorate of Science & Technology from surplus pool and that they started their services anew which is factually and legally wrong and is based on conjecture.

E. As explained in para D Section 3(A) Clause (iii) is reproduced herein as follows:

"All the civil servants serving in Directorate of Information Technology, shall be given an option, either to continue as civil servant or may opt for the employment of the board. The option may be exercised within a period of thirty days after the commencement of the Khyber Pakhtunkhwa Information Technology Board (Amendment) Act, 2018. Those employees who do not opt for their absorption in the board, shall be absorbed in the Directorate of Science & Technology, where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under; and"
(Annexure-E).

F. It is a Court decision, needs no comments.

G. **Correct** to the extent but that Service Appeal No. 7354/2021 Mr. Falak Niaz VS Govt. of Khyber Pakhtunkhwa is under process in Khyber Pakhtunkhwa Service Tribunal for decision.

H. As explained above.

I. **Incorrect.** As explained above.

J. **Incorrect.** Seniority list was issued with due regard to laws, rules and regulations.

K. **Incorrect.** All norms of justice have been taken care of in the current case.

L. The appellant must be aware of the fact that his case is also arbitrary in nature and the statements made in the appeal are highly objectionable and presumptuous in nature.


M. **Correct.** However, no one is benefited as no violation of rules has occurred in the current case.

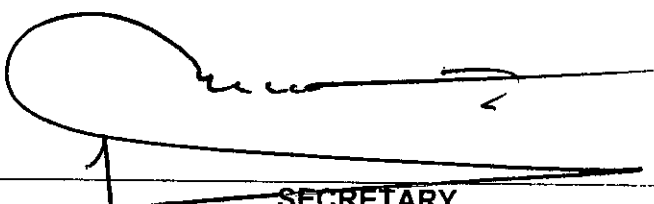
N. **Incorrect.** No one is deprived of his legal rights of seniority in an arbitrary manner as alleged by the appellant. Detail reply is given in paras ibid.

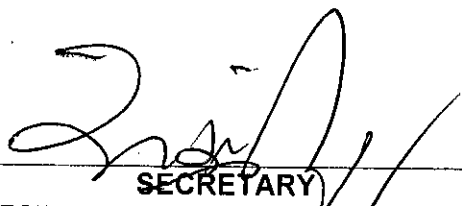
- O. No comments.
- P. No comments.
- Q. No. comments.


PRAYER:


It is humbly prayed before the honourable Service Tribunal that the subject appeal being baseless, devoid of merits may be dismissed with costs.


 CHIEF SECRETARY
 THROUGH SECRETARY ST & IT
 Govt. of Khyber Pakhtunkhwa
 (Respondent No.1&2)


 SECRETARY
 ST & IT Department
 Through Deputy Secretary (Admn), ST & IT
 Govt. of Khyber Pakhtunkhwa
 (Respondent No. 3)


 SECRETARY
 ESTABLISHMENT DEPARTMENT
 Govt. of Khyber Pakhtunkhwa
 (Respondent No.4)


 DIRECTOR GENERAL
 Directorate General of S&T
 Govt. of Khyber Pakhtunkhwa
 (Respondent No.5)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL No.47/2022
FALAK NIAZ

VS
GOVERNMENT OF KHYBER PAKHTUNKHWA
Through

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|---|------------------|
| 1. The Chief Secretary, Govt of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar. | Respondent No.1 |
| 2. The Chief Secretary, Govt of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar
(Chairman Provincial Selection Board) | Respondent No.2 |
| 3. The Secretary, Science & Technology and Information
Technology Department, Govt of Khyber Pakhtunkhwa, | Respondent No.3 |
| 4. The Secretary Establishment,
Govt. of Khyber Pakhtunkhwa.
Civil Secretariat Peshawar. | Respondent No. 4 |
| 5. The Director General,
Directorate General of Science & Technology (DoST),
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| 6. Mr. Muhammad Akif Khan, Assistant Director,
Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar | Respondent No. 6 |

AFFIDAVIT

I Iftikhar Ali, Superintendent BPS-17 Directorate General of Science and Technology Khyber Pakhtunkhwa being authorized Officer to file the joint Para-wise comments pertaining to Appeal No. 47/2022 titled Falak Niaz VS Govt. of Khyber Pakhtunkhwa, hereby solemnly declare on oath that the subject comments to be submitted before the honorable KP Service Tribunal are true and facts based to the best of my knowledge. Furthermore, nothing has been concealed from the honorable Court.

ATTESTED



Iftikhar Ali

(Iftikhar Ali)
Superintendent

CNIC NO. 16102-6256975-7
0345-9289160

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 43 /2022

Mr. Falak Niaz, Assistant Director BS-17,
Directorate General of Science & Technology,
ST&IT Department Govt of KP.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar
2. Chief Secretary Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
Chairman Provincial Sejection Board (PSB).
3. The Secretary to Govt: of Khyber Pakhtunkhwa, ST&IT Department Civil Secretariat Peshawar
Member PSB
4. The Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department Civil Secretariat Peshawar
Member/Secretary PSB
5. The Director General, Directorate Gnceral of Science & Technology Govt: of Khyber Pakhtunkhwa.
6. Mr. Muhammad Akif Khan Assistant Director (BS-17), Directorate General of Science & Technology Govt: of Khyber Pakhtunkhwa

.....**RESPONDENTS**

.....

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED UNCONDITIONAL PROMOTION ORDER/NOTIFICATION DATED 06-08-2021 OF RESPONDENT No.6 MR. MUHAMMAD AKIF KHAN ASSISTANT DIRECTOR (BS-17) TO THE POST OF DEPUTY DIRECTOR (BS-18) ON DISPUTED SENIORITY LIST BEING ILLEGAL AND WRONG. AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF THE NINETY DAYS.

.....

PRAYER

ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 06.08.2021 MAY BE DECLARED ILLEGAL AND THE APPELLANT MAY BE DECLARED SENIOR FROM RESPONDENT NO.6 OF ASSISTANT DIRECTOR BS-17 & NETWORK MANAGER BS-17 AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION FROM THE DATE WHEN THE POST OF DEPTUY DIRECTOR BS-18 REMAIN VACANT AND BECOME ELIGIBLE WITH RETROSPECTIVE EFFECT ALONG WITH AREARS AND BACK BENEFITS. GETTING HIS RIGHT OF SENIORITY IN ACCORDANCE WITH LAW THEN AS PER ESTABLISHMENT DEPARTMENT REGULATION WING NOTIFICATION NO.SO (POLICY)/E&AD/1-16/2017 DATED 05-12-2017 AMENDMENTS IN THE KHYBER PAKHTUNKHWA PROMOTION POLICY, 2009. ANY OTHER REMEDY WITH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER MAY ALSO BE AWARDED IN THE FAVOR OF THE APPELLANT.

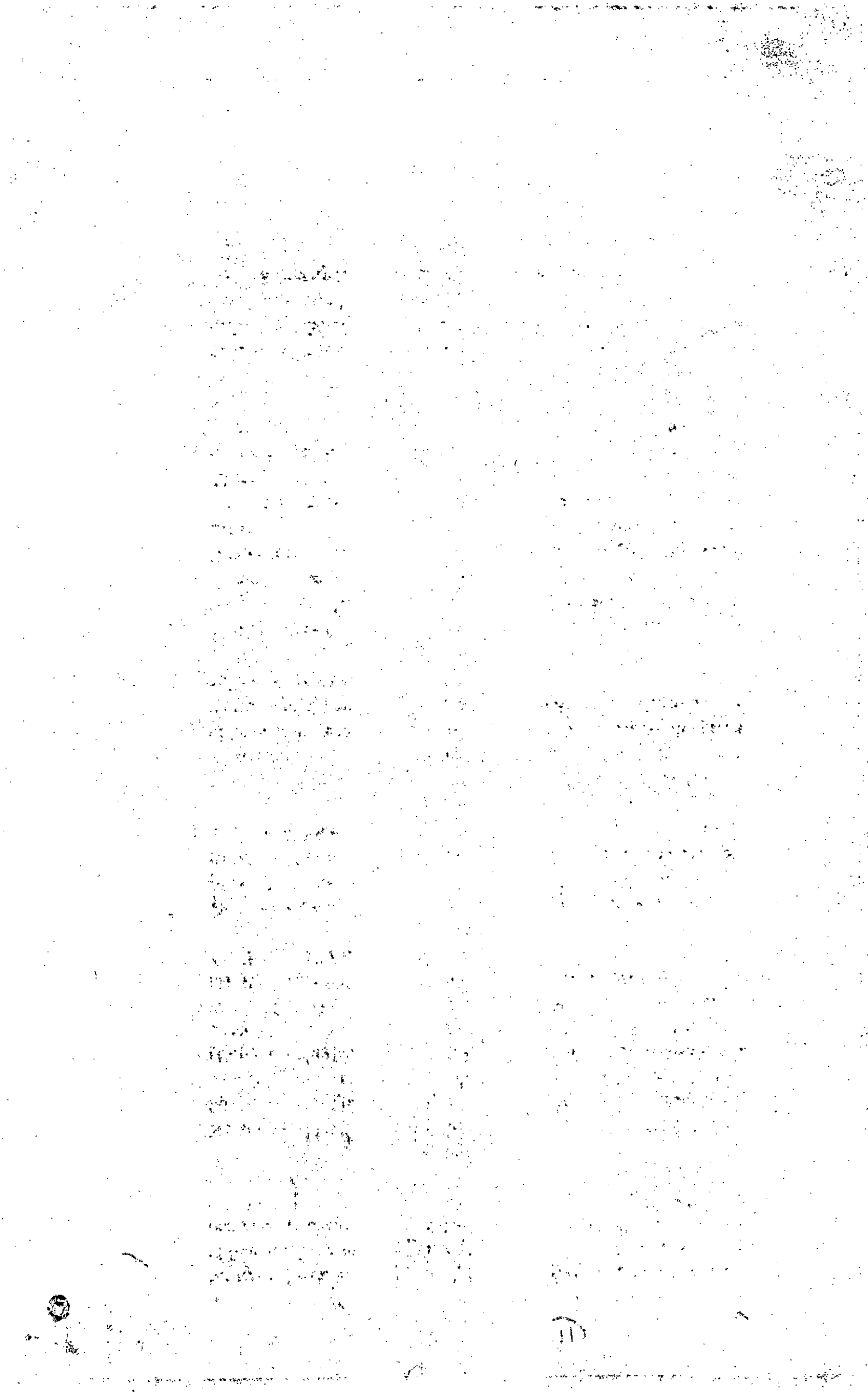
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(11) 5

RESPECTFULLY SHEWETH

FACTS

1. That the appellant is law abiding citizen of Pakistan and have every legal right to protect under Constitution of Islamic Republic of Pakistan.
2. That appellant was appointed as Assistant Director (BS-17) in the Directorate of Science & Technology on regular basis through Khyber Pakhtunkhwa Public Service Commission dated 20-11-2015 and work with full zeal and zest since appointment.
3. That according to Rule of Business, the Science & Technology and Information Technology Department ((issued, vide No.SO (O&M)/E&A/2-24/2005 dated 22-11-2011 Schedule-I at S.No. 22 (a&b)), the Directorate of Science & Technology and Directorate of Information Technology were two separate attached /independent department/entities of ST&IT on the Technical, Functional, Administrative, Services rules, Seniority, Financial, Current and developmental budget, PR code, Sanction posts, Regulatory control over all activities etc. (Copy of Rule of Business of the Science & Technology and Information Technology Department is attached as Annexure-A).
4. That Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) was promulgated by the Provincial Assembly wherein Section 3 clearly states that "the Directorate of Information Technology, shall cease to be an attached department of Science & Technology and Information Technology Department of Government, and shall be merged into Board" and "All the civil servants serving in the Directorate Of Information Technology, shall be give an option, either to continue to as a civil servants or may opt for the employment of the board. The option will be exercise within thirty days after commencement of Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018). Those employees, who do not opt



for their absorption in the board, shall be absorbed in the Directorate of Science & Technology where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa civil servants act, 1973 and the rules made under;" After exercising option for absorption by the erstwhile DoIT employees into the Directorate of Science & Technology, the absorption notification No.SOE/ST&IT/KP/1-9/Merging of DoIT-KPITB/17/V-II dated April 06, 2018 of erstwhile Directorate of Information Technology employees into Directorate of Science & Technology was issued. (Copy of Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) and absorption notification No.SOE/ST&IT/KP/1-9/Merging of DoIT-KPITB/17/V-II dated April 06, 2018 Annexure-B&C).

5. That respondent no.6 was initially appointed as Assistant Director (BPS-17) in the erstwhile Directorate of Information Technology, on 07-04-2014 and later on by giving in writing option was absorbed in the Directorate of Science and Technology through KPIT Board Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018). The merger/restructuring of erstwhile DoIT take place with Khyber Pakhtunkhwa Information Technology Board, not with the Directorate of Science & Technology and only employees of Ex-DoIT who given written option for absorption, are absorbed in the Directorate of Science & Technology.

6. That as in the light of Khyber Pakhtunkhwa Civil Servant Act, 1973 Section 8 and Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 seniority rules 17 and Establishment & Administration Department (Regulation Wing) Letter NO. SOR-1(E&AD).1-200/98, Dated: 8TH June /2001 "Policy for Declaring Government Servant as Surplus and their Subsequent Absorption/ Adjustment", Mr. Muhamad Akif Khan, Assistant Director is placed at serial No. 01 in the tentative seniority list of Assistant Directors & Network Manager BPS-17 dated 16.01.2020 without keeping in view the impugned legislation absorption of an employee would deprive the seniority and progression of career of meritorious civil servants. The respondent No. 3 issued letter to all officers on 26-06-2020 called meeting on 30-06-2020 at 11:00am which was attended by the following officers:

- i. Secretary ST&IT Department Chairman
- ii. Additional Secretary, ST&IT Department

- iii. Director ST, Directorate of S&T
- iv. SO(E), ST&IT Department
- v. Wiqar Ahmad AD(P&D), DoST
- vi. Falak Niaz AD, DoST
- vii. M.Akif Khan AD, DoST
- viii. Ziaullah Khan N/S Manager, DoST

Proposed final seniority of BS-17 was discussed and rectified/corrected seniority list was issued wherein appellant was bringing to his proper place at S.No. 2. (Copy of minutes of meeting and seniority list dated 30.06.2020 is attached as annexure-D).

7. That, the respondent No. 4 (Establishment Deptt) returned the seniority list with observations in para 30-31 to respondent No.3 dated 11-12-2020. The respondent No.3 (ST&IT Deptt) replied comprehensively clarified the position vide para 32-40 dated 18-12-2020. (Copy of observation raised by respondent No.04 dated 11-12-2020 & reply of respondent No. 03 dated 18-12-2020 is attached annexure-E & F).

8. That, thereafter, final seniority list dated 10.03.2021 was issued wherein appellant was placed at S.No.3 while respondent no.6 placed at S.No.1 while aggrieved of the same has filed departmental appeal on final seniority list letter No. Nil dated 22-03-2021 and have been requested to be reversed/rectified the final seniority list but after lapse of considerable time there is no outcome of the appeal /representation all went in vain. Hence, the appellant constrained to file this service appeal on final seniority, appeal No. 7354/2021 before this August Tribunal. (Final seniority list Notification No.SOE/ST&IT/KP/2-96/2020/582 dated 10-03-2021, appeal on final seniority list letter No. Nil dated 22-03-2021 and service appeal, appeal No. 7354/2021 is attached Annexure-G, H & I).

9. That, two (02) posts of Deputy Director (BPS-18) are lying vacant in the respondent Department and the respondent department ST&IT prepared working paper for filling the said posts on the basis of impugned final seniority list. The respondent No.6 Mr. Muhammad Akif Khan Assistant Director BS-17 was unconditional promoted vide ST&IT deptt Section Officer Notification No. SOE/ST&IT/KP/2-96/2021 dated 06-08-2021 to one post of Deputy Director (BS-18) on the disputed final seniority list in the Provincial Selection Board (PSB) held on 30-07-2021 & 31-07-2021 vide Section Officer (PSB) Letter No. SO (PSB) ED/1-1/2021/ (9) dated 28-07-2021. While one post was kept vacant due to stay granted in

appeal of Ziaulian Khan Network Manager (BS-17) in the honorable service tribunal in service appeal no. 6732/2021. It is further added that in the agenda items of PSB, ST&IT Department agenda item was not included which clearly show extreme discrimination with appellant that case is already disputed and pending before court on the part of respondent departments. Now again two posts of Deputy Directors BS-18 are vacant, one post newly created in the budget and one post vacant due to promotion of Mr. Abid Suhail Deputy Director BS-18 to Additional Director-IT BS-19 in the Provincial Selection Board (PSB) held on 02-12-2021 vide Section Officer (PSB) Letter No. SO (PSB) ED/1-1/2021/ (20) dated 01-12-2021. The impugned action on the part of the respondents vide which the appellant has been deprived of due right is smacked with mala fide, illegal wrong, unlawful against vested right of the appellant, unauthorized and unconditional. While aggrieved of the same the appellant has filed departmental appeal on promotion notification/order letter No. Nil dated 21-09-2021 & 29-10-2021 respectively and have been requested to be set aside the promotion order/notification of respondent No.6 but after lapse of considerable time there is no outcome of the departmental appeal /representation all went in vain. Hence, the appellant strained to file this service appeal before this August Tribunal on the following grounds. (Copy of Section Officer Notification No. SOE/ST&IT/KP/2-96/2021 dated 06-08-2021, Section Officer (PSB) Letter No. SO (PSB) ED/1-1/2021/ (9) dated 28-07-2021, departmental appeal letter No. Nil 21-09-2021 & 29-10-2021 is attached annexure-J, K, L & M).

GROUNDS

- A. That the impugned actions/inaction on the part of the respondents vide which the appellant has been deprived of due right is smacked with mala fide, illegal wrong, unlawful against vested right of the appellant, unauthorized and unconstitutional.
- B. That not responding on departmental appeal with in statutory period of 90 days is against the law, illegal, unlawful, without and lawful authority, thus calling interference of this learned tribunal.
- C. That the Directorate of Science & Technology was not part of the merger as per KPIT Board Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) , Merger of Directorate of IT take place with KPIT Board, while employees are by giving option to be absorbed in Directorate

Science & Technology; they can be adjusted any other department on vacant posts, then why the appellants seniority/promotion is affected in his parent department serving since 20-11-2015.

- D. That, the impugned legislation of the employees of Directorate of Information Technology are directly merged in IT Board and the respondent no.6 was absorbed in Directorate of Science & Technology, directly. The absorption/adjustment is only carried out through Absorption Policy issued by Establishment & Administration Department (Regulation Wing) Letter NO. SOR-1(E&AD).1-200/98, Dated: 8th June, 2001. Government of Khyber Pakhtunkhwa Surplus Pool Policy para-6 clause (a to d) will be followed while determining seniority of the absorbed employees, the only rule covering seniority fixation of absorbed/ adjusted employees under para 6 b (a to d) "In case, however, he is adjusted in his respective cadre but in department other than his parent department, he shall be placed at the bottom of seniority list of that cadre".
- E. That The Supreme Court of Pakistan with direction a copy of this judgment to be sent to the Chief Justice, Sindh High Court through Registrar for circulating it amongst the learned Judges. A copy of this judgment be also sent to all the Chief Secretaries of the Provinces as well as the Secretary, Establishment Division, Government of Pakistan, Islamabad, with the direction to streamline the service structure of civil servants in line with the principles laid down in this judgment. Whether the deputation, absorption, regularization, out of turn promotions, re-employment, contractual/ adhoc employment which are the subject matter of these proceedings can be validated through the impugned statutes? Any backdated seniority cannot be granted to any absorber and his inter-se seniority; on absorption in the cadre shall be maintained at the bottom as provided under the rules regulating seniority. Supreme Court of Pakistan Judgment various constitution Petition No. 89/2011 other petitions on the Sindh Civil Servants (Regularization of absorption) Act 2011 date of hearing 16th to 19th, 29th to 30th April 2013 and 7th, 8th and 9th May 2013).
- F. That in the Writ Petition No. 2942-P/2013 of Mr. Shaukat Ali Yousafzai VS Govt of Khyber Pakhtunkhwa & others. The petitioner Mr. Shaukat Ali Yousafzai was first appointed as a lecturer Zoology BS-17 in education deptt on 23-04-1989 later on appointed as Assistant Director BS-17 in Fisheries Deptt Govt of Khyber Pakhtunkhwa through Khyber Pakhtunkhwa Public Service Commission (KPPSC). The petitioner was absorbed from Fisheries Deptt into Establishment Deptt from the date of

Peshawar High Court decision which was announce on 19-08-2014 and seniority was assigned to the petitioner from the judgment announcement date which is clearly reflected in the final seniority list. (Copy of final seniority list of Establishment Deptt of BS-19 officers in the light of PHC judgment dated 19-08-2014 is attached Annexure-N).

G. That, thereafter, final seniority list was issued vide No.SOE/ST&IT/KP/2-96/2020/ 579 dated 10.03.2021 wherein appellant was placed at S.No.3 while respondent no.6 placed at S.No:1 while aggrieved of the same has filed departmental appeal on final seniority list letter No. Nil dated 22-03-2021 and have been requested to be reversed/rectified the final seniority list but after lapse of considerable time there is no outcome of the appeal /representation all went in vain. Hence, the appellant constrained to file service appeal, appeal No. 7354/2021 before this August Tribunal.

H. The absorption has neither been defined by the KP Civil Servant Act 1973 nor by KP Civil Servants (Appointment, Promotion and Transfer) Rules 1989. Therefore the final seniority list is disputed, and the Appellant in the final seniority list before absorption was at S.No 02 and after absorption is at S.No 03. In the light of Service Rules Notification vide No.SOE/ST&IT/KP/2018-19/Vol:VI dated 31-01-2020 "By promotion on the basis of seniority-cum-fitness, from amongst Assistant Directors, Internet Information Service Manager & Network Managers having at least Five year service". Before absorption neither these posts/employees exist in the Directorate of Science & Technology nor reflected in the budget copy of FY-2015-16, 2016-17 and 2017-18 while after KPIT Board amendment Act 2018, in FY2018-19 their posts have been created by Finance Department in the Directorate of Science & Technology. The erstwhile Directorate of Information Technology restructuring/merger did not take place with Directorate of Science & Technology, the merger/re-structuring of DoIT take place in the KP IT Board. Then how/why the seniority of the appellant in the parent attached department is affected by merger? While Mr. Muhammad Akif Khan Assistant Director BS-17 has neither serve a single day in the Directorate of Science & Technology nor made arrival after absorption in the Directorate of Science & Technology. He is on leave/deputation at the office of the Chief Secretary, Performance Management & Reform Unit before and after absorption. The respondent No.6 got unconditional promotion which is clear violation of law and rules. While the appellant is enthusiastically serving in the Directorate of S&T from last six years

and seniority is affected without cogent reason/rules. Now two vacant posts of Deputy Director (BS-18) are available.

- I. That the impugned seniority list is against the norms of service law and principles of natural justice and dictums of the apex courts.
- J. That the impugned seniority list is the worst example of favoritism, nepotism and colorful exercise of powers which is not warranted under law.
- K. That all persons placed in similar circumstances must be treated alike and the reasonable classification must be based on reasonable ground in a particular set of circumstances but the same in any case must not offend the spirit of Article 25 of the constitution. Person equally placed must be treated alike in the matter of rights, privileges and liabilities under the rules of equal protection of law.
- L. In Dr. Munir Ahmad and 37 others Vs Govt of Pakistan Finance Division, Islamabad and 4 others (2007 PLC(CS) 285) the Honorable Supreme court of Pakistan held as:

“Concept of equal protection and equality before law is hallmark of the constitutional scheme recognized by not only the preamble, objective resolution, Article 4, 25 and 27 of the constitution but also the principle of policy contained in Article 37 of the constitution. Equal protection and equal treatment of citizen similarly placed is universally accepted and recognized principle which has been explained by many others in text books and judges in precedents, statutory function in a democratic setup cannot make any individual distinction for any extraneous reason in exercise of discretion must be free of arbitrariness and caprice.”

- M. That according to Section-8 of the Civil Servant Act 1973 and section-17 of APT Rules 1989, it is the legal right of every civil servant to properly placed in seniority list according to his seniority position, but the same benefits was not extended to the appellant which is the violation of law and rules.
- N. That the appellant was not treated according to the law and rules and has been deprived from his legal right of seniority in arbitrary manner without fault on his part.
- O. The Hon'ble Supreme Court has declared the following practice of the respective departments of Federal / Provincial Governments / autonomous / organizations bodies as illegal:

-A civil servant, who after passing the competitive exam in terms of the Recruitments Rules on merits, loses his right to be considered for promotion when an employee from any other organization is absorbed without completing or undertaking competitive process with the backdated seniority and is conferred the status of a Civil servant in complete disregard of recruitment rules.

- i. **The absorption and out of turn promotion will also impinge on the self-respect and dignity of the civil servants, who will be forced to work under their rapidly and unduly promoted fellow officers, those who have been inducted from other services/cadres regardless of their (inductees) merit and results in the competitive exam (if they have appeared from an exam at all), hence, are violate of the Articles 14 of the Constitution.**
- ii. The principle of locus penitential is the power of receding till a decisive step is taken but is not a principle of law that order once passed becomes an irrecoverable and past and closed transaction. If the order is illegal, then perpetual rights cannot be gained based on an illegal order.
- iii. **Any backdated seniority cannot be granted to any absorbee and his inter-se-seniority, on absorption in the cadre shall be maintained at the bottom as provided under the rules regulating the seniority.**

P. In the case of Muhammad Sharif Tareen V/s Government of Baluchistan (2018 SCMR 54), it was held by the Hon'ble Supreme Court that a post which is required by the rules to be filled by initial recruitment cannot be filled by promotion, transfer, absorption, or by any other method which is not provided by the relevant law and rules.

Q. That an application has been filed along with the memo of appeal seeking interim relief among others for appellant till final outcome of the appeal. Obviously, when the dispute about seniority list is has been admitted for regular hearing, therefore it seems just to direct the respondents in case the appellant succeeded in getting his right of seniority in accordance with law then as per Establishment Department Regulation Wing Notification No.SQ(Policy)/E&AD/1-16/2017 dated 05-12-2017 amendments in the Khyber Pakhtunkhwa promotion policy, 2009.

After sub-para(h) of para IV the following sub-para(i) shall be inserted:

The mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:

- i. All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of court cases.
- ii. An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
- iii. In case, the officer expired or retires from service and subsequently, his seniority is restored his case will be considered from proforma promotion along with all financial benefits.
- iv. Juniors promoted on sub-judiced seniority list will be assigned seniority as per final court orders and will be reverted in case there is no vacancy.

(Copy of Establishment Department Regulation Wing Notification No.SO (Policy)/E&AD/1-16/2017 dated 05-12-2017 is attached Annexure-O).

R. That the respondent No.3 (ST&IT deptt) sent case to Finance Deptt vide letter No.SOE/ST&IT/KP/2-55/2021 dated 24-08-2021 with request to advice this deptt as to whether the up gradation to BS-18 in respect of Mr. Ziaullah Khan Network Manager BS-17 is justified or otherwise. The minutes of the meeting of up gradation committee held in the Finance Deptt on 23-09-2021 and the case of Mr. Ziaullah Khan Network Manager BS-17 was deferred with justification that career progression/service structure is available. Mr. Ziaullah Khan Network Manager BS-17 at Serial No. 4 in the final seniority list trying to overcome and become senior to other officers(including appellant) is the worst example of favoritism, nepotism and colorful exercise of powers which is not warranted under any law. On one side Mr. Ziaullah Khan Network/System Manager BS-17 file appeal in the Honorable Service Tribunal in Service Appeal No. 6732/2021 and stay was granted in appeal to halt the promotion of the appellant on the other hand up-gradation case is submitted. The preparation and submission of working paper to Finance Deptt in respect of Mr. Ziaullah Khan Network Manager BS-17 to up gradation committee is worst case of favoritism, nepotism and colorful exercise of powers to favored blue eyed person which is not warranted under any law which is admitted by the respondent No.3 (ST&IT deptt) in letter No. SOE/ST&IT/KP/2-55/2021 dated 22-12-2021.

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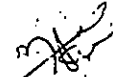
(Copy of letter No.SOE/ST&IT/KP/2-55/2021 dated 24-08-2021, MoM up gradation committee in Finance Deptt date 23-09-2021 and No.SOE/ST&IT/KP/2-55/2021 dated 22-12-2021 is attached Annexure-P, Q & R).

S. That the appellant craves permission of this honorable tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of instant service appeal.

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


APPELLANT
Mr. FALAK NIAZ

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR


CERTIFICATE:

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


DEPONENT

LIT OF BOOKS:

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


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT



Establishment Section

24 25
3
FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

NOTIFICATION:-

No.FS/E/PF/6-1/2015/15926-32. On the recommendations of Khyber Pakhtunkhwa Public Service Commission Peshawar, the competent authority (Chief Secretary Khyber Pakhtunkhwa) has been pleased to appoint Mr. Falak Niaz S/O Taj Gul resident of Village Shagai Miangan Tehsil Safi Mohmand Agency as Assistant Director in Science & Technology and Information Technology Department Khyber Pakhtunkhwa in BS-17 (Rs.20680-1555-51780) plus other usual allowances as admissible under the rules with immediate effect on the following terms and conditions:-

TERMS & CONDITIONS:-

- i. The above post, for all intents and purposes, shall be within the definition of Civil Servants and he shall be entitled for GP Fund, Pension and Gratuity.
 - ii. He shall be governed by the Khyber Pakhtunkhwa Civil Servants Act 1973 and all the laws applicable to the Civil Servants and rules framed thereunder.
 - iii. He will be governed by such rules and orders relating to leave, T.A and Medical Attendance as may be prescribed by the Government.
 - iv. He will be on probation initially for a period of one year extendable for further period of one year.
 - v. His services will be liable to termination at any time without assigning any reason before the expiry of the period of probation/extended period of probation, if his work during this period is found unsatisfactory. In such an event, he will be given one month's notice of termination from service or one month's pay in lieu thereof.
 - vi. His seniority will be determined in accordance with the merit assigned by the Khyber Pakhtunkhwa Public Service Commission.
 - vii. He will be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011 and Government Servants (Conduct) Rules 1987 and any other instructions which may be issued by the Government from time to time.
 - viii. In case he wishes to resign at any time, a month notice shall be necessary or in lieu thereof, a month's pay shall be deposited.
 - ix. He will not be entitled to any TA/DA on appointment
2. In case the above terms and conditions are acceptable, an UNDERTAKING to this effect on a Bond worth Rs.30/- signed and duly attested by the Oath Commissioner should be produced in Administration, Infrastructure & Coordination Department FATA Secretariat within a month time.
 3. If the above terms and conditions of appointment are acceptable to him, he should report to Administration, Infrastructure & Coordination Department FATA Secretariat for duty within 30 days on the receipt of this Notification failing which the appointment shall be deemed to has been cancelled.

ADDITIONAL CHIEF SECRETARY (FATA)

Contd...Page-2

2
(28)
Dated 20/11/2015
Copy to:-

1. Secretary ST&IT Department Khyber Pakhtunkhwa
2. Accountant General Khyber Pakhtunkhwa
3. Additional Accountant General (PR) Sub Office Peshawar
4. PS to Chief Secretary Khyber Pakhtunkhwa
5. PS to Additional Chief Secretary FATA Secretariat
6. PS to Secretary (Admn, Infra: & Coord) Department FATA Secretariat
7. Individual concerned


Section Officer

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 5TH MARCH, 2018.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 5th March, 2018.

No. PA/Khyber Pakhtunkhwa/Bills-170/2018/4835.—The Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Bill, 2018 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 19th February, 2018 and assented to by the Governor of the Khyber Pakhtunkhwa on 28th February, 2018 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA ESTABLISHMENT OF INFORMATION TECHNOLOGY BOARD (AMENDMENT) ACT, 2018

(KHYBER PAKHTUNKHWA ACT NO. IV OF 2018)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 5th March, 2018).

AN
ACT

*further to amend the Khyber Pakhtunkhwa
Establishment of Information Technology Board Act, 2011*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Establishment of Information Technology Board Act, 2011 (Khyber Pakhtunkhwa Act No. XI of 2011), for the purposes hereinafter appearing;

1. **Short title and commencement.**—(1) This Act may be called the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018.

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Kur

(2) It shall come into force at once.

2. **Substitution of Preamble of the Khyber Pakhtunkhwa Act No. XI of 2011.**-- In the Khyber Pakhtunkhwa Establishment of Information Technology Board Act, 2011 (Khyber Pakhtunkhwa Act No. XI of 2011), hereinafter referred to as the said Act, for the existing Preamble, the following shall be substituted, namely:

"WHEREAS it is expedient to provide for the establishment of the Khyber Pakhtunkhwa Information Technology Board for promotion, planning, execution, supervision, evaluation and regulation of the Information and Communication Technology, Information and Communication Technology enabled services and education for public and private sectors of the Province of the Khyber Pakhtunkhwa and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:"

3. **Insertion of new section in the Khyber Pakhtunkhwa Act No. XI of 2011.**--In the said Act, after section 3, the following new section 3A shall be inserted namely:

"3A. **Status of the Directorate of Information Technology and its employees.**--On commencement of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018,-

- (i) the Directorate of Information Technology, shall cease to be an Attached Department of Science and Technology and Information Technology Department of Government, and shall be merged into Board and the Board shall, take over the functional, administrative, financial and regulatory control over all the activities, offices, projects, centers, etc. of the Directorate of Information Technology, for the disposal of its functions;
- (ii) all the movable and immovable assets and liabilities including furniture, fixture, equipment, vehicles, record, data etc. of the Directorate of Information Technology shall be transferred to the Board and ownership of such assets shall vest in the Board;
- (iii) all the civil servants serving in Directorate of Information Technology, shall be given an option, either to continue to serve as civil servant or may opt for the employment of the Board. The option shall be exercised within a period of thirty days after the commencement of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018. Those employees, who do not opt for their absorption in the Board, shall be absorbed in the Directorate of Science and Technology where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under; and

- (iv) projects of the Directorate of Information Technology along with its employees shall be transferred to the Board for the completion of remaining activities of such projects."

4. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 4,-

- (i) for sub-section (5), the following shall be substituted, namely:

"(5) Government may at any time terminate the nomination of any member mentioned at clause (h) of sub-section (1), by assigning cogent reasons."; and

- (ii) for sub-section (7), the following shall be substituted, namely:

"(7) The members at clause (h) of sub-section (1), shall be entitled to an amount of rupees twenty thousand as honoraria for attending a meeting of the Board."

5. Amendment in section 7 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 7, in sub-section (2),-

- (a) in clause (a) for the words "private sector", the words "public and private sectors" shall be substituted;

- (b) in clause (c), the word "and" appearing at the end shall be deleted;

- (c) for clause (d), the following shall be substituted, namely:

"(d) supervise, evaluate and lead telecom regulators, operators and service providers for provision of wide range of high quality, efficient, cost effective and competitive information and communication technology services throughout the Province, in order to reduce broadband bandwidth tariffs, improve access, protect consumer rights and interests and regulate arrangements with the service providers of sharing their revenue with the Board, derived from provision of services in the Province;";

- (d) for clause (e) the following shall be substituted, namely:

"(e) plan, develop and establish Software Technology Parks, Technology Cities for Information and Communication Technology and Electronic manufacturing and Information Technology Parks in the Province;"; and

- (e) in clause (m), the full stop appearing at the end shall be replaced by semicolon and thereafter the following new clauses shall be added, namely:

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1/1/18

- (n) finance, promote, train and develop the human resource and entrepreneurs of the Province in the field of information and communication technology, within Pakistan as well as abroad;
- (o) launch Research and Development Programs and up-gradation of its infrastructure;
- (p) monitor and evaluate the outcome and results of Information and Communication Technology projects initiated by Government in the Province and provide policy guidelines to Government departments, Government organizations, semi-autonomous and autonomous agencies under the administrative control of Government, Research and Development institutions for their restructuring and enhancement of Information and Communication Technology activities;
- (q) advise and regulate Government departments, Government organizations, semi-autonomous and autonomous agencies under the administrative control of Government on the introduction and usage of Information and Communication Technology;
- (r) promote usage of Information and Communication Technology by awarding scholarships, awards, certificates, holding of conferences, expos, seminars, workshops, in-service training and acquiring higher education;
- (s) plan, execute, monitor, evaluate and regulate computerization, automation and all Information and Communication Technology related initiatives, activities and projects in Government departments, Government organizations, semi-autonomous and autonomous agencies under the administrative control of Government;
- (t) plan, execute, monitor and regulate electronic governance and mobile governance of Government departments;
- (u) promote, establish, monitor, evaluate and regulate electronic commerce, electronic payments, electronic payment gateways and electronic payment service providers in the Province;
- (v) establish venture capital fund, angel investment fund, crowd sourcing fund, private equity fund or any other variant of fund, for financing, investing and holding equity share in technology startup businesses;
- (w) enter into Concession Contract under the Khyber Pakhtunkhwa Public Private Partnerships Act, 2014, for promoting Public Private Partnership;
- (x) establish academia-industry linkages; and

- (y) ensure that the shares of the Province in all Federal Information and Communication Technology related services, including autonomous bodies and corporations established by, or under the control of, Federal Government, such as, Universal Service Fund, National Information and Communication Technology Research and Development Fund etc, shall be secured."

6. Amendment in section 8 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 8, for sub-section (1) the following shall be substituted, namely:

- (a) "(1) The Managing Director shall be appointed by the Board, on the recommendations of a Search and Scrutiny Committee, to be constituted by the Board, on such salary and terms and conditions as may be prescribed.";
- (b) for sub-section (5), the following shall be substituted, namely:
 "(5) The Managing Director shall hold office for a term of five years and shall be eligible for re-appointment for such further term or terms, not exceeding five years at any one time, as the Board may deem fit.";
- (c) in sub-section (6), for the word "Government", the word "Board" shall be substituted;
- (d) in sub-section (7), for the words "the Chairman may appoint any Director or member of the Board", the words "the Board may appoint any Director of the Board" shall be substituted; and
- (e) after sub-section (7), the following new sub-sections shall be added, namely:
 "(3) The Search and Scrutiny Committee, under sub-section (1), shall comprise of five members, who shall be members of the Board, with majority of members nominated under clause (h) of sub-section (1) of section (4).
 (9) The Search and Scrutiny Committee, shall seek applications through public advertisement, and recommend to the Board, a candidate with the highest score on the merit list, for appointment as Managing Director."

7. Amendment in section 9 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 9, after sub-section (4), the following new sub-section (5) shall be inserted, namely:

- "(5) A person appointed by the Board, under sub-section (1) and (3) of section 9, shall, on satisfactory completion of probation, be deemed confirmed in service with effect from initial appointment."

8. Amendment in section 11 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 11, in sub-section (3), for clause (a), the following shall be substituted, namely:

"(a) one-line budget from Government;"

9. Amendment in section 12 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 12, the words "as grant-in-aid" shall be deleted.

10. Amendment in section 13 of the Khyber Pakhtunkhwa Act No. XI of 2011.--In the said Act, in section 13, after sub-section (2), the following new sub-section (3) shall be inserted, namely:

"(3) The Board may, in addition to the audit under sub-section (2), cause its accounts to be audited by any other external auditor."

11. Repeal.-The Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Ordinance, 2017 (Khyber Pakhtunkhwa Ordinance No. IV of 2017) is hereby repealed.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT

Dated Peshawar, the 6th April, 2018

1394 To 4409

NOTIFICATION

No. SOE/ST&IT/KP/1-9/Merging of DoIT-KPITB/17/V-II. In pursuance of clause (iii) of Section 3A of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 (Khyber Pakhtunkhwa Act No. IV of 2018), the following officers/officials after exercise of their option to continue as civil servants, are hereby absorbed in Directorate of Science and Technology, Khyber Pakhtunkhwa, with immediate effect:-

S. No.	Name of Officers/officials	Designation/BPS
1-	Mr. Bilal Jabbar	Deputy Director (BPS-18)
2-	Mr. Muhammad Akif	Assistant Director (BPS-17)
3-	Mr. Abdul Basit	IIS Manager (BPS-17)
4-	Mr. Zia Ullah Khan	Network/System Manager (BPS-17)
5-	Mr. Shah Saood	Accountant (BPS-16)
6-	Mr. Naveed Iqbal	Assistant (BS-16)
7-	Mr. Jafar Raza	Computer Operator (BS-16)
8-	Mr. Muhammad Kashif	Computer Operator (BS-16)
9-	Mr. Nazim Khan	Junior Clerk (BS-11)
10-	Mr. Wadan Gul	Driver (BS-7)
11-	Mr. Farhad Ullah	Driver (BS-7)
12-	Mr. Muhammad Waris Khan	Naib Qasid (BS4)
13-	Mr. Abdul Naveed	Naib Qasid (BPS-4)
14-	Mr. Fazal Wahid	Naib Qasid (BPS-03)
15-	Mr. Falak Niaz	Chowkidar (BS-4)
16-	Mr. Shahriyar	Chowkidar (BPS-03)

2- The officers/officials shall be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under.

Endst. No. and date even:-

Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- The Secretary to Speaker, Provincial Assembly, Khyber Pakhtunkhwa.
- 3- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 4- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- 5- Secretary to govt. of Khyber Pakhtunkhwa, Finance Department w/r to his letter No. BOIV/FD/1-27(C)/2017-18 dated 26-3-2018.
- 6- Chairman, Khyber Pakhtunkhwa Public Service Commission, Fort Road Peshawar.
- 7- PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 8- Manager, Government Printing Press Department, for publication in the Official Gazette
- 9- Director Science & Technology Khyber Pakhtunkhwa
- 10- Director Information Technology, Khyber Pakhtunkhwa
- 11- PS to Senior Minister for -IT, Khyber Pakhtunkhwa.
- 12- PS to Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
- 12-PS to Secretary ST&IT, Khyber Pakhtunkhwa.
- 13-PA to Managing Director KP IT Board.
- 14- Officers/officials concerned.

Track No. 877
Date 11-06-2018

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

SECTION OFFICER (EST)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT PESHAWAR
Dated Peshawar, the 7th April 2014

30

Notification

NO. SOE/ST&IT/KP/1-27/AM/09. On the recommendations of the Khyber Pakhtunkhwa Public Service Commission, the competent authority is pleased to appoint Mr. Muhammad Akif Yo Atta-ur-Rahman of Mardan as Assistant Director (DPS-17) (Rs. 15000-12-00-40000) in the Directorate of Information Technology, Khyber Pakhtunkhwa subject to the terms and conditions mentioned hereunder:-

Terms and conditions:

- a) He shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the Rules made there-under.
 - b) He shall, initially, be on probation for a period of one year extendable for further one year.
 - c) His services will be liable to termination at any time without assigning any reason before the expiry of the period of probation/extended period of probation, if his performance during this period is not found satisfactory. In such an event, he will be given one month prior notice of termination from service or one month pay in lieu thereof. In case he wishes to resign at any time, one month prior notice shall be necessary or in lieu thereof, one month's pay shall be forfeited.
- 2- If the above terms and conditions are acceptable to him, he should report for duty within 15 days after the issuance of this notification.

SECRETARY TO GOVT. OF KP
ST&IT DEPARTMENT

Dist. of even No. and date:

Copy forwarded to:-

- 1- Accountant General, Khyber Pakhtunkhwa.
- 2- Director Examination, Khyber Pakhtunkhwa Public Service Commission, 2 Fort Road, Peshawar w/r to his letter No. PSC-SR/23978 dated 26-2-2014.
- 3- PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 4- Director Information Technology, Khyber Pakhtunkhwa.
- 5- PS to Secretary ST&IT Department, Khyber Pakhtunkhwa.
- 6- Manager, Government Printing Press Department, Peshawar.
- 7- Officer concerned.
Personal file.

(WAMIQ)
SECTION OFFICER (RSTT)

2



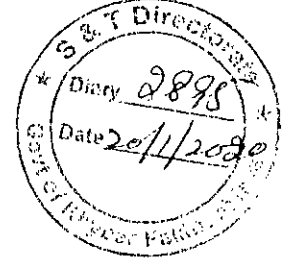
GOVERNMENT OF KHYBER PAKHTUNKHWA
SCIENCE & TECHNOLOGY AND INFORMATION
TECHNOLOGY DEPARTMENT

No. SOE/ST&IT/KP/2-36/KC/2018-19/Vol-VI/31
Dated Peshawar, 16.01.2020

To


- 1) Dr. Khalid Khan, Director (BS-19),
- 2) Mr. Abid Suhail, Deputy Director (BS-18)
- 3) Mr. Bilal Jabbar, Deputy Director (BS-18)
- 4) Muhammad Akif Khan, Assistant Director (BS-17)
- 5) Mr. Wiqar Ahmad, Assistant Director (P&D) (BS-17)
- 6) Mr. Falak Niaz, Assistant Director (BS-17)
- 7) Mr. Zia Ullah Khan, Network Manager (BS-17)
- 8) Mr. Fawad Khan, Superintendent (BS-17)

Directorate of Science and Technology, Khyber Pakhtunkhwa.



Subject: - TENTATIVE SENIORITY LIST OF ALL THE OFFICERS (BPS-16 TO 19).

I am directed to enclose herewith a copy of tentative seniority list of all the officers (BPS-17 to BPS-19) for your information. If you have any query/objection on this Seniority list, it may be communicated within fortnight after receipt of this letter.

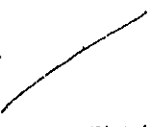

Section Officer (Establishment)

Encl: as above

Endst. of Even No. & Date.

Copy to:-

- b*
20/1/2020
Falak Niaz
1. Director, Directorate of Science and Technology, Khyber Pakhtunkhwa for necessary action please.
 2. The Section Officer (Coordination), ST & IT Department Govt. of Khyber Pakhtunkhwa.
 3. PS to Secretary, ST & IT Department Govt. of Khyber Pakhtunkhwa.
 4. PA to Additional Secretary, ST & IT Department Govt. of Khyber Pakhtunkhwa.
 5. PA to Deputy Secretary (Admn), ST & IT Department Govt. of Khyber Pakhtunkhwa.


Section Officer (Establishment)



GOVERNMENT OF KHYBER PAKHTUNKHWA
SCIENCE & TECHNOLOGY AND INFORMATION TECHNOLOGY DEPARTMENT

NOTIFICATION:

No. SOE/ST&IT/KP/2-36/KC/2018-19/ In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the tentative joint Seniority list of Assistant Directors (as stood on 14-1-2020) Directorate of S&T, Khyber Pakhtunkhwa, is hereby notified/circulated for general information.

S. No	Name of Officer/ Official	Father Name	Qualification	Domicile	Date of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Muhammad Akif Khan Assistant Director (B-17)	Atta Ur Rehman	Ph.D	Mardan	26-5-1982	30-6-2011	08-4-2014	Direct appointment
2.	Wiqar Ahmad Assistant Director (P&D) (B-17)	Noor Muhammad	M.Sc (Economics) / MBA (F)	Charsadda	19-05-1979	23-09-2015	23-09-2015	Direct appointment
3.	Falak Niaz Assistant Director (B-17)	Taj Gul	B.Sc Engg/ MBA	Mohmand	20-2-1986	20-11-2015	20-11-2015.	Direct appointment



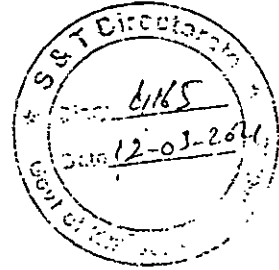
NOTIFICATION:

/582

No. SOE/ST&IT/KP/2-96/2020 In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Final Seniority List of Assistant Directors and Network Manager (as stood on 15-02-2021) Directorate of Science and Technology, Khyber Pakhtunkhwa is hereby notified as under:-

S. No	Name Of Officer/ Official	Fathers Name	Qualification	Domicile	Date Of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment	Place of posting
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Muhammad Akif Khan Assistant Director (BS-17)	Atta Ur Rehman	Ph.D	Mardan	26-05-1982	30-06-2011	07-04-2014	Direct appointment	Deputy Coordinator IT, PMRU office C.S
2	Wiqar Ahmad Assistant Director (P&D) (BS-17)	Noor Muhammad	M.Sc (Economics)/ MBA (F)	Charsadda	10-05-1979	23-09-2015	23-09-2015	Direct appointment	Directorate of S&T Khyber Pakhtunkhwa
3	Falak Niaz Assistant Director (BS-17)	Taj Gul	B.Sc Engg/ MBA	Mohmand	20-02-1986	20-11-2015	20-11-2015	Direct appointment	Directorate of S&T Khyber Pakhtunkhwa
4	Zia Ullah Khan Network Manager (BS-17)	Aman Ullah Khan	MIT	DI Khan	09-01-1978	30-06-2011	29-09-2016	Direct Appointment	Directorate of S&T Khyber Pakhtunkhwa

May
17-03-2021



Secretary,
Science Technology & Information Technology,
Govt. of Khyber Pakhtunkhwa

857

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Copy forwarded to the:-

1. Director, Directorate of Science & Technology, Khyber Pakhtunkhwa.
2. Muhammad Akif Khan Assistant Director, Directorate of S&T, Khyber Pakhtunkhwa PMRU.
3. Wiqar Ahmad Assistant Director (P&D), Directorate of S&T, Khyber Pakhtunkhwa.
4. Falak Niaz Assistant Director, Directorate of S&T, Khyber Pakhtunkhwa
5. Ziaullah Khan Network/System Manager, Directorate of S&T, Khyber Pakhtunkhwa.
6. PS to Secretary, ST&IT Department, Govt. of Khyber Pakhtunkhwa .
7. P.A to Additional Secretary, ST&IT Department, Govt. of Khyber Pakhtunkhwa.
8. P.A to Deputy Secretary, ST&IT Department, Govt. of Khyber Pakhtunkhwa.


Section Officer (Establishment)

(35)

**THE KHYBER PAKHTUNKHWA CIVIL SERVANTS
(APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989**

PART-I
GENERAL

1. **Short title and commencement:** - (1) These rules may be called the ²[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the ³[Khyber Pakhtunkhwa] Public Service Commission;

⁴(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

⁵(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades; and

¹ For the words "NWFP" or "North-West Frontier Province", wherever occurred, the words "Khyber Pakhtunkhwa" substitute by the Khyber-Pakhtunkhwa Laws (Amendment) Act, 2011 (Khyber Pakhtunkhwa Act No. IV of 2011) published in the Khyber Pakhtunkhwa Government Gazette Extraordinary dated 2nd April, 2011

² Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

⁵ Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994.

PART-VI

SENIORITY

17. Seniority :- (1) the seniority inter se of civil servants ⁴⁷(appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁴⁸[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

⁴⁹(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁰(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the

⁴⁷ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SO- (S&GAD)4-1/80, dated 17-05-1989.

⁴⁸ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

⁴⁹ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

⁵⁰ Sub-rule (4) of Rule 17 added vide Notification No. SOR-VI (E&AD) 1-3/2008 dated 19-11-2009.

lower post is the same, the civil servant older in age, shall be treated senior.

18. **General Rules:** - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. **Repeal:-** The ⁵¹[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

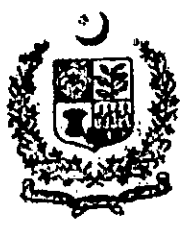
(Authority; No. SORI(S&GAD)4-1/80, dated 13th May, 1989)

⁵¹ Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

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M.T. PC H 02 Job No. 5855(13)Ms Wing

For Official Use



**A MANUAL ON
APPOINTMENT, PROMOTION
AND TRANSFER
(Edition -2013)**

Compiled & Published By:

**PAKISTAN PUBLIC ADMINISTRATION RESEARCH CENTRE
ESTABLISHMENT DIVISION
CABINET SECRETARIAT
ISLAMABAD**

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Sl.No. 3
CIVIL SERVANTS (SENIORITY) RULES, 1993

In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), read with section 8 thereof, the President is pleased to make the following rules, namely:-

1. *Short title, application and commencement.*— (1) These rules may be called the Civil Servants (Seniority) Rules, 1993.

(2) They shall apply to all civil servants except those governed under:-

- (i) the Police Service of Pakistan (Composition Cadre and Seniority) Rules, 1985;
- (ii) the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990; and
- (iii) the Establishment Division's O.M. No.1/2/74-ARC, dated 23rd January, 1974, amended *vide* O.M. No.2/1/75-ARC, dated 3rd March, 1976, and as amended from time to time.

(3) They shall come into force at once.

2. *Seniority on initial appointment.*— (1) Persons initially appointed on the recommendations of the selection authority through an earlier open advertisement shall rank senior to those appointed through a subsequent open advertisement.

(2) If two or more persons are recommended in open advertisement by the selection authority, their inter se seniority shall be determined in order of merit assigned by the selection authority.

(3) If only one candidate is recommended in open advertisement by the selection authority, he shall count his seniority from:-

- (a) the date of recommendation by the selection authority, if he was already holding the same post on *ad-hoc* basis.
- (b) the date of his joining the post after being recommended by the selection authority if he was not already holding the same post.

3. *Seniority on promotion.*—Seniority in a service, cadre or post to which a civil servant is promoted shall take effect from the date of regular promotion to that service, cadre or posts:-

Provided that—

- (a) Civil servants selected for promotion to higher posts on an earlier date shall be senior to those selected for such promotion on a later date;
- (b) Civil servants selected for promotion to higher posts in one batch shall on their promotion to the higher post, retain their *inter se* seniority as in the lower post; and
- (c) Civil servants eligible for promotion who could not be considered for promotion in the original reference in circumstances beyond their control or whose case was deferred while their juniors were promoted to the higher post, shall, on promotion, without supersession, take their seniority with the original batch.

4. *Seniority on appointment by transfer.*—Seniority in service, cadre or post to which a civil servant is appointed by transfer shall take effect from the date of regular appointment to the service, cadre or post;

Provided that—

- (a) persons belonging to the same service, cadre or post selected for appointment by transfer to a service, cadre or post in one batch shall, on their appointment, take *inter se* seniority in the order of their date of regular appointment in their previous service, cadre or post; and
- (b) persons belonging to different services, cadre or posts selected for appointment by transfer in one batch shall take their *inter se* seniority in the order of the date of their regular appointment to the post which they were holding before such appointment and, where such date is the same, the person older in age shall rank senior.

*[4A. In the event of merger of Ministries, Divisions, Attached Departments or Subordinate Offices, the *inter se* seniority of civil servants, other than those belonging to regularly constituted

* Added vide Estt. Div.'s Notification S.R.O No. 01(1)/2002, dated 1-1-2002.

Occupational Groups and Services, shall be determined in accordance with the date of regular appointment to a cadre or post].

5. *Seniority of officers of the Armed Forces on induction in civil posts.*— Officers of the Armed Forces of Pakistan who are inducted in a civil service, cadre or post in accordance with the Government orders and instructions shall take seniority in that service, cadre or post from the date of such induction:

Provided that the officers inducted in one batch shall, on induction, retain their *inter se* seniority as in the Armed Forces of Pakistan.

6. *Inter se seniority of civil servants appointed in the same calendar year.*—Persons appointed by transfer in a particular calendar year shall, as a class, be senior to those appointed by promotion or by initial appointment to such posts in that year, and persons promoted to higher posts in a particular calendar year shall, as a class, be senior to those appointed by initial appointment to such posts in that year.

7. *Repeal and savings.*—The General Principles of seniority circulated *vide* Establishment Division's O.M.No.1/16/ 69-D.II, dated the 31st December, 1970, and all other existing rules, orders and instructions relating to seniority except—

- (i) the Police Service of Pakistan (Composition, Cadre and Seniority) Rules, 1985;
- (ii) the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990; and
- (iii) the Establishment Division's O.M.No.1/2/74-ARC dated 23rd January, 1974, amended *vide* O.M. No. 2/1/75-ARC, dated the 3rd March, 1976 and as amended from time to time are hereby repealed.

[Authority:— Estab. Div.'s S.R.O. 163(1)93, dated 28-2-1993].

**Sl.No. 4
CIVIL SERVANTS (CONFIRMATION) RULES, 1993**

In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), the President is pleased to make the following rules, namely:-

1. *Short title, Commencement and application.*—(1) These Rules, may be called the Civil Servants (Confirmation) Rules, 1993.

Sl. No. 158, pp 224-229, Estacode, 1989.

- (2) They shall come into force at once.
- (3) They shall apply to all civil servants.

2. *Definitions.*— In these Rules, unless there is anything repugnant in the subject or context,

- (a) "Foreign Service" means service in which a civil servant receives his pay with the sanction of Government from any source other than the Federal Consolidated Fund; and
- (b) "lien" means the title of a civil servant to hold substantively a post on which he has been confirmed.

3. *General Principles of confirmation.*— (1) A civil servant initially appointed to a post, on probation including a civil servant promoted or appointed to a post on transfer, shall on satisfactory completion of his probation, be eligible for confirmation in that post:

Provided that the confirmation shall be made only against a permanent post:

Provided further that two or more civil servants shall not be confirmed in the same post and at the same time or in a post on which another civil servant holds a lien:

Provided also that a civil servant shall not be confirmed on two or more posts at the same time.

(2) A civil servant shall be considered for confirmation strictly in order of his seniority.

(3) No confirmation shall be made against the post vacated on dismissal, removal or compulsory retirement of a civil servant until his appeal against such dismissal or, as the case may be, removal or retirement is finally decided.

4. The confirmation shall be made on the recommendations of the Confirmation Committee constituted for the purpose and with the approval of the authorities specified below:-

Posts	Composition of the Committees	Confirming authorities	Remarks
1	2	3	4
Posts in BPS 20 and above	Secretary of the Administrative Ministry or an authority controlling the Service/Cadre/Post as Chairman, Additional Secretary or a Joint Secretary	Prime Minister	

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C/O Additional Secretary (R-II)
Establishment Administration
Department

**GOVERNMENT OF KHYBER PAKHTUNKHWA
SCIENCE & TECHNOLOGY AND INFORMATION
TECHNOLOGY DEPARTMENT**



NOTE FOR CHIEF SECRETARY

**SUBJECT: ISSUANCE OF FINAL SENIORITY LIST OF OFFICERS (BS-17 TO BS-19)
DIRECTORATE OF SCIENCE AND TECHNOLOGY, KHYBER
PAKHTUNKHWA**

Tentative Seniority lists of the officers BS-19, BS-18 and BS-17 were circulated on 16.01.2020 to the concerned officers with the directions to communicate queries/objections, if any, on the Seniority Lists within fortnight vide (Annex-I).

2. The Competent Authority (Chief Minister, Khyber Pakhtunkhwa) has delegated his powers to Chief Secretary, Khyber Pakhtunkhwa to approve the issuance of Seniority Lists of the members of a service, cadre or posts for which Chief Minister, Khyber Pakhtunkhwa is the Appointing Authority (Annex-II).

3. It is certified that Seniority Lists of the officers are neither disputed nor under litigation in any Court of Law.

4. In view of the above, final Seniority Lists of the officers BS-19, BS-18 and BS-17 (Annex-III) are submitted for approval of Chief Secretary, Khyber Pakhtunkhwa.

[Signature]
SECRETARY
ST&IT DEPARTMENT
12/03/20

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

pl examine

Sery Estab

[Signature]
14/3
Chief Secretary

N.P.P

1028
13/13/2020
743
13/03/20


SECRETARY ESTAB
Diary No. *791*
FIS NO. *16/3/20*

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6. Note for Chief Secretary has been examined. It is observed that:

- (i) One Engineer Falak Niaz Assistant Director (BS-17) has raised observation/objection on the tentative seniority list of the officers (Annex-IV). But the Administrative Department has not certified/clarified that the same have properly been addressed or otherwise, which needs clarification.
- (ii) Mode of appointment of BS-19 and BS-18 officers has been shown through direct recruitment. To authenticate this, the Administrative Department may add copy of service rules alongwith appointment orders of the officers.

7. The Note is returned to the Administrative Department to clarify the above observations.


(Syed Jamal-ud-Din Shah)
Secretary Establishment
3 April, 2020

Secretary ST&IT Department

ST&IT Department
Issue No. 2573
Dated: 3/4/2020

SECRETARY
ST&IT DEPARTMENT
GOVERNMENT OF PUNJAB
LAHORE

(46)

GOVERNMENT OF KHYBER PAKHTUNKHWA
SCIENCE & TECHNOLOGY AND INFORMATION
TECHNOLOGY DEPARTMENT



NOTE FOR CHIEF SECRETARY

Ref: Para-6/N

8. The Seniority lists of Director BS-19 and two Deputy Directors BS-18 are undisputed and final while the seniority list of Assistant Director BS-17 officers was reconsidered in light of Para-6 of Establishment Department observations and was rectified in the light of Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Annex-IV) and Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology (Regularization of Services) Act, 2016 (Annex-V) by Competent Authority. The detail discussion was also held in a meeting on 30.06.2020 at 11:00AM under the Chairmanship of Secretary ST&IT on observations /objections in the presence of all officers BS-17 in view of above acts, rules, regulations and policies, the minutes along with revised/correct seniority list is at Annex-VI and Annex-VII.
9. Service rules and appointment orders in respect of Dr.Khalid Khan, Director (BS-19), Mr.Abid Sohail, Deputy Director (BS-18) and Mr. Bilal Jabbar, Deputy Director (BS-18) duly Flaged at Annex-VIII, Annex-IX, Annex-X and Annex-XI respectively.
10. In view of the above the Seniority lists of Officer BS-19, BS-18 and BS-17 are resubmitted for approval of the.Competent Authority.

Diary No. _____
FTS No. _____
Date: _____

Secretary
Establishment
Government of KP

9-7-2020
Secretary
ST&IT Department
Government of KP

N.P.P

10. Note for Chief Secretary was earlier examined and was returned to the Administrative Department to clarify the observations at Para-6 of the Note. The Administrative Department has resubmitted the case as per Para-9 of the Note.

11. It is further observed that:-

- (i) The Administrative Department has forwarded seniority lists of BS-19, BS-18 & BS-17 officers for approval of the Chief Secretary. The Administrative Department was required to submit seniority lists separately as the Chief Secretary Khyber Pakhtunkhwa, is the competent authority for approval of seniority lists of BS-18 & BS-19 officers, whereas Secretary Establishment for BS-17 officers (Annex-XII).
- (ii) The sanctioned strength of the cadre/posts, copies of budget book of the financial year 2020-21, certificate of the Administrative Department that seniority list is final, undisputed and not subjudiced, and place of posting of the incumbents included in the seniority lists have not been found attached with the Note.
- (iii) As per notification dated 06-04-2018 at (Annex-XIII) on cessation of Directorate of IT, 16 employees were absorbed in the Directorate of Science & Technology after opting to remain as Civil Servants. Although they were not declared surplus but still Government of Khyber Pakhtunkhwa Surplus Pool Policy Para-6 Clause A to D will be followed while determining seniority of the employees so absorbed. The Administrative Department may also clarify that whether 16 employees from Directorate of IT were adjusted against initial recruitment quota in the Directorate of Science & Technology or otherwise.
- (iv) Mr. Akif Khan Assistant Director has been reflected in the tentative seniority list at S.No.3 of BS-17 officers. He has submitted application (Annex-XIV) for placement of his due position under Para-6 of the Surplus Pool Policy and Rule-17(2) of Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. The Administrative Department may comment upon his request in light of existing rules.

12. Note may therefore be returned to the Administrative Department to clarify the above observations and re-submit the case after doing the needful in light of the instructions of Establishment Department (Annex-XII) with separate Notes for approval of the seniority list of each cadre by the respective authorities.

(Syed Jamal-ud-Din Shah)
Secretary Establishment
10 September, 2020

Secretary ST&IT Department

PS/SECY ER&AD KP
Diary No. 511
FTS
Date: 10.9.20

N.P.P

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NOTE FOR SECRETARY ESTABLISHMENT KHYBER PAKHTUNKHWA

13. Reference observations of Establishment Department in paras 11-12 (Annex-I).
14. The replies of the Administrative Department are as under:-
15. Seniority lists of Officers of BS-18 and above have been segregated; Note for Chief Secretary, Khyber Pakhtunkhwa pertaining to approval of final, Seniority lists of officers BS-18 and above has already been moved (Annex-II).
16. Copies of the Budget Book for the financial year 2020-21 reflecting sanctioned strength of the cadre of the posts may kindly be seen at Annex III while Certificate to this effect that Seniority lists are final undisputed and not subjudiced at Annex-IV. Present place of posting of the officers has also been incorporated in the final Seniority list against each officer (Annex-V).
17. As regards absorption of 16 employees of the erstwhile Directorate of Information Technology 16 (sixteen) employees of the erstwhile were absorbed into the Directorate of Science and Technology as per Section-3A(iii) of the Establishment of Khyber Pakhtunkhwa-IT Board amended Act, 2018, after opting to remain as Civil Servant (Annex-VI). Policy relating to absorption of Surplus Pool Staff, as pointed out by the Establishment Department, is not applicable in this case as the erstwhile Directorate of Information was not abolished or restructured but merged into the Khyber Pakhtunkhwa Information Technology Board. Even if it is considered under paras-6(b) of the Surplus Pool Policy the same position will emerge.
18. Mr. Muhammad Akif Khan, BS-17 is borne on the strength of the erstwhile Directorate of Information Technology after his option to remain as civil servant in the Directorate of Science and Technology. His Seniority at S.No.03 has been correctly placed in the Final Seniority List at Senior No.03. If his request for Seniority is considered under the Surplus Pool Policy (para-6)(b), and Rules-17 of the Appointment, Promotion and Transfer Rules 1989 the same position will remain.
19. In view of the above, the Final Seniority lists of the Assistant Directors (BS-17), Network Manager (BS-17) and Superintendent BS-17 (Annex-V) are submitted for approval of Secretary Establishment, Khyber Pakhtunkhwa.

15-K-2020
SECRETARY
ST&IT DEPARTMENT
KHYBER PAKHTUNKHWA

SECRETARY ESTABLISHMENT,
KHYBER PAKHTUNKHWA

Diary No. 15-X-2020
FTS No. 15-10-20
Date. 15-10-20

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20. Note for Secretary Establishment moved by ST&IT Department regarding seniority list of Assistant Directors, Network Manager (BS-17) and Superintendent (BS-17) has been examined.

21. The Administrative Department has clarified at Para-17 of the Note that 16 (sixteen) employees of the erstwhile Directorate of IT were absorbed into the Directorate of Science and Technology in the light of Section-3A(iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 (Annex-VI). The ibid section stipulates that the employees of Directorate of Information Technology who exercised option to continue as civil servant be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under (Annex-VIII).

22. Since as per Civil Servants Act, 1973 and APT Rules, 1989 seniority will always be considered from the date of regular appointment and in the light of Section-3A(iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018, terms and conditions of services of civil servants of Directorate of Information Technology are protected (Annex-VIII), therefore, the Administrative Department may rectify the seniority list of these employees under Section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of the of Civil Servants (Appointment, Promotion And Transfer) Rules, 1989 (Annex-IX) from the date of their regular appointment to the posts.

(Mujaher Zeb)
Secretary Establishment
10 November, 2020

Secretary ST&IT Department

o/c

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Reference Para 20-22 of the Note

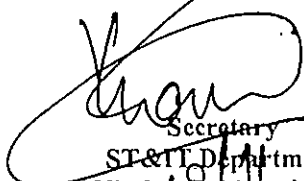
- Issue No: 537
Date: 20/11/2020
23. Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) has been promulgated by the Provincial Assembly wherein Clause (iii) of Section 3A of the ibid necessitates absorbing the regular staff of Directorate of Information Technology into the Directorate of Science & Technology who did not opt for employment in the Khyber Pakhtunkhwa Information Technology Board (Annex-VIII).
24. The absorption notification No.SOE/ST&IT/KP/1-9/Merging of DoIT-KPITB/17/V-II dated April 06, 2018 of erstwhile of Directorate of Information Technology employees in Directorate of Science & Technology (Annex -VI).
25. As Mr. Wiqar Ahmad and Mr. Falak Niaz Assistant Directors are appointed in the Directorate of Science & Technology on regular basis through Khyber Pakhtunkhwa Public Service Commission and separate seniority were maintained by Directorate of Science & Technology. Khyber Pakhtunkhwa Civil Servant Act, 1973 and APT Rules 1989 under section 8 read with APT 1989 seniority rules 17 and Establishment & Administration Department (Regulation Wing) Letter NO. SOR-1(E&AD).1-200/98, Dated: 8TH June /2001 "Policy for Declaring Government Servant as Surplus and their Subsequent Absorption/ Adjustment" rules made under give protection in seniority to the employees Directorate of S&T.
26. While Muhammad Akif Khan Assistant Director and Mr. Ziaullah Khan Network/System Manager are initially appointed in the erstwhile Directorate of Information Technology, Mr. M Akif Khan, Assistant Director, was appointed by Initial recruitment in the erstwhile Directorate of IT dated 07-04-2014 and not in the Directorate of Science & Technology and later on was absorbed in Directorate of Science and Technology through Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) has been promulgated by the Provincial Assembly wherein Clause (iii) of Section 3A of the ibid necessitates absorbing the regular staff of Directorate of Information Technology into the Directorate of Science & Technology who did not opt for employment in the KPIT Board.
27. As Muhammad Akif Khan Assistant Director and Mr. Ziaullah Khan Network/System Manager there parent department according to Rule of Business, vide No.SO(O&M)/E&A/2-24/2005 dated 22-09-2011 Schedule-I at S.No 22 column 3 (Annex-X) Directorate of Information Technology was separate Attached Department of ST&IT Department where posts were sanctioned i.e. Now Directorate of Information Technology ceased to be an Attached Department of ST&IT Department as mentioned above. Although they were not declared surplus but still Government of Khyber Pakhtunkhwa Surplus Pool Policy para-6 clause A to C will be followed while determining seniority of the employees so absorbed.

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Under Surplus Pool Policy Para 6 clause (a to c) (Annex -XI) "In case, however, he is adjusted in his respective cadre but in department other than his parent department, he shall be placed at the bottom of seniority list of that cadre". In the instant case, Muhammad Akif Khan Assistant Director has been absorbed in the Directorate of Science & Technology from erstwhile Directorate of Information Technology while Rules-17(2) of Civil Servants (Appointment, Promotion and Transfer) Rules 1989 "Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment" are applicable where appointment are made by initial recruitment and Rule 17(3) of Civil Servants (Appointment, Promotion and Transfer) Rules 1989 "In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post." applicable where the merger/restructuring take place while merger of erstwhile Director of Information Technology take place with Khyber Pakhtunkhwa Information Technology Board Act 2018 and only employees of Ex-Director of Information Technology are absorbed in Directorate of Science & Technology (Annex -VIII).

28. As in the light of examination of Civil Servant Act, 1973 and APT Rules 1989 under section 8 read with APT 1989 seniority rules 17 and Establishment & Administration Department (Regulation Wing) Letter NO. SOR-1(E&AD).1-200/98, Dated: 8th June /2001 "Policy for Declaring Government Servant as Surplus and their Subsequent Absorption/ Adjustment", Muhammad Akif Khan, Assistant Director and Mr. Ziaullah Khan Network/System Manager have correctly been placed at serial No. 03 and No. 04 in the seniority list of BPS-17 already submitted for approval.

29. In view of the above the file is resubmitted for the final approval of the seniority list of BS-17 by the Establishment Department please.


 Secretary
 ST&IT Department
 Khyber Pakhtunkhwa

Secretary Establishment
Khyber Pakhtunkhwa


Date: 20-11-20

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30. Note for Secretary Establishment moved by ST&IT Department regarding seniority list of Assistant Directors, Network Manager (BS-17) and Superintendent (BS-17) was earlier examined and returned to the Administrative Department with the observations contained at Paras 20-22 of the Note. The Administrative Department has responded to the observations vide Paras 23-29 of the Note. The observations contained in Para-22 of the Note still exist.

31. Since, seniority will always be considered from the date of regular appointment, therefore, the Administrative Department may resubmit the case after placing the incumbents in their right place of seniority list from the date of their regular appointment in the light of Section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 and rule 17(1)(a) of the (Appointment, Promotion & Transfer) Rules, 1989.

Secretary ST&IT Department


(Mutaher Zeb)
Secretary Establishment
11th December, 2020

o/c

Reference Paras 30-31:-

32. The observations raised by Establishment Department in paras 20-22 were replied vide paras 23-29 of the note and clarified the entire position.

33. It is reiterated that Directorate of Science & Technology and Directorate of Information Technology were separate attached Departments of ST&IT Department according to Rule of Business vide Notification No. SO (O&M)/E&A/2-24/2005 dated 22-11-2011 Schedule-I S. No 22(a & b) respectively.

34. Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa) has been promulgated by the Provincial Assembly wherein Clause (iii) of Section 3A of the Act necessitates **absorbing** the regular staff of Directorate of Information Technology into the Directorate of Science & Technology who do not opt for employment in the KPIT Board (**Annexure-VIII**).

35. The **absorption** of staff notification No. SOE/ST&IT/KP/1-9/Merging of DoIT-KPITB/17/V-II dated April 06, 2018 of erstwhile of Directorate of Information Technology in Directorate of Science & Technology is at **Annexure-VI**.

36. As **Mr. Wiqar Ahmad** and **Mr. Falak Niaz Assistant Directors** were appointed in the **Directorate of Science & Technology** on regular basis through Khyber Pakhtunkhwa Public Service Commission and separate seniority were maintained under the Khyber Pakhtunkhwa Civil Servant Act, 1973 and APT Rules 1989 under section 8 read with APT 1989 seniority rules 17 and Establishment & Administration Department (Regulation Wing) Letter NO. SOR-1(E&AD).1-200/98, Dated: 8th June /2001 "Policy for Declaring Government Servant as Surplus and their Subsequent **Absorption/Adjustment**" and rules made there-under give protection in seniority to the employees of Directorate of S&T.

37. It is further stated, that the Khyber Pakhtunkhwa Civil Servant Act, 1973 Section 8 and Civil Servants (Appointment, Promotion and Transfer) Rules 1989 are silent regarding determination of the seniority of absorbed employee while Establishment & Administration Department (Regulation Wing) Letter NO. SOR-1(E&AD).1-200/98, Dated: 8th June /2001 "Policy for Declaring Government Servant as Surplus and their Subsequent **Absorption/ Adjustment**" the only rule covering seniority fixation of absorbed/adjusted employees under para 6(a-d) of above mentioned notification. Any back dated seniority cannot be granted to any absorbee and his inter-se seniority, on absorption in the cadre shall be maintained at the bottom as provided under the rules regulating seniority. This has further been corroborated in the judgment passed by the Peshawar High Court Peshawar in writ

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petition No. 2942-P/2013 dated 19-08-2014 (Shaukat Ali Yousazai Vs Govt. of KP etc and Supreme Court of Pakistan Judgment various constitution petition No.89/2011 other petitions on absorption date of hearing 16th to 19th, 29th to 30th April 2013 and 7th, 8th, 9th May 2013 (judgments are placed on board) (Annex-XI).

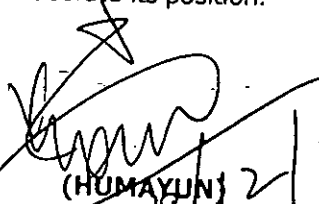
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18/12/2020

38. While Mr. Muhammad Akif Khan, Assistant Director, and Mr. Ziaullah Khan Network/System Manager were initially appointed in the erstwhile Directorate of Information Technology, Mr. Muhammad Akif Khan, Assistant Director, was appointed by initial recruitment in the erstwhile Directorate of IT dated 07-04-2014 and not in the Directorate of Science & Technology and later on was absorbed in Directorate of Science and Technology through the Khyber Pakhtunkhwa Establishment of Information Technology Board (amendment Act 2018) promulgated by the Provincial Assembly wherein Clause (iii) of Section 3A of the Act ibid necessitates absorbing the regular staff of Directorate of Information Technology into the Directorate of Science & Technology who opted for absorption in the Directorate of Science & Technology.

PS/Secy ES&AD KP
Diary No. 791(B)
FTS No. 18/12/2020

39. As such the seniority lists of the officers BPS-17 have been caused keeping in view date of regular appointment as well as absorption of employees from erstwhile Directorate of Information Technology (Annexure-V).

40. If still further clarification is needed, Secretary Establishment may like to convene a meeting wherein the Department will further elaborate its position.


(HUMAYUN) 2/20/20
SECRETARY, ESTABLISHMENT DEPARTMENT
Govt. of Khyber Pakhtunkhwa
ST&IT Department

SECRETARY, ESTABLISHMENT DEPARTMENT

O/o Spl. Secretary (Registration)
Establishment Department
D.No. 3264
Date: 21/12/20

41. Note for Secretary Establishment moved by ST&IT Department regarding issuance of seniority list of Assistant Directors, Network Manager (BS-17) and Superintendent (BS-17) was earlier examined and returned to the Administrative Department to rectify the seniority list from the date of regular appointment of the member of service. Instead of rectifying the seniority list, the Administrative Department has resubmitted the case with their view-points mentioned at Para 32-39 of the Note and requested to convene meeting on the subject issue.

42. In this context it is pointed out that transaction of business of the Provincial Government are regulated under the Khyber Pakhtunkhwa Rules of Business, 1985. Under the ibid rules functions, duties and responsibilities of each and every department have specifically been defined. As per Rule-9(3)(a) Establishment Department is responsible to determine conditions of service of government servants. Similarly interpretation of rules and orders relating to service matters is the domain of Establishment Department under the rules ibid.

43. In the instant case seniority of officers of BS-17 is required to be decided/issued in the light of Section-3A(iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 which stipulates that "all the Civil Servants serving in Directorate of Information Technology, shall be given an option, either to continue to serve as Civil Servants or may opt for the employment of the Board. The option shall be exercised within a period of 30 days after the commencement of Khyber Pakhtunkhwa-Establishment of Information Technology Board (Amendment) Act, 2018. Those employees, who do not opt for their absorption in the Board, shall be absorbed in the Directorate of Science and Technology where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made thereunder" (Annex-VIII).

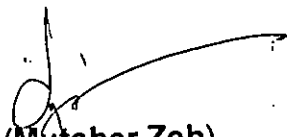
44. It is worth mentioning that under Section-3A(i) of the Act ibid Directorate of Information Technology was merged into Board and the civil servants in the instant case serving in the Directorate of Information Technology have exercised the option to continue as Civil Servants. Therefore, terms and conditions of service of these employees are protected under the ibid Act and to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made thereunder. Rule-17(3) of the Khyber Pakhtunkhwa Civil Servants

(56)

(Appointment, Promotion & Transfer) Rules, 1989 states that in the event of merger of a department the inter-se seniority of civil servants affected by the merger shall be determined in accordance with date of their regular appointment to a cadre or post.

45. Foregoing in view and in light of Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rule-17(3) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 read with Section-3(A)(iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018, the seniority position of Mr. Muhammad Akif Khan, Assistant Director (BS-17) is placed at S.No.1 of the seniority list of Assistant Director/Network Manager (BS-17) as his regular date of appointment is 07.04.2014.

46. As interpretation of law is involved therefore Law Department may add views in terms of Rule 12(1)(a) Rules of Business, 1985 before proceeding further in the matter.


(Mutaher Zeb)
Secretary Establishment
January, 2021

Secretary, Law Department

olc

791 (B)
7/1/2021

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GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

Subject: ISSUANCE OF FINAL SENIORITY LIST OF OFFICERS (BS-17 TO BS-19) DIRECTORATE OF SCIENCE AND TECHNOLOGY KHYBER PAKHTUNKHWA.

Reference Para-46 of the Note:

47. Law Department has examined the Note and is of the view that in accordance with section 3-A (iii) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 (Annex-VIII) all the Civil Servant Serving in Directorate of Information Technology shall be given an option, either to continue as civil servant or may opt for the employment of the Board (IT Board). The option shall be exercised with in a period of thirty days after commencement of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018. Those employees, who do not opt for their absorption in the Board, shall be absorbed in the Directorate of Science and Technology where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under.

48. Hence, the civil servants, who did not opt for employment in the Board, has been absorbed in the Directorate of Science & Technology by operation of law, and their terms & conditions of service shall be governed under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Therefore, Para-44/N is endorsed.


(MASOOD AHMAD)
Secretary, Law Department

Secretary Establishment;

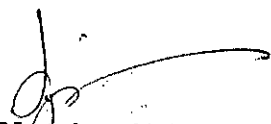
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18/1/21

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49. In light of opinion of the Law Department contained in Para-48 read with Para-44 & 45 of the Note, the Administrative Department may submit revised seniority list for approval.



(Mutaher Zeb)
Secretary Establishment
15th February, 2021

Secretary ST&IT Department



Diary No. 791(B)
FTS No. _____
Date 15/2/21

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Science & Technology and Information
Technology Department, Khyber Pakhtunkhwa



NOTE FOR CHIEF SECRETARY

STC
Issue No. 432
Dated: 16.02.2021

Subject:

ISSUANCE OF FINAL SENIORITY LIST OF OFFICERS OF
BPS-17 OF THE DIRECTORATE OF SCIENCE AND
TECHNOLOGY KHYBER PAKHTUNKHWA.

50. In light of advice of Establishment and Law Departments contained in foregoing paras, the Final Seniority List of Officers BPS-17 i.e. Assistant Directors and Network Manager (BPS-17) has been revised. As such Final Seniority List as stood on 15-02-2021 (**Annex-XIII**) is resubmitted for approval of Secretary Establishment.

PS/Secy E&AD KP
Diary No. 79/181
FTS No. 17/2/21
Date: 17/2/21

SECRETARY ESTABLISHMENT


(HUMAYUN)
SECRETARY
ST&IT DEPARTMENT

15.02.2021


(for Seniority Regulation)
Establishment Department
D.No. 3204
Date: 17/2/21

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51. Note for Secretary Establishment, Khyber Pakhtunkhwa regarding issuance of final seniority of Assistant Directors & Network Manager (BS-17) of Directorate of Science & Technology was earlier examined and referred to Law Department vide Para 46 and views of Law Department contained in Paras 47-48 of the Note forwarded to the Administrative Department for clarification. Now, the Administrative Department vide Para 50 of the Note in light of the observations of Law Department has revised the seniority of BS-17 officers (Annex-XIII) and re-submitted along with the final seniority of Superintendent (BS-17) (Annex-V) for approval, which has been re-examined as under:-

S.#	Step	Status
1.	Under Section-8(1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 for proper administration of a service, cadre or post, the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or post to be prepared. In terms of Section-8(5) of Khyber Pakhtunkhwa Civil Servants Act 1973 the seniority list prepared under Sub Section (1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.	In pursuance of Section-8(1) and (5) of Khyber Pakhtunkhwa Civil Servants Act, 1973 ST&IT Department has submitted the Note with regard to issuance of final seniority list of Assistant Directors and Network Manager (BS-17) & Superintendent (BS-17) for approval of the Secretary Establishment Khyber Pakhtunkhwa (Annex-V & XIII).
2.	Fresh seniority list is to be circulated amongst the concerned officers/officials for observations/objections if any.	Tentative seniority lists of Assistant Directors & Network Manager (BS-17) & Superintendent (BS-17) duly circulated (Annex-XIV).
3.	Certificate by the Administrative Department that the seniority list is final/undisputed.	Administrative Department has certified that the seniority lists are final and undisputed (Annex-IV). However on some observations Law Department has offered views vide Para-47 & 48 of the Note.
4.	Competent authority to approve the seniority list of all cadres, service or post BPS-17 and above.	Secretary Establishment Khyber Pakhtunkhwa is the competent authority to approve the seniority lists of BS-17 for which Honourable Chief Minister, Khyber Pakhtunkhwa is the appointing authority as per instructions dated 26-07-2010 (Annex-XV).

52. Since, the above procedure has been followed and all codal formalities have been fulfilled, hence, proposal of Administrative Department contained in Para-19 read with Para-50 of the Note is approved.


 (Mutaher Zeb)
 Secretary Establishment
 08, March, 2021

Secretary, ST&IT Department

O/c