

post of District Comptroller of Accounts BS-19 was approved w.e.f.-16.06.2017 i.e. one day prior to his retirement. When no specific date for consideration of promotion of the petitioner was given by the Tribunal vide judgment date 08.01.2019, the same cannot be pressed into service for extension of relief as sought in the present execution petition. Not fit for further action, this Execution petition be consigned to the record room.

  
Chairman

**E.P No.451/2019**

Pervez Khan

14.06.2021 Counsel for the petitioner and Mr. Kabirullah Khattak,  
Addl. AG for the respondents present.

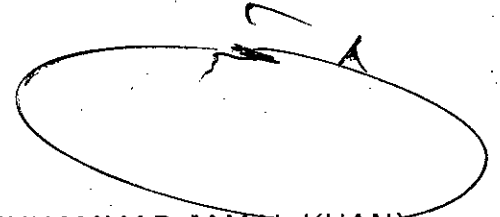
Petitioner, through this Execution Petition, pursuing his prayer that the respondents may be directed to modify their office order dated 07.05.2019 and he may be allowed promotion benefits from its due date i.e 02.12.2016 when he became eligible/entitled for promotion as District Comptroller of Accounts BPS-19 with back benefits.

Brief factual account which encouraged the petitioner to file this Execution Petition is that he had approached this Tribunal by Service Appeal No. 230/2018 which was decided by judgment dated 08.01.2019 with relief in its operative part containing direction to the departmental authority to refer the case of appellant/petitioner to the PSB for consideration for pro-forma promotion from B.S-18 to B.S-19. There is no direction in the operative part for consideration of appellant's proforma promotion from a particular date. The respondents in compliance with the judgment of this Tribunal submitted the case of appellant to PSB and on receipt of the recommendations of PSB, the Secretary Finance i.e. respondent No. 4 issued notification No.S.O(Estt)FD/1-55/2018/PSB, dated 07.05.19, whereby the proforma promotion of petitioner from BPS-18 to the

06.01.2021

Counsel for petitioner is present. Mr. Noor Zaman Khattak, District Attorney and Mr. Muhammad Shakoor, Senior Clerk, for the respondents are also present.

Representative of the department submitted reply to the objections, which is placed on record. Learned counsel for petitioner is seeking time for preparation of the brief. Adjourned to 18.02.2021 on which date file to come up for arguments before S.B.



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

18.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 19.04.2021.

  
**Reader**

19.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.06.2021 for the same as before.

  
**Reader**

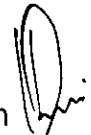
12.08.2020

Counsel for the petitioner and Addl. AG alongwith Sajid Superintendent for the respondents present.

Learned counsel for the petitioner requests for time to submit comments/objections with regard to the implementation report submitted by the respondents on 25.06.2020.

Adjourned to 29.09.2020 for reply and arguments before S.B.

Chairman



29.09.2020

Petitioner with counsel and Addl. AG alongwith Sajid, Superintendent for the respondents present.

Reply, on behalf of the petitioner in respect of report submitted by the respondents, is provided which is placed on record. To come up for further proceedings on 18.11.2020 before S.B.

Chairman



18.11.2020

Petitioner with counsel and Addl; AG alongwith Muhammad Shakoor, Senior Clerk for the respondents present.

Representative of respondents requests for time to submit a reply to the objections submitted by petitioner in respect of implementation report.

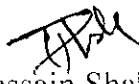
Adjourned to 06.01.2021 before S.B. The parties shall also address arguments on the next date.

Chairman



24.02.2020

Counsel for the petitioner present. Mr. Sajid Superintendent for respondent No. 4 alongwith Mr. Kabirullah Khattak, Addl. AG for respondents present. Representative of respondent No. 4 requested for further time to implement the judgment under execution. To come up for implementation report positively on 02.04.2020 before S.B.

  
(Hussain Shah)  
Member

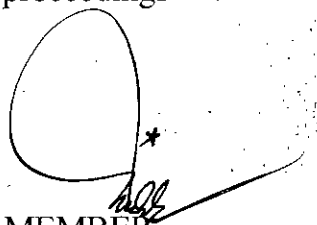
02.04.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 25.06.2020 before S.B.

  
Reader

25.06.2020

Counsel for the petitioner present. Addl: AG alongwith Mr. Sajid, Supdt for respondents present. Representative of the respondents submitted implementation report which is placed on file. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 12.08.2020 before S.B.

  
MEMBER

Pervez Khan

03.12.2019

Counsel for the appellant present.

Learned counsel referred to notification dated 07.05.2019 and contended that although the same was issued in pursuance to the judgment of this Tribunal handed down on 08.01.2019 in service appeal No. 230/2018, the relief granted to the appellant was not in accordance therewith.


Learned counsel, when confronted with provision of Rule 23 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974, requested for conversion of instant appeal into an implementation petition.

The request of learned counsel appears to be justified in the facts and circumstances of the case. The appeal is, therefore, converted to an Execution Petition. The office shall accordingly renumber the matter and issue notices to respondents for 13.01.2020 before S.B.

Chairman 

13.01.2020

Petitioner in person and Sajid Superintendent for respondent No. 4 alongwith Addl. AG for the respondents present.

The representative of respondent No. 4 states that the judgment in Appeal No. 230/2018 will be implemented in letter & spirit <sup>within one month.</sup> The proceedings are, therefore, adjourned to 24.02.2020 for the purpose. 



Chairman 

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1346/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/10/2019	<p>The appeal of Mr. Pervez Khan presented today by Mr. Masood Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 15/10/19</p>
2-	16/10/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/12/19</u></p> <p> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No 1346 /2019  
Execution Petition No. 451/2019

Pervez Khan, Ex. District Accounts Officer, Battagram, Resident of House No. 16, Near Aysha Mumtaz Masjid, Narrian Tehsil and District, Abbottabad. (Appellant)

**VERSUS**

1. The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
4. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.

(Respondents)

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER NO. SO (ESTT/FD/1-55/2018/PSB DATED 07-05-2019, WHEREUNDER JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 08.01.2019 HAS NOT BEEN IMPLEMENTED IN LETTER AND SPIRIT.**

**INDEX**

S. No	Description	Flags	Pages
1	Memo of Appeal		1-3
2	Copies of Working Paper & Retirement Order.	"A&B"	4-9
3	Copy of promotion order of DAOs dated 03.10.2017	"C"	10
4	Copy of Service Tribunal Judgement/Order dated 08.01.2019	"D"	11-14
5	Copy of proforma promotion order dated 07.05.2019	"E"	15
6	Copy of Departmental Appeal/Representation dated 20.06.2019	"F"	16-17
7	Wakalatnama		

Appellant

Through

  
MASOOD KHAN

Advocate High Court Peshawar  
Room No. 4 Cooperative Building  
Opposite Government College,  
Peshawar Cell 03149034372



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 14/2019

Fervez Khan, Ex. District Accounts Officer, Battagram, Resident of  
House No 16, Near Aysa Muntas Masjid, Nawan Tehsil and District  
Abbottabad  
(Appellant)

VERSUS

1 The Government of Khyber Pakhtunkhwa, through Chief Secretary,  
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar  
2 The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.  
3 The Secretary to Government of Khyber Pakhtunkhwa, Establishment  
Department, Civil Secretariat Peshawar.  
4 The Secretary to Government of Khyber Pakhtunkhwa, Finance  
Department Civil Secretariat Peshawar.  
(Respondents)

NOT BEEN IMPLEMENTED IN LETTER AND SPIRIT  
WHEREUNDER JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 08.01.2019 HAS  
BEEN AGAINST THE OFFICE ORDER NO. 20 (ESTT)FD/1-22/2018/P28 DATED 07-02-2019,  
APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT

**INDEX**

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6	Copy of Departmental Appeal/Representation dated 20.06.2019	"F"	16-17
7	Waistbands		

Appellant  
Through

MASOOD KHAN  
Advocate High Court Peshawar  
Room No. 4 Cooperative Building  
Opposite Government College  
Peshawar Cell: 03149034372

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No 1346 12019 *Execution Petition No. 451/2019*

Pervez Khan, Ex. District Accounts Officer, Battagram, Resident of House No.16, Near Aysha Mumtaz Masjid, Narrian Tehsil and District, Abbottabad.

*Appeal is converted into E.P vide order sheet dt. 3-12-19*

Khyber Pakhtukhwa Service Tribunal

(Appellant)

Diary No. 1453

Dated 15-10-2019

**VERSUS**

1. The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
4. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.

(Respondents)

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER NO.SO(ESTT/FD/1-55/2018/PSB DATED 07-05-2019, WHEREUNDER JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 08.01.2019 HAS NOT BEEN IMPLEMENTED IN LETTER AND SPIRIT.**

**PRAYER IN APPEAL.**

**ON ACCEPTANCE OF THIS SERVICE APPEAL THE RESPONDENTS MAY VERY GRACIOUSLY BE DIRECTED TO MODIFY THEIR OFFICE ORDER DATED 07/05/2019 AND APPELLANT ALLOWED THE PROMOTION BENEFITS FROM ITS DUE DATE I.E. 02.12.2016 WHEN HE BECAME ELIGIBLE/ENTITLED FOR PROMOTION AS DISTRICT COMPTROLLER OF ACCOUNTS BPS-19 WITH BACK BENEFITS AS THE SAID ORDER HAS ATTRIBUTED DEPRIVATION/WITHDRAWAL OF ONE INCREMENT PREVIOUSLY ALLOWED AND DRAWN.**

**FACTS OF THE APPEAL:**

**RESPECTFULLY SHEWETH:**

1. That the appellant was a member of service cadre of Treasuries and Accounts, Khyber Pakhtunkhwa and due for promotion as District Comptroller of Accounts(BPS-19) w.e.f 02.12.2016 and Working Paper in this respect was also sent to the Establishment Department Khyber Pakhtunkhwa in early 2017 but no meeting of the Provincial Selection Board was held till the date of retirement of appellant on 16.06.2017, resultantly the appellant retired from service as District Accounts Officer, Battagram in BPS-18 (Copies of the Working Paper and retirement order are at annex A&B).
2. That the said meeting of Provincial Selection Board was held after retirement of the appellant and 4 District Accounts Officers BPS-18, junior than the appellant, were promoted/appointed to the post of District Comptroller of Accounts, having ignored the applicant, vide order No.SO(ESTT)FD/1-55/PSB/2017 dated 03.10.2017(Copy attached at annex-C).

*Filed to-day  
Registrar  
15/10/19*

3. That against the said order of promotion/appointments, a Review Petition/Appeal was preferred before the appellate authority for reconsideration but the same was regretted and as such a Service appeal No.230/2018 was filed in this honourable tribunal, which was accepted and the Respondents were asked to place the case of appellant before the Provincial Selection Board for proforma promotion (Copy of the Judgement/order dated 08.01.2019 is at annex-D).
4. That in light of judgement of the honourable tribunal, case of the appellant was placed before the Provincial Selection Board which allowed the proforma promotion from BPS-18 to BPS-19 but from "one day before the date of retirement" instead of due date as 02.12.2016 (Copy of promotion order is at annex-E).
5. That impugned order of promotion i.e. Grant of promotion one day before the date of retirement, is nowhere provided in the rules. It is also against spirit of the above cited judgement of this honourable tribunal.
6. That such type of promotion order from one day before retirement eliminated/attributed to a perpetual loss of one increment, which was previously allowed to the appellant for rendering more than 6 months service in the year of retirement.
7. That for the above reasons, a Departmental Appeal/Representation dated 20.06.2019 was preferred before the appellate authority, which was not responded during the statutory period of 90 days (Copy of the Departmental Appeal/Representation is at annex-F).
8. That as the said Departmental Appeal/Representation was not responded during the statutory period of 90 day, hence the instant service appeal, inter alia on the following grounds:-


**GROUND OF THE APPEAL.**

1. That judgement of the honourable tribunal in Service Appeal No. 230/2018 dated 08.01.2019 has not been implemented in letter and spirit in light of which the appellant was to be allowed proforma promotion, from the date when it was due i.e. 02.12.2016.
2. That the impugned promotion order has adversely affected the appellant, who has been deprived from his vested/accrued right of one increment, which was previously allowed for rendering more than 6 months service during the year of retirement. Such type of order is against the laws, rules and regulations as well as natural justice as the vested/accrued rights cannot be reversed or recalled in any case.
3. That the appellant has not been treated in accordance with law and his rights secured and guaranteed under the law and constitution have badly been violated as there was no any fault on the part of appellant, for holding the meeting of PSB at a belated date rather it was the responsibility of the concerned authorities to hold it at an early date, therefore the appellant cannot be penalized for the fault of others.
4. That the impugned order is quite silent as to how and under which rule the appellant was allowed promotion, one day before the date of retirement instead of its due date i.e. 02.12.2016. In certain cases the honourable Service Tribunal and Supreme Court

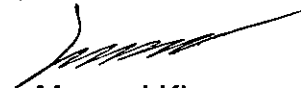
post became vacant or available. In the instant case, 7 vacant posts of DCA were available prior to the date of eligibility of the appellant for promotion.

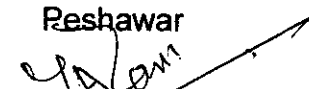
- 5. That on allowing the antedated promotion from the date of eligibility/availability of post, i.e. 02.12.2016, there would be no effect on the rights of others as all they have been promoted beyond the date of retirement of appellant. It will only benefit the appellant for higher pay scale for a few months and increase in pension.

In view of the above, it is requested that the respondents may graciously be directed for implementation of judgement of the honourable tribunal for proforma promotion of appellant from its due date with all back benefits as prayed for.

  
 APPELLANT


Through

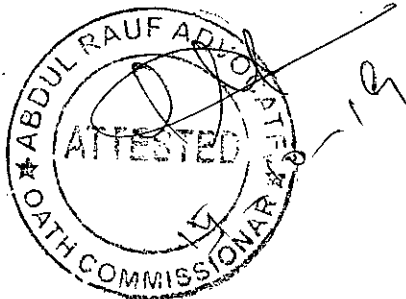
  
 Masood Khan  
 Advocate High Court  
 Peshawar

  
 Muhammad Azam  
 Advocate High Court  
 Peshawar

**AFFIDAVIT**

I Mr. Pervez Khan, Ex. District Accounts Officer, Battagram, do hereby solemnly affirm and declare on oath that contents of the above noted appeal are true and correct to the best of my knowledge and belief and nothing has wrongly been stated or concealed from this honourable Tribunal.

  
 Deponent



post became vacant or available in the instant case, 7 vacant posts of DCA were available prior to the date of eligibility of the applicant for promotion

2 That on allowing the antedated promotion from the date of eligibility/availability of post, i.e. 02.12.2016, there would be no effect on the rights of others as all they have been promoted beyond the date of retirement of applicant. It will only benefit the applicant for higher pay scale for a few months and increase in pension

in view of the above, it is requested that the respondents may graciously be directed for implementation of judgment of the honorable Tribunal for promotion of applicant from its due date with all back benefits as prayed for.

APPELLANT

Through

Masood Khan  
Advocate High Court  
Rawalpindi  
Muhammad Azam  
Advocate High Court  
Rawalpindi

AFFIDAVIT

I Mr. Pervez Khan, Ex District Accounts Officer, Bhatnagar, do hereby solemnly affirm and declare on oath that contents of the above noted appeal are true and correct to the best of my knowledge and belief and nothing has wrongly been stated or concealed from this honorable Tribunal.

Deponent



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

No:SO(ESTT)FD/1-55/2014/TRY/PSB

Dated Pesh: the 26-05-2017

4

Annex - A

To

The Section Officer (PSB)  
Govt:of Khyber Pakhtunkhwa,  
Establishment Department,  
Peshawar.

Subject:

**PROMOTION OF DISTRICT/AGENCY ACCOUNTS OFFICER, DEPUTY DIRECTOR AND TREASURY OFFICER (BS-18) TO THE POST OF DISTRICT COMPTROLLER OF ACCOUNTS (BS-19) ON REGULAR / ACTING CHARGE BASIS IN TREASURY ESTABLISHMENT**

I am directed to enclose Seven Copies of working papers on the above noted subject alongwith relevant documents in respect of each of the following officers of Khyber Pakhtunkhwa Treasuries & Accounts Establishment for information and further necessary action:-

S.#	Name
1.	Said Akbar
2.	Muhammad Imran
3.	Fazal Raziq
4.	Pervez Khan,
5.	Habib-ur-Rehman
6.	Shahid Pervez Bhatti
7.	Amanullah
8.	Muhammad Iqbal
9.	Muhammad Hanif
10.	Nawab Khan.
11.	Saeed ur Rehman.

*Attested*  
*[Signature]*

Section Officer (Estt-I)  
Govt: of Khyber Pakhtunkhwa  
Finance Department.

2. It is, therefore, requested that the case may kindly be placed before the Provincial Selection Board, for consideration.

Encl: (07 sets)

F.No.1-1-17P-253)

*[Signature]*  
(MUHAMMAD AMAN)  
SECTION OFFICER(ESTT:)

ATTESTED TO BE  
TRUE COPY



I-11, 11



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

WORKING PAPER  
FOR THE PROVINCIAL SELECTION BOARD.

Department Finance Treasury Establishment.

1. Nomenclature of the post/ Basic Scale District Comptroller of Accounts (BPS-19).  
2. Service/ Group/ Cadre. Treasury Provincial.  
3. Sanctioned strength of the cadre. 07

4. i) 

	Direct	Promotion	Transfer
Percentage of share	-	100%	-
ii) No. of posts allocated to each category	-	07	-
iii) Present occupancy in each category.	-	-	-
iv) No. of vacancies in each category.	-	07	-

v) How did the vacancy (ies) under Promotion quota accrue and since when?

- i) Three posts have been occupied on acting charge basis by Mr. Said Akbar, Mr. Muhammad Imran and Mr. Fazle Raziq S. No.1, 2 & 3 of the panel of officer (PSB-II).  
ii) Two posts are become vacant due to retirement of Mr. Shah Jehan, and Mr. Muhammad Riaz Awan (Annex-I & II).  
iii) Two due to promotion of Mr. Masood Khan and Mr. Nasrullah Khan as Director Treasuries & Accounts (Annex-III & IV)

vi) Recruitment Rules.

Khyber Pakhtunkhwa Treasuries (recruitment and appointments) rules 1981, amended upto 2011.

"By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Directors Treasury & Accounts/ District/ Agency Accounts Officers/Treasury Officers with at least 12 year service in BPS-17 and above" (Annex-V).

Section Officer (Estt-I)  
Govt. of Khyber Pakhtunkhwa  
Finance Department.

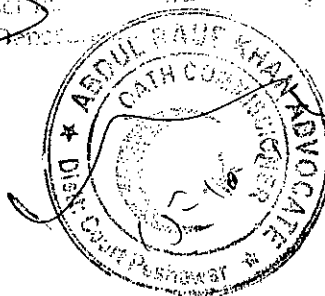
vii) Required length of service.

12 years

- viii) Whether to be promoted on regular basis or appointed on acting charge basis  
04 on regular basis  
03 on acting charge basis due to non completion of required length of service.
- ix) Mandatory training, if any  
x) Minimum required score on 60

Name (Shakeel Qadir Khan)  
Designation Secretary Finance  
Dated \_\_\_\_\_

F.No.PSB W.P.(DCAA/P-1)



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Seniority List

Sl. No	Name of officer with academic qualification	Date of birth and Domicile	Date of 1 <sup>st</sup> entry into Govt. service	Regular appointment/ Promotion to present posts			Present Appointment	Remarks
				Date	BPS	Method of recruitment		
1.	Said Akbar, B.A, SAS.	10-02-1964 Karak	14-10-1984	03-06-2002 22-03-2008	17 18	By promotion	DCA Kohat on acting charge basis	
2.	Muhammad Imran, B.A, SAS	14-04-1958 Mardan	09-02-1981	22-02-2003 22-03-2008	17 18	By promotion	DCA Bannu on acting charge basis	
3.	Fazal Raziq, B.A, SAS.	25-04-1958 Mardan	06-08-1981	22-02-2003 22-03-2008	17 18	By promotion	DCA Peshawar on acting charge basis	
4.	Pervez Khan, B.A, SAS.	17-06-1957 A.Abad.	22-08-1981	02-12-2004 22-03-2008	17 18	By promotion	DAO Battagram	
5.	Habib-ur-Rehman, B.A, SAS.	01-07-1957 Nowshera	05-05-1979	17-05-2006 22-03-2008	17 18	By promotion	DCA Swat in own pay & scale	
6.	Shahid Pervez Bhatti,	04-10-1959 A.Abad	06-07-1983	07-08-2007 22-03-2008	17 18	By promotion	DCA Abbottabad in own pay & scale	
7.	Amanullah B.COM. , SAS	Battagram	01-01-1965	22-03-2008 22-03-2008	17 18	By promotion	DCA DI Khan in own pay & scale	
8.	Muhammad Iqbal B.A. , SAS	Mardan	20-04-1958	22-03-2007 22-03-2008	17 18	By promotion	DCA Mardan in own pay & scale	
9	Muhammad Hanif D. Com , SAS	Abbottabad	22-02-1958	22-03-2008 22-03-2008	17 18	By promotion	District Officer (F&P) Abbottabad	
10	Nawab Khan B.A, SAS	Karak	01-09-1961	22-03-2007 22-03-2008	17 18	By promotion	Dy: Director Treasuries & Accounts	
11	Saeed ur Rehman B.A. SAS	Karak	10-01-1961	22-03-2008 22-03-2008	17 18	By promotion	Agency Accounts Officer Orakzai	

**NOTE:-** The post of District Accounts Officers were upgraded from BS-17 to BS-18 vide notification No.SO (Estt-I) / 1706/2008 dated 22-03-2008 (Annex-VI).

**Certificate:** Certified that the seniority list is final, notified undisputed and attested.

F.No.PSB.(W.P)(P-2)

ATTESTED TO BE  
TRUE COPY



Section Officer (Estt-I)  
Khyber Pakhtunkhwa  
Department.

*[Handwritten signature]*

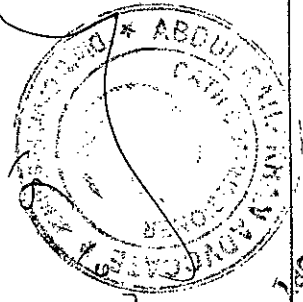
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**PANEL OF OFFICERS FOR CONSIDERATION**

**PSB-II**

S.#	Seniority No	Name of Officers with Qualification	Date of Birth	Date of Ist entry into Govt. Service	Date of appointment/promotion to BS-17	Date of Regular Appointment/promotion to the Present scale	Whether fulfill the prescribed length of service	Quantified scores	Missing PERs (if any)	Disciplinary proceeding (if any)	case (if any) in any court of Law including NAB/Plea bargaining with NAB	Mandatory training for promotion	Research paper	present posting	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
1	01	Said Akbar, B.A, SAS.	10-02-1964 Karak	14-10-1984	03.06.2002	22.03.2008	Yes	53.83	No	Disciplinary proceedings under process.	Involved in V.R. of Rs; 44,653/- with NAB.	Nil	Nil	DCA Kohat on acting charge basis	
2	02	Muhammad Imran, B.A, SAS	14-04-1958 Mardan	09-02-1981	22.03.2003	22.03.2008	Yes	56.04	No	No	No	Nil	Nil	DCA Bannu on acting charge basis	
3	03	Fazal Raziq, B.A, SAS.	25-04-1958 Mardan	06-08-1981	22.03.2003	22.03.2008	Yes	57.81	2013; 2014	02 Departmental inquiries under E&D Rules on accounts of irregularities are under process	No.	Nil	Nil	DCA Peshawar on acting charge basis	
4	04	Pervez Khan, B.A, SAS.	17-06-1957 A.Abad.	22-08-1981	02.12.2004	22.03.2008	Yes	61.86	No	No	No	Nil	Nil	DAO Battagram	
5	05	Habib-ur-Rehman, B.A, SAS.	01-07-1957 Nowshera	05-05-1979	17.05.2006	22.03.2008	No	54.55	No	No	No	Nil	Nil	DCA Swat in own pay & scale	
6	06	Shahid Pervez Bhatti,	04-10-1959 A.Abad	06-07-1983	07.08.2007	22.03.2008	No	58.78	No	No	No	Nil	Nil	DCA Abbottabad in own pay & scale	
7	07	Amanullah B.COM., SAS	Battagram	01-01-1965	22.03.2008	22.03.2008	No	41.66	No	02 formal inquiries under E&D Rules for drawal of irregular pay & allowances.	No.	Nil	Nil	DCA Dera Iskan in own pay & scale	



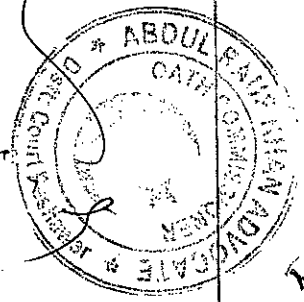
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Section Officer (B&T) Peshawar

Assistant Treasury Officer Peshawar

8

										are under process.					
8	08	Muhammad Iqbal B.A., SAS	Mardan	20-04-1958	22.03.2008	22.03.2008	No	45.30	No	No	No	Nil	Nil	DCA Mardan in own pay & scale	
9	09	Muhammad Hanif D. Com, SAS	Abbottabad	22-02-1958	22.03.2008	22.03.2008	No	58.78	No	No	No	Nil	Nil	District Officer (F&P) Abbottabad	
10	10	Nawab Khan B.A, SAS	01.09.1961	15.03.1986	22.03.2008	22.03.2008	No	52.69	No	No	No	Nil	Nil	Dy: Director Treasuries & Accounts	
11	11	Saeed ur Rehman. B.A. SAS	10.01.1961	25.03.1981	22.03.2008	22.03.2008	No	50.96	No	No	No	Nil	Nil	Agency Accounts Officer Orakzai	



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- i. Certified that the officers at S.No. 1 to 4 are eligible for regular promotion, however,
- ii. Officers at S.No.5 to 11 have not yet completed prescribed length of service, however, they are eligible for acting charge appointment.

*Attested*  
*Shakeel Qadir Khan*  
Section Officer (Estt-1)  
Govt of Khyber Pakhtunkhwa  
Finance Department.

*Attested*  
*Shakeel Qadir Khan*  
Section Officer (Estt-1)  
Govt of Khyber Pakhtunkhwa  
Finance Department.

*Attested*  
*M. P. Khan*  
Assistant Treasurer  
Peshawar

Name:  
Designation:  
Dated

*Shakeel Qadir Khan*  
Name: Shakeel Qadir Khan  
Designation: Secretary Finance  
Dated: \_\_\_\_\_

8



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 13-04-2017

Annex - B

9

OFFICE ORDER

No.SO(Estt)FD/1-32/2017/Pension/Trv. On attaining the age of superannuation Mr. Sardar Pervez Khan, District Accounts Officer (BS-18) shall stand retired from Government Service on 17-06-2017 (F.N) in terms of Section 13 (b) of the Khyber Pakhtunkhwa Civil Servant Act, 1973.

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Endst: No: & Date even

Copy forwarded for information to:

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. The Budget Officer-XI, Finance Department.
3. Mr. Sardar Pervez Khan, District Accounts Officer o/o Directorate of Treasuries & Accounts, Khyber Pakhtunkhwa
4. PS to Secretary Finance.
5. Office order file.

(MUHAMMAD AMAN)  
SECTION OFFICER(ESTT.)

*Amir*  
*[Signature]*

Asst. Secy Treasury & Accounts  
Peshawar

*AD - 2/5/17*

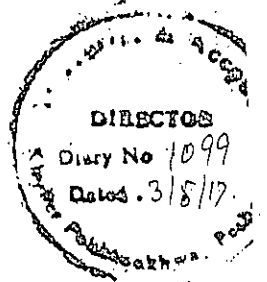
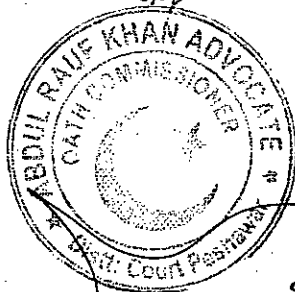
*AD [Signature]*

*AD [Signature]*

*pl. keep in his pension file*

*by 3/5/17*

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*15-10-17*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 03-10-2017

10  
Annex-C

**NOTIFICATION**

NO.SO (ESTT)FD/1-55/PSB/2017. On the recommendation of Provincial Selection Board, Khyber Pakhtunkhwa, the competent authority has been pleased to promote / appoint the following officers of Khyber Pakhtunkhwa Treasury Establishment from the posts of Deputy Director/District/Agency Accounts Officers/Treasury Officers (BS-18) to the post of District Comptroller of Accounts (BS-19) on regular / acting charge basis with immediate effect. The officer at S.No.1 will be on probation till retirement.

S.No.	Name of Officers
1.	Mr. Muhammad Imran on regular basis
2.	Mr. Shahid Pervez Bhatti on acting charge basis
3.	Mr. Muhammad Hanif on acting charge basis
4.	Mr. Nawab Khan on acting charge basis

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Endst: No. & Date even.

Copy forwarded to:-

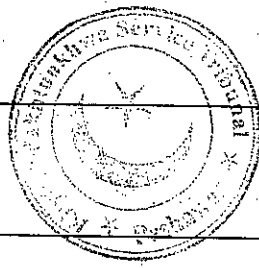
1. The Secretary to Govt: of Khyber Pakhtunkhwa Establishment Deptt: Peshawar.
2. The Accountant General Khyber Pakhtunkhwa Peshawar.
3. The Accountant General Pakistan Revenue, sub-office Peshawar.
4. The Director Treasuries and Accounts Khyber Pakhtunkhwa Peshawar.
5. All Divisional Commissioners in Khyber Pakhtunkhwa.
6. Deputy Commissioner, DIKhan, Bannu, Kohat, Peshawar, Mardan, Swat & A.Abad.
7. All DCAs/DAOs/AAOs in Khyber Pakhtunkhwa/FATA.
8. PSO to Chief Minister, Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa
10. PS to Secretary Finance.
11. Officers concerned.
12. Office Order file.

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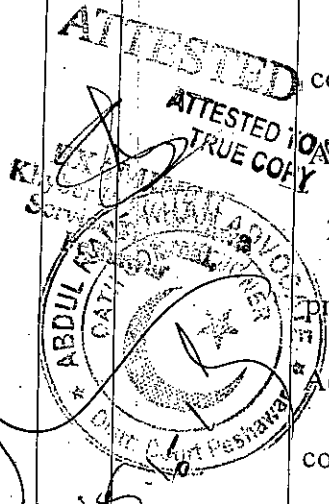


(MUHAMMAD AMAN)  
Section Officer (Estt)

Sr. No	Date of order/ proceeding s	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 230/2018</b></p> <p style="text-align: center;">Date of Institution ..... 19.02.2018  Date of Decision ..... 08.01.2019</p> <p>Parvez Khan Ex-District Accounts Officer, Battagram, R/o House No.16 Near Ayesha Mumtaz Masjid, Narrian Tehsil and District Abbottabad.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <ol style="list-style-type: none"> <li>Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.</li> <li>The Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Peshawar.</li> <li>The Secretary to Government of Khyber Pakhtunkhwa Finance Department Peshawar.</li> </ol> <p style="text-align: right;"><b>Respondents</b></p> <p>08.01.2019 Mr. Muhammad Hamid Mughal-----Member (J)  Mr. Hussain Shah-----Member (E)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned</p> <p>counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present.</p> <ol style="list-style-type: none"> <li>The appellant (Ex-District Accounts Officer) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 23.01.2018 whereby it was communicated to the appellant that his request to be considered for</li> </ol>		



11



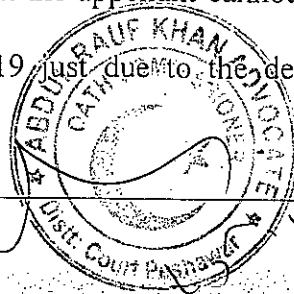
promotion for the post of District Comptroller of Accounts (BPS-19) cannot be acceded to, being not covered under the rules.

3. Learned counsel for the appellant mainly argued that prior to the retirement of the appellant on his attaining the age of superannuation, there were seven (07) vacant posts of District Comptroller of Accounts (BS-19) which were to be filled in from amongst the eligible officers and for this purpose the Administration Department also submitted a working paper for placing it before the Provincial Selection Board, in the early 2017; that the name of the appellant was also included and recommended in the said working paper. Next contended that the case of the appellant for promotion to BS-19 was initiated well before his attaining the age of superannuation but no meeting of Provincial Selection Board was held till the date of his retirement on 16.06.2017 and for which administrative failure the appellant cannot be made to suffer. Next contended that finally the meeting of PSB was held on 25.09.2017 and the appellant was not considered for promotion just for the reason of his retirement on 16.06.2017 and in his stead the officers junior to the appellant were promoted. Next contended that the appellant had completed prescribed length of twelve (12) year service in BS-17 & above and as such was fully qualified to be promoted to the post of District Comptroller of Accounts (BS-19).

Next contended that the appellant cannot be deprived of his right of promotion to BS-19 just due to the delay in convening the PSB meeting.

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4. As against learned Deputy District Attorney argued that the appellant was retired from Government service on 16.06.2017 while PSB meeting was held on 25.09.2017 therefore the appellant could not be considered for promotion as there is no provision in the rules regarding promotion of the retired officer.

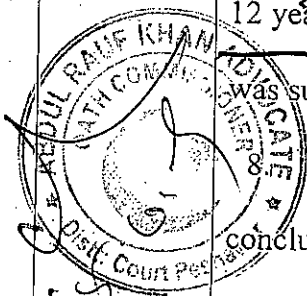
5. Arguments heard. File perused.

6. Admittedly there were seven (07) vacant posts of District Comptroller of Accounts in the year 2017 and working paper was also submitted in order to fill up these vacancies. Name of the appellant was also included in the working paper.

7. It is evident from the working paper and minutes of the PSB meeting dated 25.09.2017 that the post of District Comptroller of Accounts is to be filled in by promotion on the basis of "seniority cum fitness" from amongst the Deputy Director Treasury & Accounts/District/Agency Accounts Officer/Treasury Officer with at least 12 year service in BS-17& above. There is also no dispute that the appellant had already acquired the prescribed length of service of 12 years in BS-17& above when the above mentioned working paper was submitted and his name figured at serial no 4 of the seniority list.

In view of the above discussion, this tribunal reached to the conclusion that the appellant was not considered for promotion for no fault on his part but due to the delay in convening the PSB meeting.

9. Since the appellant should not be made to suffer for the delay in convening the meeting of PSB, the departmental authority is



ATTESTED

*[Signature]*  
 JATH COMPTROLLER  
 PESHAWAR

directed to refer the case of the appellant to the PSB for consideration for pro-forma promotion from BS-18 to BS-19. The present service appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

*(Signature)*  
 (Hussain Shah)  
 Member

*(Signature)*  
 (Muhammad Hamid Mughal)  
 Member

ANNOUNCED  
 08.01.2019

*(Signature)*  
 Certified to be true copy  
 District Court Peshawar

Date of Presentation of Appeal: 17-01-19  
 Number of Writs: 1600  
 Copying Fee: 10/-  
 Urgent: 10/-  
 Name of Counsel: *(Signature)*  
 Date of Copy: 28-1-19  
 Date of Delivery of Copy: 28-1-19

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*(Handwritten signature)*



15

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 07-05-2019



Finance Department Civil Secretariat Peshawar

<http://www.financekpp.gov.pk>

[facebook.com/GoKPPD](https://www.facebook.com/GoKPPD)

[twitter.com/GoKPPD](https://twitter.com/GoKPPD)

Annex - "E"

NOTIFICATION

NO:SO(ESTT)FD/1-55/2018/PSB. In pursuance of Khyber Pakhtunkhwa Service Tribunal Decision dated 08-01-2019, and recommendation of Provincial Selection Board, the competent authority has been pleased to approve proforma promotion of Mr. Pervez Khan Ex-District Accounts Officer BS-18 to the post of District Comptroller of Accounts BS-19 w.e.f. 16-06-2017 i.e. one day prior to his retirement.

SECRETARY FINANCE

Dated Pesh: the 07-05-2019.

No.SO(Estt)FD/1-55/2018/PSB

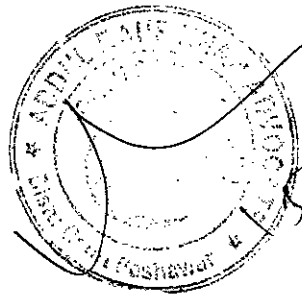
Copy forwarded to:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. The Budget Officer-XI, Finance Department.
3. The District Accounts Officer, Battagram.
4. Mr. Pervez Khan, H.No.16, Near Ayesha Mumtaz Masjid, Tehsil & District Abbottabad.
5. PS to Secretary, Finance Department, Peshawar.
6. PA to Deputy Coordinator (PIAC), Finance Department.

*Reminder on 24-05-2019 through Fax on DCA A/c.*

*(Signature)*  
SECTION OFFICER(ESTT-I)

E.No Order (P-588)  
[munir.khan@finance.gkp.pk](mailto:munir.khan@finance.gkp.pk)



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(091) 9211532

10  
11  
12  
13.

To

The Honorable Chief Minister,  
Khyber Pakhtunkhwa, Peshawar.

16

Annex-F

**Subject: REVIEW PETITION/APEAL AGAINST OFFICE ORDER NO. SO(ESTT)/FD 1-55/2018/PSB DATED 07.05.2019 WITH THE REQUEST FOR ISSUANCE OF PROMOTION ORDER TO THE POST OF DISTRICT COMPTROLLER OF ACCOUNTS BPS-19 IN LIGHT OF THE JUDGEMENT OF SERVICE TRIBUNAL WITH EFFECT FROM THE DATE OF ITS ADMISSIBILITY.**

Respected Sir,

1. With due respect, I beg to submit that the Provincial Government promoted/appointed 4 District Accounts Officers BPS-18 of the Treasuries and Accounts Service as District Comptroller of Accounts BPS-19 vide Secretary to Government of Khyber Pakhtunkhwa, Finance Department Notification No. SO(ESTT)FD/1-55/PSB/2017 dated 03.10.2017(copy attached at annex-I).

2. I was senior than those at S.No.2 to 4 of the Notification dated 03.10.2017 and as such I preferred a Revision Petition/Appeal before your kind honour for consideration but the same was regretted vide letter No.SO(ESTT)/FD/1-55/017/Appeal dated 23.01.2018(copies of Appeal and rejection order are attached as annex-II&III).

3. Against the above stated rejection order of Revision Petition/Appeal, a Service Appeal No.230/2018 was filed in the Khyber Pakhtunkhwa Service Tribunal, which was accepted in favour of the appellant and the Respondent Departments were directed to place the same before the Provincial Selection Board vide judgment dated 08.01.2019 (copy of the judgment is attached as annex-IV).

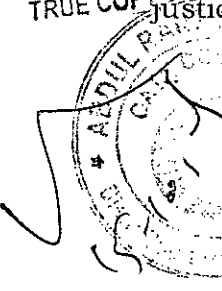
4. In light of the judgment of Service Tribunal the case was placed before the Provincial Selection Board and the appellant was allowed BPS-19, "One day before the retirement" i.e.16.06.2017 vide Order No. SO(ESTT)/FD 1-55/2018/PSB dated 07.05.2019 received/obtained through Fax of the DCA Abbottabad on 24.05.2019(copy of the order dated 07.05.2019 is attached as annex-V).

5. The matter for re-fixation of pay in BPS-19 was taken up with the District Accounts Officer Battagram, who advised for issuance of an office order of promotion against a vacant post of DCA B-19 for the purpose of actualization or creation of a supernumerary post for one day, for the purpose. A copy of the DAO Battagram letter No.PR-II/DAO/BM/2018-19/2196-99 dated 12.06.2019 is attached as annex-VI)

6. The above mentioned order for allowing BPS-19 from 16.06.2017 instead of actual date of admissibility is totally against the above stated judgment of the Service Tribunal, other judgements of the superior courts as well as against the natural justice, for the below noted reasons:-

That admittedly there were 7 vacant posts of DCAs BPS-19 since long and my name was appearing at Serial No 4 of the seniority list. I was due for Acting Charge Appointment w.e.f 02.12.2013 and regular promotion as District Comptroller of Accounts BPS-19 w.e.f 02.12.2016, however the Department could not processed the case for acting charge appointment and regular promotion well in time. The Working Paper for appointment/promotion was late submitted to the Establishment Department Khyber Pakhtunkhwa in early 2017, (copies of the working paper & seniority list are at annex-VII & VIII).

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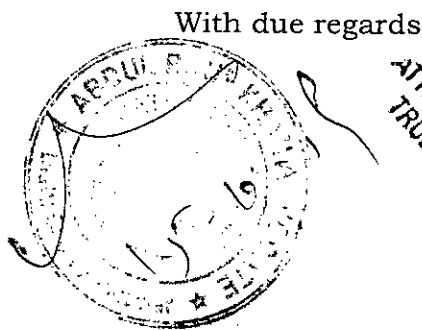


- ii. That there was no dispute about my seniority position or eligibility for appointment/promotion and as such my name was recommended for promotion as District Comptroller of Accounts BPS-19 against a clear cut vacant post, but due to non-holding of meeting of the Provincial Selection Board, my promotion case could not be materialized till the date of my retirement on 16.06.2017(AN).
- iii. That admittedly, I was due for appointment/promotion since availability of posts and must have been appointed/promoted from the date from which vacant posts were also available.
- iv. That the appellant cannot be penalized for any delay caused due to any administrative or other reasons. The instant order for allowing BPS-19 from one day before the date of retirement is quite unjustified, against the natural justice and judgements of superior courts. In certain cases the Service Tribunal and Supreme Court of Pakistan have held that promotion will take place from the date when such higher post became vacant/available. In this connection copies of 1985 SCMR 1158, judgment of Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.1389/1999 duly upheld by August Court through Judgment in Civil Petition No.67-P/2003 and copy of 2013 SCMR 544 are at annex- IX to X)
- v. That it is important to point out that allowing BPS-19 from 16.06.2017, it will give me a perpetual loss of one full increment as in that case 6 months period for grant of increment in the year of retirement will not be completed i.e. retirement after one day of promotion in BPS-19.
- vi. That there is no provision in the rules for allowing such type of promotion i.e. one day before retirement instead of actual date of admissibility.
- vii. That on allowing the antedated promotion from the date of eligibility, there would be no effect on the rights of others as all they have been promoted/appointed beyond the date of my retirement. It will only benefit the appellant for higher pay scale for a few months and increase in pension.

In view of the above it is earnestly requested that the above stated office order may kindly be revised/reviewed in light of judgment of the honourable Service Tribunal dated 08.01.2019, as under:-

1. Appointment on Acting Charge basis as DCA BPS-19 w.e.f 02.12.2013 when 09 years' service in BPS-17 and above is completed.
2. Regular promotion as DCAs BPS-19 w.e.f 02.12.2016 when 12 years service in BPS-17 and above is completed.
3. An office order for appointment/promotion against the vacant post of DCA BPS-19, preferably as DCA Abbottabad (My home town) may kindly be issued, as advised by the DAO Battagram.

Dated: 20-06-2019






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Yours Obediently

( PERVEZ KHAN )

Ex. District Accounts Officer  
Battagram r/o H.No.16  
Near Aysha Mumtaz Masjid Narrian Cantt  
Tehsil & Distt: Abbottabad  
Ph 03219836370

قیمت 50 روپے	29907			
ایڈوکیٹ: مسعود خان، محمد اعظم ایڈووکیٹس اینڈ بار کونسل ایسوسی ایشن نمبر: 14-5247-15 رابطہ نمبر: 10 59629 0300 5957675/0300		پشاور بار ایسوسی ایشن، خیبر پختونخوا		

بعدالت جناب: مسروس ٹریبونل خیبر پختونخواہ ایشاور

منجانب: پیرونیہ خان	دعوی: مسروس ایپل
پیرونیہ خان ایلیسی ڈسٹرکٹ ایگرونیسی ایسڈ بیگرا ۳	علت نمبر:
بنام	مورخہ:
حکومت خیبر پختونخواہ وغیرہ	جرم:
	تھانہ:

## باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام ایشاور کیلئے مسعود خان، محمد اعظم ایڈووکیٹس اینڈ کوویل مقرر کیا گیا ہے کہ اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 15-10-2019

المقام ایشاور کے لیے منظور ہے۔

Accepted

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔





Pervez Khan

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

In the matter of  
Execution Petition No. 451/2019  
Pervez. Ex District Accounts Officer, Battagram

**Versus**

Government of Khyber Pakhtunkhwa and others  
Implementation Report on behalf of Secretary Finance (Respondents No.04)

**Respectfully Sheweth.**

**ON FACTS:**

1. No Comments pertain to record.
2. The appellant was retired from service on 16.06.2017. The meeting of the Provincial Selection Board (PSB) was held on 25-09-2017. As the appellant was not in active service on the date of PSB meeting and there was no provision in rules regarding the promotions of retired Govt: servants. Therefore, the appellant was not considered for promotion.
3. No comments pertain to record.
4. In the light Khyber Pakhtunkhwa Services Tribunal Judgement Provincial Selection Board in its meeting held on 25-09-2017 recommended notional promotion to the appellant w.e.f. 16-06-2017, one day prior to his retirement and accordingly his promotion order was issued. Therefore, the decision of the Service Tribunal was implemented in letter and spirit. Moreover, promotions always made/ notified with immediate effects after the approval of competent authority and not from the date of occurrence of vacancy.
5. Incorrect. The Services Tribunal directed for consideration the case of appellant for pro-forma promotion, without mentioning the date of promotion. Accordingly the appellant has been considered and promoted before his retirement. Therefore, the Judgement of the Services Tribunal has been implemented in letter and spirit.
6. Incorrect. The appellant prayed for promotion and not for grant of increment. Accordingly he was promoted to the post of District Comptroller of Accounts BS-19, in the light of services tribunal judgement and he has been granted increment and all the benefits of promotion as allowed under the rules.
7. Incorrect. His appeal was considered and regretted being not covered under the rules (Annex-I).
8. As per para-7 above of the facts.

## **ON THE GROUNDS**

1. Incorrect. The judgement of the Services Tribunal has been implemented in letter and spirit and the appellant has been granted promotion on notional basis with full benefits of promotion as allowed under the rules. According to para-VII of the Khyber Pakhtunkhwa Civil Servants promotion policy, 2008 promotions will always be notified with immediate effect (Annex-II). Only under para-VIII of the said policy civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired. Therefore, the plea of the appellant regarding promotion from due date is not tenable, as large number of employees are promoted every year from the date of notification / with immediate effect. If the appellant is granted the benefit of promotion from due date, all the other retired / in service employees will also claim their promotions from the due dates.
2. Incorrect. The appellant has been granted full benefits of promotion as allowed under the rules. No violation of any law/rules have been made.
3. Incorrect. The appellant has not mentioned any law/rule which has been violated. He has been treated strictly in accordance with law and allowed all benefits of promotion, as if he was promoted just before his retirement.
4. Incorrect. No rules allowed promotion to a retired Government servant. The appellant was promoted in the light of court/tribunal judgement.
5. Incorrect. There is no provision in the rules for antedated promotion. In case the appellate was granted antedated promotion other employees will also claims for similar treatment.

In view of above, it is therefore, most humbly prayed that the petition being devoid of merit may kindly be dismissed.

  
**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA,  
FINANCE DEPARTMENT  
(RESPONDENT NO.04)**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar <http://www.financekpp.gov.pk> facebook.com/GoKFPD twitter.com/GoKFPD

NO:SO(ESTT-I)FD/1-55/2014/PSB/Pervez/

Dated Pesh: the 31-12-2019

To

Mr. Pervez Khan,  
Ex-District Accounts Officer, Battagram.  
R/O H.No.16, Near Aysha Mumtaz Masjid  
Narrian Abbottabad.

31/12/19

Subject: REVIEW PETITION / APPEAL AGAINST OFFICE ORDER NO.SO(ESTT)FD/1-55/2018/PSB/ DATED 07-05-2019 WITH THE REQUEST FOR ISSUANCE OF PROMOTION ORDER TO THE POST OF DISTRICT COMPTROLLER OF ACCOUNTS BPS-19 IN LIGHT OF THE JUDGMENT OF SERVICE TRIBUNAL WITH EFFECT FROM THE DATE OF ITS ADMISSIBLY

I am directed to refer to your Petition dated 20-06-2019 on the subject noted above and to state that your request has been considered and regretted by the Competent Authority, being not covered under the rules / policy.

o/c

31/12/19  
Section Officer(Estt-I)

Endst. No. & date even.

Copy forwarded for information to:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. P.A to Provincial Coordinator (PIAC), Finance Department.

31/12/19  
Section Officer(Estt-I)

VI. **Date of Promotion:**

Promotion will always be notified with immediate effect.

VII. **Notional Promotion:**

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. **Promotion of Civil Servants who are awarded minor penalties.**

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. **Promotion in case of pending investigations by NAB:**

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

*Yours faithfully,*

*Amir* 28 Jan, 09  
( MUHAMMAD ABID MAJEED )  
Special Secretary (Regulations)



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 451/2019

Pervez Khan, Ex. District Accounts Officer, Battagram, Resident of House No.16, Near Aysha Mumtaz Masjid, Narrian Tehsil and District, Abbottabad.

(Appellant)

**VERSUS**

The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa and others.

(Respondents)

**REPLY TOWARDS THE IMPLEMENTATION REPORT FILED/SUBMITTED BY THE RESPONDENTS IN CONNECTION WITH EXECUTION PETITION NO. 451/2019 REGARDING JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 08.01.2019.**

**INDEX**

S. No	Description	Annex	Pages
1	Reply towards implementation report		1-3
2	Copy of minutes of PSB dated 05.09.2012	"G"	4-8
3	Copy of Fundamental Rule-17	"H"	9
4	Copy of FD circular letter dated 24.12.1999	"I"	10

Appellant

Through

MASOOD KHAN

Advocate High Court Peshawar  
Room No. 4 Cooperative Building  
Opposite Government College,  
Peshawar Cell 0333-9327175

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

Execution Petition No. 451/2019

Pervez Khan, Ex. District Accounts Officer, Battagram, Resident of House No.16, Near Aysha Mumtaz Masjid, Narrian Tehsil and District, Abbottabad.

**(Appellant)**

**VERSUS**

The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa and others.

**(Respondents)**

**REPLY TOWARDS THE IMPLEMENTATION REPORT FILED/SUBMITTED BY THE RESPONDENTS IN CONNECTION WITH EXECUTION PETITION NO. 451/2019 REGARDING JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 08.01.2019.**

**RESPECTFULLY SHEWETH:**

Para wise reply towards the implementation report filed by the Respondents is as under:-

**ON FACTS:**

1. No comments.
2. Correct only to the extent of date of retirement and meeting of PSB on 16.06.2017 and 25.09.2017 respectively. So for as plea of the respondents for nonexistence of provision in the rules for retired employees is concerned, the same is totally incorrect, as detailed below:-
  - 1) The appellant was due for promotion since very long but no meeting of the PSB was arranged or held during last 5 years, which attributed the deferment of promotion, for no fault of appellant (copy of the minutes of last meeting of PSB dated 05.09.2012 is at annex-G).
  - 2) After amendment in Rule-17 of the Fundamental Rule, the retired Government Servants have specifically been provided the benefit of Proforma promotion along with arrears of pay and allowances (Copy of FR-17 is at annex-H).
  - 3) The honourable Supreme Court of Pakistan in the judgement contained in 2013 SCMR has held entitled the employees from the date when the vacancy was available. Similarly in another case, reported in 2016 SCMR 871, the honourable court also held that proviso to FR-17 entitles the Petitioner for pro forma promotion as well as authorizes the competent authority to give proforma promotion to the Petitioner after retirement. The honourable Peshawar High Court Judgement 2018 PLC (CS) Note 170 also speaks in the same manner.
  - 4) This honourable Tribunal judgement dated 24.09.2002 in Service Appeal No.1389/1999 duly upheld by the apex court in Civil Petition No.67-P/2003 also allowed the promotion from retrospective date, from which the post was vacant.

3. No Comments.

4-8. Comments of the respondents contained in the implementation report has no nexus with the relevant laws and rules rather it violates the same, as detailed below:-

1. That right of promotion as provided under Section 9 of the Khyber Pakhtunkhwa Civil Servant Act 1973 has been deserted and appellant deprived of his due right of promotion for non-convening of meeting of PSB for years.
2. The provision of FR-17 and judgements of the superior courts have been violated by allowing proforma promotion from "one day before the date of retirement" instead of its due date.
3. There is no any provision in the laws/rules for allowing such type of promotion i.e One day before retirement.
4. The impugned order also violated the principle of Locus poenitentiae, as such type of promotion order from one day before retirement eliminated/attributed to a perpetual loss of one increment, which was previously allowed to the appellant for rendering more than 6 months service in the year of retirement.
5. This honourable Tribunal has ordered for the grant of proforma promotion, which obviously means the grant of promotion from its due date.

#### GROUNDS

1. (i). The respondents failed to support their illegal act of allowing promotion from one day before retirement, which has adversely affected the appellant and deprived him from his vested/accrued right of one increment, which was previously allowed and availed under a valid order, contained in Government of Khyber Pakhtunkhwa Finance Department Circular Letter No. FD(PRC)1-1/99 dated 24.12.1999 for rendering more than 6 months service during the year of retirement (Copy of the FD letter dated 24.12.1999 is at annex-I ).
- (ii). Such type of promotion order is against the laws, rules and regulations as well as natural justice as under the principle of Locus poenitentia vested/accrued rights cannot be reversed or recalled in any case.
- (iii). The impugned order is quite silent as to how and under which rule the appellant was allowed promotion, one day before the date of retirement instead of its due date.
- (iv). The order is also <sup>against</sup> the provision of FR-17 which provides the promotion from previous due date along with arrears.
- (v). In certain cases this honourable Tribunal and Supreme Court of Pakistan have held that promotion will take place from the date when such higher post became vacant or available. In the instant case, admittedly 7 vacant posts of DCA were available prior to the date of eligibility of the appellant for promotion.
- (vi). That on allowing the antedated promotion from the date of eligibility/availability of post, there would be no effect on the rights of others as all they have been promoted beyond the date of retirement of appellant. It will only benefit the appellant for higher pay scale for a few months and increase in pension.

- 2. (i) In correct. The implementation report is quite silent towards the question of deprivation of appellant from one increment due to illegal orders of promotion from one day before retirement, which was the result of promotion in an improper/illegal manner.
- (ii) The said order is also silent towards deprivation of appellant from payment of arrears of pay and allowances in light of FR-17.


3-4. As per Para 4-8 of Facts and 1-2 of Grounds.


- 5. In correct. The laws/rules and judgements of the superior courts, quoted above fully authorize the appellant for antedated promotion. Further no one can be deprived from his due rights on the plea that others will also claim the same.

In view of the above, it is requested that the respondents may graciously be directed for implementation of judgement of the honourable tribunal for proforma promotion of appellant from its due date with all back benefits as prayed for.

  
APPELLANT

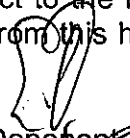
Through

  
Masood Khan  
Advocate High Court  
Peshawar

  
Muhammad Azam  
Advocate High Court  
Peshawar

**AFFIDAVIT**

I Mr. Pervez Khan, Ex. District Accounts Officer, Battagram, do hereby solemnly affirm and declare on oath that contents of the above noted reply are true and correct to the best of my knowledge and belief and nothing has wrongly been stated or concealed from this honourable Tribunal.

  
Deponent



Reminder

To

The Section Officer (Estt),  
Govt: of Khyber Pakhtunkhwa,  
Finance Department.

*MRP*  
5/4/18

(4)

Annex - G

Subject: **REQUEST FOR GRANT OF COPIES OF WORKING PAPER & MINUTES OF THE MEETING ABOUT PROMOTION OF DISTRICT ACCOUNTS OFFICERS TOWARDS DISTRICT COMPTROLLER OF ACCOUNTS.**

Please refer to the subject and to state that the under signed has requested your good office vide an application on the above noted subject dated 08-03-2018 for provision of copies of certain documents for PSB for the posts of District Comptroller of Accounts which have been provided by your good self for which I am thankful to you but unfortunately, copies of working papers along with relevant documents/annexures for the last PSB for promotion of District Accounts Officers to the post of District Comptroller of Accounts (B-19) have so far not been provided.

It is, therefore, requested that proper date with copies of working papers along with relevant documents/annexures for the last PSB for promotion of District Accounts Officers to the post of District Comptroller of Accounts (B-19) may kindly be provided please.

I shall be highly obliged to you.

Dated: 05-04-2018

*H*  
Your Faithfully,  
Habib-Ur-Rehman  
*H*  
Ex-District Comptroller of Accounts  
Swat

Address: Village & P/o Pir Piai, Mohala Sadri  
Khel, Tehsil & District Nowshera.  
Cell No. 0301-8342018



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

No: SO(ESTT/FD/1-55/2017/T&A/Appeal

Dated Pesh: the 21.05-2018

5

To

Mr. Habib-ur-Rahman,  
Ex- District Comptroller Accounts,  
Swat.

Subject

**REQUEST FOR GRANT OF COPIES OF WORKING PAPER &  
MINUTES OF THE MEETING ABOUT PROMOTION OF  
DISTRICT ACCOUNTS OFFICER TOWARDS DISTRICT  
COMPTROLLER OF ACCOUNTS**

I am directed to refer to your application dated 05.04.2018 on the subject and to enclose herewith the requisite working papers alongwith relevant documents as desired.

Encl: As above

*RAP/Estt/21/5/08*  
Section Officer (Estt.)

**CONFIDENTIAL  
IMMEDIATE**



**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT**

6

No. SO(PSB)ED/1-5/2012/P-35  
Dated Peshawar, the 17.09.2012

To

The Secretary to  
Government of Khyber Pakhtunkhwa,  
Finance Department.

SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION  
BOARD HELD ON 05.09.2012

PROMOTION OF DEPUTY DIRECTOR TREASURIES &  
ACCOUNTS/DISTRICT ACCOUNTS OFFICER / TREASURY  
OFFICER BS-18 TO THE POST OF DISTRICT COMPTROLLER  
OF ACCOUNTS BS-19.

Dear Sir,

I am directed to refer to Finance Department letter No.SO(ESTT)FD/1-55/2011 dated 26.03.2012 on the subject and to forward herewith an extract of item No.17 of the minutes/recommendations of the meeting of Provincial Selection Board held on 05.09.2012 for further necessary action/obtaining approval of the competent authority.

Yours faithfully

*(Signature)*  
**(JAN SAID)**  
SECTION OFFICER (PSB)

Encl: As Above  
Endst. of even No. & date.

A copy is forwarded to the Section Officer (ESTT-I), Govt of Khyber Pakhtunkhwa, Finance Department. He is requested to depute his representative to collect working papers from this office immediately.

Secretary Finance  
Khyber Pakhtunkhwa  
Diary No. 13822  
Date 18/9/12

*(Signature)*  
SECTION OFFICER (PSB) ASST

*(Signature)*  
SO(ESTT)

*(Signature)*  
20/9/2012

*Pl. Pkhtnk Summary for  
C.M. for approval of  
M.S.*

ITEM NO.17

**FINANCE DEPARTMENT**  
Meeting of PSB held on 05.09.2012)

SUBJECT: - APPOINTMENT OF DEPUTY DIRECTOR TREASURIES & ACCOUNTS/DISTRICT ACCOUNTS OFFICERS, TREASURY OFFICER BS-18 TO THE RANK OF DISTRICT COMPTROLLER OF ACCOUNTS BS-19 ON ACTING CHARGE BASIS.

Secretary Finance apprised the Board that due to up-gradation and retirement of officers, four (4) posts of District Comptroller of Accounts BS-19 are lying vacant. Besides two posts have become vacant on temporary basis due to posting of BS-19 officers of the cadre on ex-cadre posts.

2. According to service rules, the post is required to be filled as under:-

"By promotion on the basis of seniority-cum-fitness from amongst the Deputy Director Treasury and Accounts / District / Agency Accounts Officer / Treasury Officer with at least 12 years service in BS-17 and above".

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

S.NO	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1	Mr. Fazal Wahab	His date of birth is 06.06.1956. He joined government service on 25.08.1982. He was promoted to BS-17 on 06.03.2002 and to BS-18 on 22.03.2008. He has not yet completed the prescribed length of service for promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.  The Board recommended the officer for appointment to the post of District Comptroller of Accounts BS-19 on acting charge basis.
2	Mr. Said Akbar	His date of birth is 10.02.1964. He joined government service on 14.10.1984. He was promoted to BS-17 on 3.6.2002 and to BS-18 on 22.3.2008. He has not yet completed the prescribed length of service for promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.

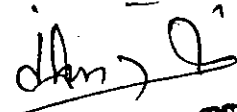
Attest

*[Signature]*  
Section Officer (PSB)  
Govt. of Khyber Pakhtunkhwa  
Establishment Department



		<p>The Board recommended the officer for appointment to the post of District Comptroller of Accounts BS-19 on acting charge basis.</p>
3	Mr. Muhammad Imran	<p>His date of birth is 14.04.1958. He joined government service on 09.02.1981. He was promoted to BS-17 on 22.02.2003 and to BS-18 on 22.03.2008. He has not yet completed the prescribed length of service for promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to the post of District Comptroller of Accounts BS-19 on acting charge basis.</p>
4	Mr. Fida Muhammad	<p>His date of birth is 01.09.1956. He joined government service on 07.04.1977. He was promoted to BS-17 on 22.02.2003 and to BS-18 on 22.03.2008. He has not yet completed the prescribed length of service for promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to the post of District Comptroller of Accounts BS-19 on acting charge basis.</p>
5	Mr. Fazal Raziq.	<p>His date of birth is 25.04.1958. He joined government service on 06.08.1981. He was promoted to BS-17 on 22.02.2003 and to BS-18 on 22.03.2008. He has not yet completed the prescribed length of service for promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to the post of District Comptroller of Accounts BS-19 on acting charge basis.</p>

Attested.

  
**Section Officer (PSB)**  
Govt. of Khyber Pakhtunkhwa  
Establishment Department

9

Ammed - H

*Government decision.*-- Permanent transfers from a higher to a lower scale in anticipation of the abolition of a post are not transfers within the meaning of F. R. 15.

(G.I., F.D. letter No. F-452-R. I/27, dated the 1st February, 1928.)

F. R. 16. A Government servant may be required to subscribe to a provident fund, a family pension fund or other similar fund in accordance with such rules as the Governor-General may by order prescribe.

F. R. 17. (1) Subject to any exceptions specifically made in these rules and to the provisions of sub-rule (2), an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties \*[:]

\*[Provided that the President may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through pro forma promotion or upgradation arising from the ante-dated fixation of his seniority.]

(2) The date from which a person recruited overseas shall commence to draw pay on first appointment shall be determined by the general or special orders of the authority by whom he is appointed.

[For Administrative Instructions issued by the Governor-General regarding "CHARGE OF OFFICE" and "LEAVING JURISDICTION", see Part II of Appendix No. 3 in Volume II of this Compilation.]

*Orders issued by the Governor-General under Fundamental Rule 17(2).* - With reference to clause (2) of this rule, the Governor-General has decided that the pay of officers recruited overseas who are entitled to a first class passage to Pakistan, shall commence from the date of disembarkation, subject to their proceeding to take up their duties without avoidable delay. In the case of officers who receive a second class passage, pay shall commence from the date of embarkation for Pakistan.

*Audit Instructions --*

(1) A Government servant will begin to draw the pay and allowances attached to his tenure of a post with effect from the date on which he assumes the duties of that post if the charge is transferred before noon of that date. If the charge is transferred after noon, he commences to draw them from the following day. This rule does not, however, apply to cases in which it is the recognised practice to pay a Government servant at a higher rate for more important duties performed during a part only of a day.

[Para. I, Chap. III, Sec. I of Manual of Audit Instructions (Reprint.)]

\* In rule 17, in sub-rule (1) at the end fullstop subs. by colon and thereafter proviso added by the S.R.O. 1092 (I)/95, dt. 6th Nov., 1995, Gaz. of Pak., Extr., Pt. II, dt. Nov. 13, 1995.

Amred - 9

10

GOVERNMENT OF N.W.F.P.  
FINANCE, EXCISE & TAXATION DEPT.

NO. FD (PRC) 1-1 / 99

Dated Peshawar the, Dec. 24, 1999.

To

1. All Administrative Secretaries to Govt. of NWFP, Peshawar.
2. The Senior Member Board of Revenue NWFP.
3. The Secretary to Governor NWFP, Peshawar.
4. The Secretary to Chief Minister, NWFP.
5. The Secretary, Provincial Assembly, NWFP.
6. All Heads of Attached Departments NWFP.
7. All the Commissioners/Deputy Commissioners/Political Agents/District and Session Judges NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Chairman, Service Tribunal NWFP, Peshawar.
10. The Chairman, NWFP, Public Service Commission.
11. The Secretary, Board of Revenue, NWFP, Peshawar.

SUBJECT: - GRANT OF USUAL INCREMENT IN THE YEAR OF RETIREMENT.

Sir,

I am directed to refer to the subject noted above and to say that under Rule 7 of NWFP, Civil Services Pay Revision Rules 1978, the increments in pay scales shall fall due on first day of December, following the completion of at least six months service at a stage in the relevant pay scale.

2. It has been decided that a retiring civil servant shall be entitled to the usual annual increment, for the purpose of calculation of his pension only, on completion of six months service in the year of his retirement, irrespective of due date of 1st Dec. following the completion of six months.

3. The above decision shall be effective from the calendar year 1998.

Your obedient servant

( ABDUS SAMAD KHAN )  
ADDITIONAL FINANCE SECY. I

DISTRICT CONTROLLER OF ACCOUNTS  
27/11/99  
ENDS  
ASBY:ADEN.

Copy forwarded for information to:-

1. All the Heads of Autonomous/Semi Autonomous Bodies/Corporations in NWFP.

( MUHAMMAD KHAN )  
DEPUTY SECRETARY ( REG. )

ENDST.NO & DATE EVEN.

Copy forwarded for information to :-

1. The Accountant General, NWFP, Peshawar.
2. All the District/Agency Accounts Officers in NWFP
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The P.S. to Secretary, P.As to Additional Finance Secretaries in Finance Department.
6. The Director, Local Fund Audit, NWFP, Peshawar.
7. All the Budget / Section Officers in Finance Department.

*R. Rashid Khan*

( RASHID KHAN )

SECTION OFFICER ( SR.I )

N.A. KHANIL\*

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

In the matter of  
Execution Petition No. 451/2019  
Pervez. Ex District Accounts Officer, Battagram

**Versus**

Government of Khyber Pakhtunkhwa and others

**REPLY TO THE RE-JOINDER FILED BY THE APPELLANT IN THE  
EXECUTION PETITION NO. 451/2019.**

Respectfully Sheweth.

**ON FACTS:**

1. Need no Comments.
2. The appellant declared the submissions of this Department incorrect but did not provide the Rules regarding retrospective effect. However, parawise replies to the petition are as under:-
  1. Not correct. The appellant was become eligible for promotion on 02-12-2016. Preparation of working papers need certain documents like Performance Evaluation Reports, detail of vacant post, documentary proof regarding sanctioned strength and final seniority lists of the year therefore the working paper for promotion were submitted on 26.05.2017 therefore, the delay cannot be termed as "long period" or 05 years. Furthermore, the none of his junior was appointed as DCA, BS-19 on acting charge basis by PSB in its meeting held on 05-09-2012 nor acting charge appointment can be claimed as a right.
  2. The provisions at FR-17 also provide that if the President (authorities) satisfied that a civil servant who was entitled to be promoted from a particular date was for no fault of his own wrongfully prevented from rendering service to the Federation in higher post, direct that such civil servant shall be paid the arrears of pay. In the instant case, other officers even senior to the appellant were also eligible therefore, the delay cannot be termed intentional.
  3. The promotion cases are not delayed intentionally. Such cases needs preparation / completion of certain documents and approval of competent authorities which take sufficient time.
  4. The orders of the Hon'ble Tribunal were implemented in its true prospect.
3. Need no comments.
4. Not correct. The comments were prepared in light of the existing rules and and submitted to the Hon'ble Tribunal after approval from the relevant forum. Replies to sub-paras are as under:-
  1. In-correct. The appellant has been given his full rights by giving promotion after retirement.
  2. As explained in the preceding paras.
  3. The promotion case of the Treasuries & Accounts was initiated soon after the officers becomes entitled, the promotion case was initiated, however, the process took some time due to preparation / completion of certain documents.

4. In-correct. The appellant prayed for promotion which has been granted in light of the orders of the Hon'ble Tribunal. Certain other officers were also eligible for promotion while according to FR-17 when a person is wrongly prevented of his right, while in the instant case, the eligible officers were deprived intentionally rather the case was processed well in time.
5. Not comments.

### **ON THE GROUNDS**

1. (i) In-correct. The judgement of the Services Tribunal has been implemented in letter and spirit and the appellant has been granted promotion on notional basis with full benefits of promotion as allowed under the rules. According to para-VII of the Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009 promotions will always be notified with immediate effect (Annex-I). Only under para-VIII of the said policy civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired. Therefore, the plea of the appellant regarding promotion from due date is not tenable, as large number of employees are promoted every year from the date of notification / with immediate effect.  
(ii) Incorrect. The appellant has been granted full benefits of promotion as allowed under the rules. No violation of any law/rules have been made.  
(iii) Incorrect. The orders clearly speaks the reasons on the basis the appellant was promoted.  
(iv) In-correct. No violation of FR-17 was made.  
(v) As explained vide Sub para 1(1) above.  
(vi) In-correct. They will definitely claim such treatment.
2. (i) The orders are legal and issued in compliance of the Hon'ble Khyber Pakhtunkhwa Service Tribunal. In promotion orders, grant of increments has never been mentioned.  
(ii) The promotions are dealt under Khyber Pakhtunkhwa (Appointment Promotion & Transfer) Rules, 1989, while pay & allowance are governed under financial rules hence pay is fixed in light of prevailing financial rules.
- 3-4 No comments.
5. No comments.

In view of above, it is therefore, most humbly prayed that the petition being devoid of merit may kindly be dismissed.

  
**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA,  
FINANCE DEPARTMENT  
(RESPONDENT NO.04)**



GOVERNMENT OF N.-W.F.P.  
**ESTABLISHMENT & ADMINISTRATION**  
**DEPARTMENT**  
(ESTABLISHMENT WING)

No. SOE-III (E&AD)1-3/2008  
Dated Peshawar the 28<sup>th</sup> January, 2009

Area-I

To

1. The Additional Chief Secretary, GoNWFP.
2. The Additional Chief Secretary (FATA), Peshawar.
3. The Senior Member, Board of Revenue, N.-W.F.P.
4. All Administrative Secretaries to Government of N.-W.F.P.
5. The Secretary to Governor, N.-W.F.P.
6. The Principal Secretary to Chief Minister, N.-W.F.P.
7. All Divisional Commissioners in NWFP.

**SUBJECT:- NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS PROMOTION POLICY, 2009.**

Dear Sir,

I am directed to refer to the subject noted above and to say that in order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

**I. Length of service.**

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

Basic Scale 18 :	5 years' service in BS-17
Basic Scale 19 :	12 years' service in BS-17 & above
Basic Scale 20 :	17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

- (i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.
- (ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above or 3 years' service in BS-19.

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II. Linking of promotion with training:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20
- National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

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III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

- (i) The minimum of aggregate marks for promotion to various grades shall be as follows:

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Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

- (ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.
- (iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S. No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1.	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2.	Training Evaluation Reports as explained hereafter.	--	15%
3.	Evaluation by PSB	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

- (i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.
- (ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded,

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points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

**TABLE-A**  
**Old PASC & NIPAs**

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

**TABLE-B**  
**NATIONAL DEFENCE UNIVERSITY**

Category	Range	Weighted Average	Points @ 60%=9
A. Outstanding	76-100%	88%	7.92
B-Plus. Very Good	66-75.99%	71%	6.39
B- High. Good	61-65.99%	63.5%	5.71
B-Average. Average	56-60.99%	58.5%	5.26
B-Low. Below Average	51-55.99%	53.5%	4.81
B-Minus. Below Average	46-50.99%	48.5%	4.36
C. Below Average	40-45.99%	43%	3.87
F. Below Average	35-39.99%	37.5%	3.37

(d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of speciality. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PER s and 30% marks shall be at the disposal of the PSB.

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- b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.
- c) In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government, the condition of earning one calendar PER shall not be applicable to officer on deputation and the officer on return to his/her cadre shall be considered for promotion.
- d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.
- e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.
- f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.
- g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department. However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.
- h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

**V. Deferment of Promotion:**

(a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if

- (i) His inter-se-seniority is disputed/sub-judice.

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(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

		<u>Upto 11<sup>th</sup> June, 2008</u>	<u>From 12<sup>th</sup> June, 2008</u>
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

(j) The quantification formula and instructions for working out quantified score are annexed.

**IV. Promotion of officers who are on deputation, long leave, foreign training:**

a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.

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VI. **Date of Promotion:**

Promotion will always be notified with immediate effect.

VII. **Notional Promotion:**

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. **Promotion of Civil Servants who are awarded minor penalties.**

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. **Promotion in case of pending investigations by NAB:**

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

*Yours faithfully,*

*Amir* 28 Jan, 09  
( MUHAMMAD ABID MAJEED )  
Special Secretary (Regulations)

- (ii) Disciplinary or departmental proceedings are pending against him.
- (iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

(e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

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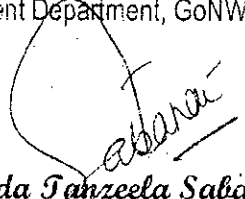
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Endst: No: SOE-III(E&AD)1-3/2008

Dated Peshawar the 28<sup>th</sup> January, 2009

Copy forwarded to:

1. The Accountant General, NWFP, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.
3. The Director, Staff Training Institute, E&A Department, Peshawar.
4. All Additional Secretaries in E&A Department, GoNWFP.
5. Reforms Coordinator, Reforms Cell, E&A Department.
6. All Deputy Secretaries in E&A Department, GoNWFP.
7. The Secretary, NWFP Public Service Commission, Peshawar.
8. The Director, Anti-Corruption Establishment, N.-W.F.P., Peshawar.
9. The Registrar, NWFP Service Tribunal, Peshawar.
10. All Section Officers in E&A Department, GoNWFP.
11. Private Secretary to Chief Secretary, N.-W.F.P.
12. Private Secretary to Secretary, Establishment Department, GoNWFP.
13. Librarian, E&A Department.

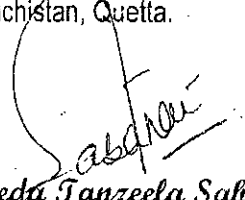
  
( Syeda Tanzeela Sabahat )  
Section Officer (E-III)

Endst: No: SOE-III(E&AD)1-3/2008

Dated Peshawar the 28<sup>th</sup> January, 2009

Copy forwarded to:

1. The Chief Secretary, Government of the Punjab, Lahore.
2. The Chief Secretary, Government of Sindh, Karachi.
3. The Chief Secretary, Government of Baluchistan, Quetta.

  
( Syeda Tanzeela Sabahat )  
Section Officer (E-III)

#### Fourth Step

The following additions/deductions shall be made in the total marks worked out in the third step for purposes of mandatory trainings.

#### A. Additions:

- (i) for serving in a Government training institution, including those meant for specialized training in any particular cadre, for a period of 2 years or more **2 marks**

#### B. Deductions:

- (i) for each major penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973/Disciplinary Rules prevailing at the time. **5 marks**
- (ii) for each minor penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973/Disciplinary Rules prevailing at the time. **3 marks**
- (iii) for adverse remarks (deductions be made for such remarks only as were duly conveyed to the concerned officer and were not expunged on his representation, or the officer did not represent) **1 mark per PER containing adverse remarks**

**Note:** For purpose of CEI, the negative marks for adverse entries and / or imposition of penalty shall be deducted from the quantified score of the relevant grade. However, additions for serving in a Government training institution for a period of two years or more shall be made in the total quantified scores of the PERs.

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**First Step**

Arithmetic mean will be calculated for each calendar year containing 2 or more PERs to derive the PER score for that year as follows:

$$M = \frac{\sum M_y}{N_y}$$

**Where**

$M_y$  = marks for each PER recorded in calendar year 'y',

$N_y$  = Number of PERs recorded in year 'y',

and  $\Sigma$  stands for summation.

**Second Step**

Average marks for each level will be calculated according to the following formula:

$$\text{Average marks} = \frac{\sum M}{T}$$

**Where**

$M$  = Marks for PERs; and

$T$  = Total number of PERs in posts at that level.

**Third Step**

Weightage for posts held at each level will be given as follows in computing the aggregate score against a uniform scale of 100 marks for promotion:

- |       |                                     |                   |
|-------|-------------------------------------|-------------------|
| (i)   | to post carrying basic pay scale 18 | 10xA              |
| (ii)  | to post carrying basic pay scale 19 | (6xB)+(4xA)       |
| (iii) | to post carrying basic pay scale 20 | (5xC)+(3xB)+(2xA) |
| (iv)  | to post carrying basic pay scale 21 | (5xD)+(3xC)+(A+B) |

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- A = Average marks for reports in posts carrying basic pay scale 17  
 B = Average marks for reports in posts carrying basic pay scale 18  
 C = Average marks for reports in posts carrying basic pay scale 19  
 D = Average marks for reports in posts carrying basic pay scale 20

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