BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa Service Tribunal
Diary No. 3197
Dated 27-1-2023

Service Appeal No.7750/2021

Engr. Hasnain Javed
Executive Engineer (Retired) --- Appellant

Versus

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

INDEX

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1	Parawise Comments on behalf of Respondent No.1 to 4	-	1-3
2	Affidavit		4
3	Govt of Khyber Pakhtunkhwa Establishment Department letter No.SO (Policy)E&AD/1-13/2019 dated 30.03.2021	I	5-10
4	Govt of Khyber Pakhtunkhwa C&W Department letter No.SOE/C&WD/4-53/2020 dated 28.05.2022	II	11-15
5	Govt of Khyber Pakhtunkhwa Establishment Department letter No.SO (PSB)/ED/1-3/2020/P-112 dated 08.06.2020	III	16
6	Govt of Khyber Pakhtunkhwa C&W Department letter No.SOE/C&WD/4-53/2020 dated 09.06.2020	IV	17
7	Govt of Khyber Pakhtunkhwa C&W Department letter No.SOE/C&WD/4-53/2020 dated 21.12.2022	V	18-21
8	Govt of Khyber Pakhtunkhwa Establishment Department letter No.SO (PSB)/ED/1-3/2020/P-114 dated 18.11..2020	VI	22
9	Govt of Khyber Pakhtunkhwa C&W Department letter No.SOE/C&WD/4-2/2020 dated 29.03.2021	VII	23
10	Govt of Khyber Pakhtunkhwa Establishment Department letter No.SOR-V/E&ADD/1-1/2019/Vol-V dated13.04.2021	VIII	24

Deponent

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

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 7750 OF 2021

Engr. Hasnain Javed --- Appellant
Executive Engineer (retired)
C&W Department resident of
Armur Housing Society, Nowshera

VERSUS

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

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

Respectfully Sheweth

Preliminary Objections

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

Facts

1. Pertains to record, need no reply
2. Pertains to record, need no reply
3. Correct to the extent that appellant (Engr. Hasnain Javed) was appointed through Public Service Commission as Assistant Engineer in C&W Department on 26.07.1989 and subsequently promoted as Executive Engineer (BS-18) on 16.11.2010 and retired from Govt service on attaining the age of superannuation i.e. 60 years w.e.f. 29.03.2021.
4. Correct to the extent that the appellant (Engr. Hasnain Javed) Executive Engineer C&W Department retired from Govt service on attaining the age of superannuation i.e. 60 years w.e.f. 29.03.2021 and his retirement Notification issued on 31.03.2021, as the retirement age i.e. 63 years of Govt employees was disputed in the Peshawar High Court Peshawar in writ petition No.5673-P/2019. The Provincial Government has issued amended Ordinance 2021, whereby a civil servant shall retire from service on the completion of sixtieth (60th) years of his age **(Annex-I)**.

5. Incorrect, the C&W Department placed a working paper for filling up (02 Nos regular and 03 Nos acting charge appointment) of Superintending Engineers (BS-19), including the appellant before PSB for consideration on 28.05.2020 **(Annex-II)**. The Establishment Department returned the working paper with certain observations on 08.06.2020 **(Annex-III).** The Department attended the observations and placed the working paper again on 09.06.2020 **(Annex-IV).** It is further to mention that a working paper for new creation posts of Superintending Engineers (BS-19) were placed before PSB on 07.05.2021, wherein the appellant was retired from govt service on attaining the age of superannuation i.e. 60 years w.e.f. 29.03.2021, which is quite clear the name of appellant was not included in the panel of promotion.

6. Incorrect. Before the retirement and written request of the appellant (Engr. Hasnain Javed) C&W Department again placed a working paper for promotion of XENs (BS-18) to the rank of SEs (BS-19) for filling up (03 regular + 02 acting charge appointments), including the appellant was at Sr.No.02 of the seniority placed before the PSB for consideration on 21.12.2020 **(Annex-V),** which was not received back to the Department. Similarly another working paper for promotion of Superintending Engineers (BS-19) to the rank of Chief Engineer (BS-20) forwarded to Establishment Department for placing before PSB for consideration. In the meanwhile a working paper for promotion of Superintending Engineer (BS-19) to the rank of Chief Engineer (BS-20) was returned by Establishment Department being a similar nature promotion cases with the observations that the PSB did not consider promotion cases due to conditional retirement in wake of Peshawar High Court Peshawar judgment dated **19.02.2020** on which CPLA has been lodged before Apex court and Establishment Department has sought the advice from Law Department in the cases of conditional retirement **(Annex-VI).**

7. Incorrect, the appellant (Hasnain Javed) submitted an application for special PSB, which was filed on the analogy of similar applications of Engr. Muhammad Ayub and Engr. Abdul Sattar (retired SEs C&WD) was forwarded to Establishment Department for advice **(Annex-VII)**..

8. No comments, as explain in para-7 above

GROUNDS

A. Incorrect and misconceived, hence denied. The promotion policy of the Provincial Government is binding on all the Provincial Government Departments, including answering respondents as they make their own policies, rules and laws in good faith and that too for the public benefit.

B. Incorrect, there is no mala-fide, no discrimination and violation of rights of the applicant has been made. In fact, the Department is followed rules/policy strictly in the cases of promotion of officers/officials of the Department.

C. Incorrect and misconstrued, hence denied. appellant cannot claim any vested right on policy decisions of the govt. The Government had formulated and framed its Rules correctly and in public good. There is thus no scope / need of amending them in order to appease and accommodate few and that too at the expense of over-all functioning of the entire department.

D. Incorrect, as explained para-5 of the facts

E. . Incorrect, as explained para-6 of the facts

F. Incorrect, as explained para-7 of the facts

G. Incorrect, the appellant was correctly dealth with in accordance with law/equity. No rights of the appellant has been infringed/jeopardized, because, the appellant is retired from Govt service on attaining the age of superannuation i.e. 60 years before PSB.

H. Incorrect, the promotion case was considered by the PSB as per rules/law and on the completion of all codal formalities.

I. Incorrect. as replied in facts.

J. Incorrect as explained in para-5 of the facts. Since the appellant case is not covered under the rules, he had not been deprived of any fundamental or constitutional rights.

K. Incorrect, as explained para-6 of the facts

L. The respondents would like to seek permission of the Hon'able Tribunal in advance for more grounds during the time of arguments.

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

Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 2)

Secretary to Govt of
Khyber Pakhtunkhwa
Finance Department
(Respondent No. 3)

Secretary to Govt of
Khyber Pakhtunkhwa
Establishment Department
(Respondent No. 4)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7750/2021

Engr. Hasnain Javed
Executive Engineer (Retired) --- Appellant

Versus

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

AFFIDAVIT

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

Deponent

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

27 JAN 2023

ATTESTED
Muhammad Asif Shah Advocate
Oath Commissioner
Peshawar

Annex-II

(11)

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-53/2020
Dated Peshawar, the May 19, 2020
28

To

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

28-5-2020

Subject: **Promotion of Executive Engineers (BS-18) to the rank of Superintending Engineer (BS-19) C&W Department**

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along-with related documents dully completed in all respect for the promotion of Executive Engineers (BS-18) to the rank of Superintending Engineer (BS-19) for placing before the Provincial Selection Board (PSB), please.

(ABDUR RASHID KHAN)
SECTION OFFICER (Estb)

Endst even No. & date

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

SECTION OFFICER (Estb)

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: **Communication & Works Department**

1. Nomenclature of the post/Basic Scale — Superintending Engineer/Principal Design Engineer (BPS-19)
2. Service/Group/Cadre — Engineering (C&W)
3. Sanctioned strength of the Cadre — Total posts = 20 **(Annex-I)**

			Direct	Promotion	Transfer
4.	i.	Percentage of share		100%	
	ii.	No. of posts allocated to each category (a) Regular (b) Acting charge	-	 20 04	-
	iii.	Present occupancy position (a) Regular (b) Acting charge	-	 18 01	-
	iv.	No. of vacant vacancies in each category (a) Regular (b) Acting charge	-	 02 03	-

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

Position of 02 Nos Regular Posts

a. Due to retirement of Abdul Ghafoor **(Annex-II)** -- 01 Nos

b. Due to retirement of Rehmat Hakim w.e.f 30.05.2020 **(Annex-III)** -- 01 Nos

Regular Vacant Posts -- **02 Nos**

Position of 03 Nos Acting charge Appointment

a. Three (03) regular Superintending Engineers (BS-19) are serving on the following Ex-cadre posts **(Annex-IV)**:-

i. Engr. Muhammad Tariq (BS-19) Project Director Provincial Roads Rehabilitation Project (ADB Assisted).

ii. Engr. Riaz Arshad, SE (BS-19) Chief Engineer (Reconstruction) PERRA Abbottabd

iii. Engr. Munir Hussain (BS-19) Director (Maintenance) PKHA Peshawar

Acting charge basis -- **03 Nos**

vi. Recruitment Rules — By promotion, on the basis of seniority-cum-fitness, from amongst the Executive Engineers/Design Engineers/ Senior Engineers/ Research Officer with at least 12 (twelve) years of service in BPS-17 & above, possessing Degree in B.E/B.Sc. Engineering (Civil / Mechanical/ Electrical), from a recognized University **(Annex-V)**.

vii. Required length of service — At least 12 (twelve) years of service in BPS-17 & above as such:

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

Regular Post	=	02 posts.
Acting charge Appointment	=	03 posts

ix. Mandatory training, if any — Nil

x. Maximum required score on EI. — 60

SECRETARY
C&W

Dated _____/05/2020

Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department

Annex-I

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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

To

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

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

Dear Sir,

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

Yours faithfully,

SECTION OFFICER (POLICY)

ENDST: NO. & DATE EVEN

Copy forwarded to:-

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

SECTION OFFICER (POLICY)

EXTRAORDINARY

GOVERNMENT

REGISTERED NO. P.III

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 26TH MARCH, 2021.

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

NOTIFICATION

Dated Peshawar, the 26th March, 2021.

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

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

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

An
Ordinance

further to amend the Khyber Pakhtunkhwa Civil Servants Act, 1973

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Peshawar,
Dated 25th March, 2021

SHAH FARMAN
Governor of the Khyber Pakhtunkhwa

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

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

GOVERNEMNT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION
DEPARTMENT

NOTIFICATION

Peshawar dated the, 2021

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

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

Secretary to
Government of Khyber Pakhtunkhwa
Establishment and Administrative
Department

GOVERNEMNT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT

NOTIFICATION

Peshawar dated the, 2021

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

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

Secretary to
Government of Khyber Pakhtunkhwa
Establishment and Administrative
Department

PANEL OF OFFICERS FOR CONSIDERATRION

PSB-II

Sl. No.	Sen: No	Name of Officer with qualification	Date of Birth	Date of 1st entry into Govt Service	Date of Appointment/ promotion to BS-18	Date of regular Appointment/ promotion to the present scale	Whether fulfill the prescribed length of service	Quantified score	Missing PERs (if any)	Disciplinary proceedings (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	1	Syed Yousaf Shah B.Sc (Civil)	03.03.1963 Mansehra	22.09.1987	30.04.2010	28.05.2019 (BS-19 A.C.B)	Yes	57.74	–	—	—	—	—	SE Battagram	**Eligible**
2	2	Luqman Shafi Khattak B.Sc (Civil)	10.11.1962 Karak	09.01.1988	16.11.2010	16.11.2010	Yes	**54.82**	—	—	—	—	—	DE O/O CE(Merged Areas)	**Eligible**
3	3	Hasnain Javed B.Sc/M.Sc (Civil)	30.03.1961 Nowshera	27.07.1989	16.11.2010	16.11.2010	Yes	**55.14**	—	—	—	—	—	SE (OPS) Kohat	**Eligible**
4	4	Amin-ul-Khaliq B.Sc/M.Sc (Civil)	08.12.1962 Dir	11.10.1989	15.03.2010	15.03.2011	Yes	**57.08**	—	—	—	—	—	SE (OPS) Northern C&W Circle tribe districts Pesh:	**Eligible**
5	5	Zulfiqar Ali B.Sc (Civil)	27.06.1963 Peshawar	05.03.1990	03.04.2013	03.04.2013	Yes	**58.24**	—	—	—	—	—	Director (P&M) C&W Department (OPS)	**Eligible**
6	6	Shahzad Afzal Khan B.Sc (Civil)/MS (Envt)	01.08.1964 Peshawar	05.03.1990	15.03.2011	15.03.2011	Yes	**58.39**	—	—	—	—	—	DE (Envt) Swat Expressway	**Eligible**

7	7	Muhammad Tariq B.Sc (Civil)	03.06.1964 DIKhan	12.11.1989	15.03.2011	15.03.2011	Yes	**56.82**	—	—	—	—	—	SE (OPS) DIKhan	**Eligible**
8	8	Ejaz Ahmad B.Sc/M.Sc (Civil)	14.04.1967 Charsadda	12.11.1989	15.03.2011	15.03.2011	Yes	**58.75**	—	—	—	—	—	Director (Constn) PKHA (OPS)	**Eligible**
9	9	S.Raffaqat Shah B.Sc (Civil)	08.04.1966 Abbottabad	01.07.1991	15.03.2011	15.03.2011	Yes	**38.06**	**01.01.2011 to 19.08.2014, 01.01.2015 to 31.12.2019**	—	—	—	—	SE (OPS) Abbottabad	—
10	10	Jalal-ud-Din Mehsud B.Sc (Civil)	17.03.1967 S.W.Agy	01.07.1991	13.03.2012	13.03.2012	Yes	**59.56**	—	—	—	—	—	Project Director KITE C&WD (OPS)	**Eligible**

1. Certified that the officers included in the panel are eligible.

Signature: _____

Designation: _____

Date: _____/05/2020

CERTIFICATE

It is certified that:-

1. The officers included in the panel are eligible in terms of length of service required for promotion.

2. No disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officer included in the panel.

3. The seniority list of the officers, included in the panel issued on 09.04.2019 is final **(Annex-VI)**.

4. As per record, the officers included in the panel are neither involved in any NAB case nor entered into plea bargaining/VR agreement with NAB authorities.

SECRETARY
C&W

Dated _____/05/2020
Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department

Annex-III

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(16)

No. SO(PSB)/ED/1-3/2020/P-112
Dated Peshawar, the 08.06.2020

To

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

SUBJECT: -**PROMOTION OF EXECUTIVE ENGINEERS BS-18 TO THE RANK OF SUPERINTENDING ENGINEER BS-19 IN C&W DEPARTMENT.**

Dear Sir,

I am directed to refer to C&W Department letter No. SOE/C&WD/4-53/2020 dated 28.05.2020 on the subject and to say that the case has been examined in Regulation Wing and observed that the notified seniority list of the panelist officers have not been attached with the working paper, which is a pre-requisite document for placement a working paper before PSB.

2. The working paper and other documents received with the letter quoted above are returned herewith in original for doing the needful at the earliest.

Yours faithfully,

8/6/2020
SECTION OFFICER (PSB)

Endst. Even no & dated.
A copy is forwarded to Section Officer (R-V) Establishment Department.

SECTION OFFICER (PSB

Annex-IV

(17)

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-53/2020
Dated Peshawar, the June 09, 2020

To

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: **Promotion of Executive Engineers (BS-18) to the rank of Superintending Engineer (BS-19) C&W Department**

I am directed to refer to your office letter No.SO(PSB)ED/1-3/2020/P-112 dated 08.06.2020 on the subject noted above and to resubmit the working papers with regard to promotion of Executive Engineer (BS-18) to the rank of Superintending Engineer (BS-19) C&W Department for placing before Provincial Selection Board (PSB) for consideration with following clarifications:-

i. Seniority list of XEN (BS-18) notified on 09.04.2019 is final and un-disputed **(Flag-A)**.

ii. Copies of seniority list of XEN (BS-18) notified on 09.04.2019 as stated above have also placed in all set of working papers, as desired.

(ABDUR RASHID KHAN)
SECTION OFFICER (Estb)

Endst even No. & date

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

SECTION OFFICER (Estb)

Annex-V

(18)

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-53/2020
Dated Peshawar, the Dec 21, 2020

To

Received 22/12/2020 at: 11

The Section Officer (PSB)
Establishment Department
Peshawar

Subject: **APPOINTMENT OF EXECUTIVE ENGINEERS (BS-18) TO THE POST OF SUPERINTENDING ENGINEERS (BS-19) C&W DEPARTMENT ON ACTING CHARGE BASIS**

I am directed to refer to the subject noted above and to forward herewith 07 sets of working papers along-with related documents duly completed in all respect for appointment of Executive Engineers (BS-18) to the post of Superintending Engineers (BS-19) on acting charge basis for placing before Provincial Selection Board (PSB) for consideration, please.

21.12.2020
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

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

21.12.2020
SECTION OFFICER (Estb)

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: **Communication & Works Department**

1. Nomenclature of the post/Basic Scale — Superintending Engineer/Principal Design Engineer (BPS-19)
2. Service/Group/Cadre — Engineering (C&W)
3. Sanctioned strength of the Cadre — Total posts = **23** (20 Reg+03 Ex-cadre) **Annex-I**

		Direct	Promotion	Transfer
4. i.	Percentage of share		100%	
ii.	No. of posts allocated to each category (a) Regular (b) Acting charge	-	**20** **03**	-
iii.	Present occupancy position (a) Regular (b) Acting charge	-	**17** **01**	-
iv.	No. of vacant vacancies in each category (a) Regular (b) Acting charge	-	**03** **02**	-

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

Position of 02 Nos Acting charge Appointment

a. Two (02) regular Superintending Engineers (BS-19) are serving on the following Ex-cadre posts **(Annex-II)**:-

i. Engr. Munir Hussain (BS-19) Director (Maintenance) PKHA Peshawar

ii. Engr. Arshad Khan (BS-19) Director (P&D) PKHA Peshawar

Acting charge basis -- **02 Nos**

vi. Recruitment Rules — By promotion, on the basis of seniority-cum-fitness, from amongst the Executive Engineers/Design Engineers/ Senior Engineers/ Research Officer with at least 12 (twelve) years of service in BPS-17 & above, possessing Degree in B.E/B.Sc. Engineering (Civil / Mechanical/ Electrical), from a recognized University **(Annex-III)**.

vii. Required length of service — At least 12 (twelve) years of service in BPS-17 & above as such:

viii. Whether to be promoted on regular basis or appointed on acting charge basis? — Acting charge Appointment = 02 posts

ix. Mandatory training, if any — Nil

x. Maximum required score on EI. — 60

SECRETARY
C&W

Dated 21 /12/2020

Secretary to
Govt. of Khyber Pakhtunkhwa
C&W Department

20

PANEL OF OFFICERS FOR CONSIDERATRION

PSB-II

Sl. No.	Sen : No.	Name of Officer with qualification	Date of Birth	Date of 1st entry into Govt Service	Date of Appointment/ promotion to BS-18	Date of regular Appointment/ promotion to the present scale	Whether fulfill the prescribed length of service	Quantified score	Missing PERs (if any)	Disciplinary proceedings (if any)	Case (if any) in any court of Law, including NAB/ Plea bargaining with NAB	Mandatory Training for promotion	Research papers	Present posting	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	1	Luqman Shafi Khattak B.Sc (Civil)	10.11.1962 Karak	09.01.1988	16.11.2010	16.11.2010	Yes	**54.82**	—	—	—	—	—	DE O/O CE(CDO) C&W Pesh:	**Eligible**
2	2	Hasnain Javed B.Sc/M.Sc (Civil	30.03.1961 Nowshera	27.07.1989	16.11.2010	16.11.2010	Yes	**55.14**	—	—	—	—	—	SE (OPS) C&W Circle Kohat	**Eligible**
3	3	Amin-ul-Khaliq B.Sc/M.Sc (Civil	08.12.1962 Dir	11.10.1989	15.03.2011	15.03.2011	Yes	**57.08**	—	—	—	—	—	SE (Northen) C&W Circle Tribal Districts Peshawar	**Eligible**
4	4	Zulfiqar Ali B.Sc (Civil	27.06.1963 Peshawar	05.03.1990	03.04.2013	03.04.2013	Yes	**58.24**	—	—	—	—	—	Director (P&M) C&WD	**Eligible**

1. Certified that the officers included in the panel are eligible.

Signature: _____

Designation: _____

Date: 21/12/2020

Secretary to
Govt: of Khyber Pakhtunkhwa
C&W Department

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CERTIFICATE

It is certified that:-

1. The officers included in the panel are eligible in terms of length of service required for promotion.

2. No disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officer included in the panel.

3. The seniority list of the officers, included in the panel issued on 01.06.2020 is final **(Annex-IV)**.

4. As per record, the officers included in the panel are neither involved in any NAB case nor entered into plea bargaining/VR agreement with NAB authorities.

SECRETARY
C&W

Dated 21/12/2020

Secretary to
Govt: of Khyber Pakhtunkhwa
C&W Department

Annex-VI

(22) 8

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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

To

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

Diary No: 5712
Date: 18-11-2020
Secretary C&W Deptt.

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

Dear Sir,

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

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

Yours faithfully,

18/11/20

SECTION OFFICER (PSB)

Endst. Even no & dated.

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

SECTION OFFICER (PSB)

Annex-VII

(23)

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/**20**
Dated Peshawar, the March 29, 2021

To

The Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department
Peshawar

Subject: **PROMOTION TO BS-20**

Dear Sir,

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

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

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

Yours' faithfully

29.03.2021

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

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

29.03.2021

SECTION OFFICER (Estb)

A-IX

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No.SOR-V(E&AD)/1-1/C&W/2019/Vol-V
Dated 13th April, 2021

DS (A) / SO
Diary No. 371
Date: 14-4-
Secretary C&W

To

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

Subject: **PROMOTION TO BS-20.**

P-141/C

Dear Sir,

I am directed to refer to your letter No.SOE/C&WD/4-2/20 dated 29.3.2021 and to state that in light of the Provincial Government Promotion Policy proforma promotion is allowed in cases where seniority is disputed in Court of Law and restored back on Court decision after retirement of the employee.

Since, both the officers retired on superannuation on 03.2.2021 and 07.3.2021 respectively and proforma promotion in the instant case is not covered under Provincial Government Promotion Policy, therefore, may be regretted, please.

Yours faithfully,

SECTION OFFICER (REG-V)

Endst: of even No. & Date.

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

SOE
16.4.21

SECTION OFFICER (REG-V)

Put-up in relevant file.
20.4.21

Supdt