

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.4938/2020

Date of Institution ... 02.06.2020  
Date of Decision ... 09.11.2021

Syed Javed Iqbal S/O Syed Altaf Hussain R/O Qandeel, Post Office, Madyan, presently posted as Superintendent, Deputy Commissioner Office, Swat.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and four others.

... (Respondents)

Amin ur Rehman Yousafzai,  
Advocate

... For appellant.

Muhammad Adeel Butt,  
Additional Advocate General

... For official respondents.

Fazal Shah Mohmand,  
Advocate

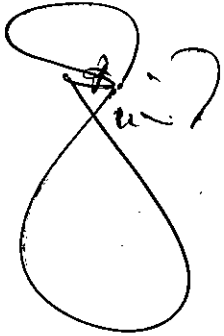
... For Private respondent #.5

Ahmad Sultan Tareen  
Rozina Rehman

... Chairman  
... Member (J)

JUDGMENT

Rozina Rehman, Member(J): Briefly stating the facts necessary for the disposal of the lis in hand are that the services of the appellant posted as Assistant in the office off Commissioner Malakand Division at Saidu Sharif were placed at the disposal of the then Political Agent Bajaur and accordingly he was adjusted against the vacant post of Assistant in the office of the then Political Agent Bajaur on 05.05.2015. The appellant being senior most was promoted as



Superintendent on 14.06.2016. The promotion Notification of the appellant was challenged by one Ghulam Muhammad and Alamgir Khan however both were turned down by the competent authority. Feeling aggrieved from the decision of the Chief Secretary, Alamgir Khan preferred service appeal while one Shah Jehan Khan filed departmental appeal which was allowed on 07.01.2020. Feeling aggrieved the appellant approached the competent authority through departmental representation which was not responded to, hence, the present service appeal.

2. We have heard Amin ur Rehman Yousafzai Advocate learned counsel for appellant, Muhammad Adeel Butt, learned Additional Advocate General for official respondents and Fazal Shah Mohmand Advocate learned counsel for private respondent No.5 and have gone through the record and the proceedings of the case in minute particulars.

3. Amin ur Rehman Yousafzai Advocate learned counsel appearing on behalf of appellant, in support of appeal contended with vehemence that impugned Notification dated 07.01.2020 of the respondent No.1 is against law and facts hence, untenable. He contended that prior to issuance of the impugned Notification dated 07.01.2020, neither any regular inquiry was conducted nor opportunity of personal hearing was afforded to the appellant and that appellant was condemned unheard which attracts the doctrine of *Audi Alteram partem*. Learned counsel for appellant further submitted that respondent No.1 was having no lawful justification to entertain repeated departmental appeals against the promotion Notification dated 14.06.2016 of the appellant particularly in view of previous



decisions vide which similarly placed appeals were rejected. He contended that the appellant was promoted as Superintendent (BS-17) under the District Ministerial Service Rules, 2001 published in the Official gazette on 18.01.2010 and subsequently amended vide Notification dated 23.01.2015 through which the post of Superintendent has to be filled by promotion on the basis of seniority cum fitness from amongst the Assistants of the district concerned with at least five years service in the offices of respective Deputy Commissioners and Political Agents but astonishingly when the rules *ibid* were amended vide Notification dated 27.06.2019 and the post of Superintendent was ordered to be filled by promotion on the basis of seniority cum fitness from amongst the Assistants with five year service in the offices of Commissioners and Deputy Commissioners on the basis of joint seniority list of Assistant Commissioners and Deputy Commissioners of the division concerned. He submitted that the appellant was promoted as Superintendent much prior from the amendments dated 27.06.2019, therefore, the respondent No.5 was having no cause of action or *locus standi* even to challenge basic promotion Notification dated 14.06.2016 of the appellant. He submitted that the respondent No.1 has passed the impugned Notification on 07.01.2020 in presence of his own decision dated 05.11.2019 vide which departmental appeal of another employee of the same office i.e. Alamgir Khan was turned down. Lastly, he submitted that the appellant being qualified and eligible was promoted against vacant post of Superintendent in District Bajaur by the competent authority in due course of law governing the subject,



hence, the Notification dated 07.01.2020 is liable to be set at naught being illegal and void.

4. Conversely, learned A.A.G assisted by the learned counsel for private respondent No.5, submitted that appellant was the domicile holder of District Swat and was the employee of Commissioner Office Swat and that his services were wrongly placed at the disposal of the then Political Agent, Bajaur. He contended that the appellant was having no right to have been adjusted in the office of the then Political Agent as he was not the employee of District Bajaur nor had the requisite length of five year service in Bajaur but he was promoted in violation of law and rules. He submitted that not only the promotion order of the appellant but also his posting order was challenged and being junior to respondent No.5, appellant was promoted as Superintendent in violation of the norms of justice.

5. From the record, it is evident that the then Political Agent Bajaur vide letter dated 25.02.2015 requested the Commissioner Malakand Division for the services of a competent Assistant for initiating some new assignments. The Commissioner Malakand placed the services of Syed Javid Iqbal/appellant at the disposal of Political Agent Bajaur vide order dated 27.02.2015. Political Agent Bajaur adjusted the appellant in his office vide order dated 05.05.2015. On adjustment of appellant in Bajaur, he was given seniority from the date of his appointment as Assistant i.e. 29.12.2008 by the Deputy Commissioner, Bajaur. Under the relevant service rules, the post of Assistant in the district was required to be filled from candidates of the district concerned. Admittedly, the present appellant held the domicile of Swat but was adjusted against the vacant post of Assistant against



the quota meant for direct recruitment. From the Notification dated 07.01.2020 it is evident that one Shah Jehan, an Assistant in the office of Deputy Commissioner Swat filed an appeal to the respondent No.1 on 17.09.2019 for declaring the promotion of appellant as illegal and discriminatory. Shah Jehan has also filed Appeal No.2227/2019 in this Tribunal which is still pending. One Alamgir also filed an appeal No.1609/2019, wherein, transfer posting of the present appellant has been challenged with a request for promotion. We have observed that appellant was kept deprived of having appropriate opportunity of defense as is required under the law. The entire proceedings were carried out at the back of the appellant which is not warranted under the relevant law and rules. We find that appellant has been condemned unheard and order was passed against him without adopting the required and mandatory procedure, resulting in manifest injustice. He was not provided full chance of defense as enshrined in the maxim "*audi alteram partem*".

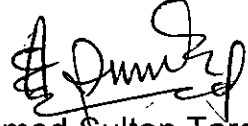
6. The upshot of the above discussion is that appeal is partly allowed. Impugned order is set aside and case is remitted to the Department with directions to prepare summary of facts, duly serve upon the appellant, who is at liberty to file reply to the summary of facts and after hearing both the parties to decide it through a speaking order within a period of 60 days of the receipt of this judgment.

7. Before parting with this judgment, it is deemed appropriate to mention that a copy of this judgment be placed on files of Service Appeal No.1609/2019 titled Alamgir Khan Vs. Government of Khyber Pakhtunkhwa through Chief Secretary & Others and Service Appeal

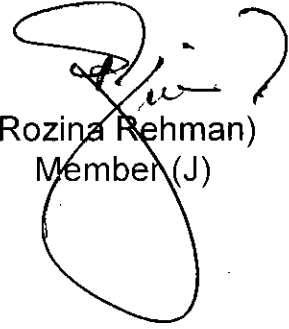
No.2227/2019 titled Shah Jehan Vs. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar & others. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

09.11.2021



(Ahmad Sultan Tareen)  
Chairman



(Rozina Rehman)  
Member (J)

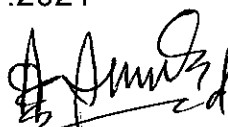
Order  
09.11.2021

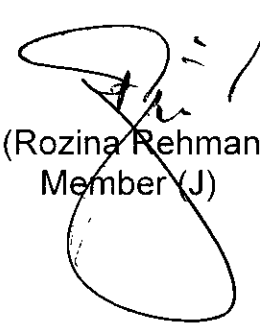
Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for official respondents present. Counsel for private respondent No.5 present.

Vide our judgment of today of this Tribunal placed on file, instant service appeal is partly allowed. Impugned order is set aside and case is remitted to the Department with directions to prepare summary of facts, duly serve upon the appellant, who is at liberty to file reply to the summary of facts and after hearing both the parties to decide it through a speaking order within a period of 60 days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

Announced.  
09.11.2021

  
(Ahmad Sultan Tareen)  
Chairman

  
(Rozina Rehman)  
Member (J)

20.10.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 4 and private respondent No. 5 in person present.

Certain facts need further clarification, therefore, case to come up for further arguments on 04.11.2021 before this D.B.



(Rozina Rehman)  
Member (Judicial)



Chairman

04.11.2021

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Request for adjournment was made on behalf of both the parties. Request is accorded and case is adjourned to 09.11.2021 before Special D.B comprising the undersigned.



(Rozina Rehman)  
Member (J)



Chairman



27.07.2021

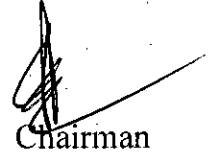
Counsel for the appellant present.

Mr. Usman Ghani, learned District Attorney for official respondents and private respondent No. 5 along with his counsel Mr. Fazal Shah Mohmand, Advocate present.

Arguments heard. To come up for order on 14/09/2021 before D.B.



(Rozina Rehman)  
Member(J)



Chairman

14.09.2021

Junior to counsel for appellant present.

Usman Ghani learned District Attorney for official respondents present. Counsel for private respondent No.5 present.

File to come up along with Service Appeal No.2227/2019  
22.09.2021 before D.B.



(Rozina Rehman)  
Member (J)



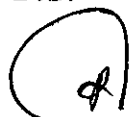
Chairman

22.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General along with Muhammad Arif Superintendent and Afzal Assistant for official respondents present. Counsel for private respondent present.

Arguments heard. To come up for order on 20.10.2021 before D.B.




(Rozina Rehman)  
Member (J)



Chairman

10.3.2021

The Worthy Chairman is on leave, therefore, the bench is incomplete. To come up for hearing on 29.03.2021 before the D.B.

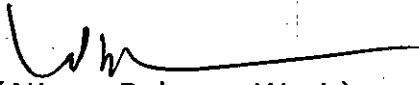
  
Reader

29.03.2021

Appellant present through counsel

Muhammad Rasheed learned Deputy District Attorney alongwith Muhammad Asif Assistant for respondents present.

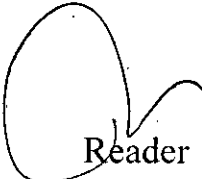
File to come alongwith connected appeal No. 2227/2019, on 12/4/2021 for arguments before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

12.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 27.07.2021 for the same as before.

  
Reader

25.01.2021

Counsel for appellant present. Muhammad Rasheed, learned Deputy District Attorney alongwith Muhammad Ajmal, Assistant Secretary for official respondents and junior counsel for private respondent No.5 present.

Learned senior counsel for the private respondent No.5 has proceeded to tribal District Mohmand in order to attend a personal case. A request for adjournment is therefore, ~~be~~ made at the bar.

Adjourned to 08.02.2021 for arguments before D.B.



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



Chairman

08.02.2021

Counsel for the appellant and Asif Masood Ali Shah, learned Deputy District Attorney for official respondents and counsel for the private respondent No.5 present.

In restoration application No.39/2021, submitted in connection with appeal No.1609/2019, the proceedings have been adjourned to 10.03.2021.

The appeal in hand being the outcome of an order which is also questioned in appeal No.1609/2019, the proceedings are, therefore, adjourned to 10.03.2021 before D.B.



(Atiq Ur Rehman Wazir)  
Member (E)

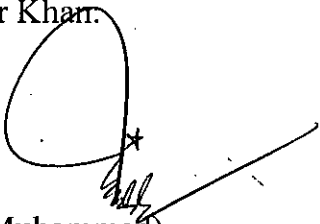


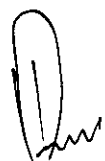
Chairman

24.11.2020

Counsel for the appellant present. Addl: AG alongwith Mr. Muhammad Ajmal, Assistant Secretary for official respondents and counsel for private No.5 present.

Adjourned. To come up for arguments on 14.12.2020 before D.B alongwith connected appeal No. 1609/2019 titled Alamgir Khan.

  
(Mian Muhammad)  
Member (E)

  
Chairman

14.12.2020

Appellant with counsel present. Addl: AG alongwith Mr. Muhammad Ajmal, Assistant Secretary for official respondents and counsel for private respondent No. 5 present. Due to pandemic of Covid-19, the case is adjourned to 14.01.2021 for the same as before.


  
Reader

14.01.2021

Counsel for the appellant, Addl. AG alongwith Muhammad Asif, Asstt. for official respondents and counsel for private respondent No. 5 present.

Former has submitted an application, reiterating the grant of interim relief. Notice of the application is given to representative of official respondents as well as learned AAG. Learned counsel for private respondent No. 5 also accepts notice of application.

To come up for arguments on 25.01.2021 before the D.B.

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

  
Chairman

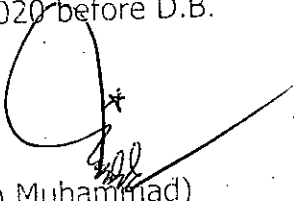
14.10.2020

Appellant present alongwith counsel.

Mr. Usman Ghani learned District Attorney alongwith Muhammad Arif Superintendent for respondents present. Counsel for respondent No.5 present.

Learned counsel for respondent No.5 requested for adjournment due to his engagement in Hon'ble Peshawar High Court Peshawar, therefore, case is adjourned to 24.11.2020 before D.B

It is important to mention here that learned counsel for appellant requested for suspension of impugned order. Record shows that notice of the said application was issued to the respondents on the date when the case was admitted to regular hearing vide order dated 05.06.2020. Admittedly, appeal filed by one Alamgir is pending in this Tribunal and is fixed for 24.11.2020 while another connected appeal filed by the present respondent No.5 Shah Jehan is fixed for 11.11.2020 wherein the present appellant has also been impleaded in the panel of respondents. All the three cases are interlinked, therefore, this case is adjourned on the request of learned counsel for respondent No.5 to 24.11.2020 with direction to both the parties as well as learned District Attorney to submit reply in connected cases on or before the date fixed, so that the arguments could be heard in all the three cases on 24.11.2020 before D.B.

  
(Mian Muhammad)  
Member (E)


  
(Rozina Rehman)  
Member (J)


03.09.2020

Appellant present through counsel.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Muhammad Arif Superintendent for respondent No. 1 & 2 present.

Reply on behalf of respondent No. 1 to 4 already submitted which is placed on file. Counsel for private respondent No.5 present who has already submitted an application for setting aside ex-parte proceeding which application was not objected to by learned counsel for the appellant, hence accepted and ex-parte proceedings initiated against him stand set aside. To come up for arguments on 14.10.2020 before D.B.

  
(Attiq ur Rehman)  
Member (E)

  
(Rozina Rehman)  
Member (J)

10.07.2020

Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mukhtiar Assistant Secretary for official respondents present. Notice be issued to private respondent No.5.

Written reply on behalf of official respondents No.1 & 2 submitted. Learned AAG requested for time to submit reply on behalf of official respondents No.3 & 4; granted. To come up for written reply/comments on behalf of respondents No.3 to 5, on 06.08.2020 before S.B

Member (J)

06.08.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Ahmad Sher, P.S on behalf of respondents No. 3 & 4 are also present.

Representative of official respondents No. 3 & 4 submitted joint para-wise comments on behalf of official respondents No. 3 & 4 which are placed on file. While para-wise comments on behalf of official respondents No. 1 & 2 have already been submitted. Neither private respondent No. 5 is present in person nor anyone on his behalf is present nor written reply on his behalf is submitted so far, therefore, he is proceeded ex-parte. To come up for arguments on 03.09.2020 before D.B. The appellant may submit rejoinder within a fortnight, if so advised.

(MUHAMMAD JAMAL KHAN)  
MEMBER

19.06.2020

Counsel for the appellant Syed Javid Iqbal present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Haider Ali Assistant for official respondents present. Private respondent No.5 absent. Notice be issued to private respondent No.5 for the date fixed as 02.07.2020.

Application submitted by learned counsel for the appellant on the preceding date seeking suspension of the impugned order is also pending. Learned AAG requested for adjournment in order to submit reply/comments on the next date fixed.

Adjourned to 02.07.2020 before S.B.

  
(Rozina Rehman)  
(Member (J))

02.07.2020

Appellant with counsel and Addl: AG alongwith Mr. M. Arif, Supdt for respondents no. 1 and 2 present. Written reply not submitted. Requested for adjournment. Notices be issued to the respondents no. 3 to 5 for submission of written reply.

Adjourned to 10.07.2020 before S.B.

  
MEMBER



05.06.2020

Counsel for the appellant Syed Javed Iqbal presents Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Revenue Department as Assistant. It was further contended that the appellant was promoted from the post of Assistant (BPS-16) to the post of Superintendent (BPS-17). It was further contended that some of his colleagues namely Ghulam Muhammad and Alamgir Khan filed departmental appeal against the promotion order of the appellant but the same was dismissed by the departmental authority. It was further contended that Private respondent No. 5 namely Shah Jehan filed departmental appeal on 28.09.2019 after a delay of more than three years which was accepted by the departmental authority and the promotion order of the appellant was set-aside vide order dated 07.01.2020 without issuing of any notice to the appellant, therefore, the appellant was condemned unheard and the departmental appeal of private respondent No. 5 was also badly time barred, therefore, the appellant filed departmental appeal/review on 10.01.2020 which was not responded hence the present service appeal. It was further contended that the departmental appeal of the private respondent No. 5 was badly time barred and the departmental authority had passed the impugned order without issuing any notice to the appellant, therefore, the appellant was condemned unheard, <sup>and</sup> therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 19.06.2020 before S.B. Learned counsel for the appellant also submitted application for suspension of impugned order. Notice of the same be also issued to the respondents for the date fixed.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

Appellant Deposited  
Security & Process Fee

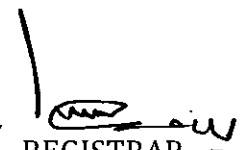

29/6/20

Form- A

FORM OF ORDER SHEET

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

Case No.- 4938 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge ,
1	2	3
1-	02/06/2020	<p>The appeal of Syed Javed Iqbal presented today by Mr. Amin-ur-Rehman Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR - 2/6/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/06/2020</u>.</p> <p style="text-align: right;">CHAIRMAN </p>
2-		

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

Service Appeal No. **4938** of 2020  
(Alongwith Interim Relief)

Syed Javed Iqbal. .... **Appellant**

**VERSUS**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others. .... **Respondents**

**I N D E X**

S. #.	Description of Documents	Annex	Pages
1.	Grounds of appeal		1-4
2.	Affidavit		5
3.	Addresses of the parties		6
4.	Application for suspension of impugned order with affidavit		7-8
5.	Application for condonation of delay with affidavit		9-10
6.	Copy of office order dated: 27.02.2015	<b>A</b>	11
7.	Copy of office letter dated: 25.02.2015	<b>B</b>	12
8.	Copy of office order dated: 05.05.2015	<b>C</b>	13
9.	Copy of the seniority list dated: 11.01.2016, approval note dated: 05.06.2016 of the worthy Chief Secretary	<b>D</b>	14-16
10.	Copy of approval note dated: 05.06.2016 of Chief Secretary	<b>E</b>	17-18
11.	Copy of Notification dated: 14.06.2016	<b>F</b>	19
12.	Copy of order dated: 14.05.2019	<b>G</b>	20-21
13.	Copy of departmental appeal dated: 18.09.2019	<b>H</b>	22
14.	Copy of decision dated: 29.10.2019 of Chief Secretary	<b>I</b>	23-24
15.	Copy of communication letter dated: 05.11.2019	<b>J</b>	25
16.	Copy of order sheet dated: 03.01.2020 of this Hon'ble Tribunal alongwith memo of Appeal No.1609/2019	<b>K</b>	26-27
17.	Copy of Departmental Appeal dated: 23.09.2019	<b>L</b>	28
18.	Copy of Notification dated: 07.01.2020	<b>M</b>	29
19.	Copy of Departmental Appeal/ Review dated: 10.01.2020	<b>N</b>	30-31
20.	Copy of remarks of the concerned quarters	<b>O</b>	32-33
21.	Copy of District Ministerial Service Rules, 2001 alongwith Notification dated: 13.06.2006 (gazetted) on 18.01.2010	<b>P</b>	34-37
22.	Copy of Notification dated: 23.01.2015	<b>Q</b>	38-43
23.	Copy of Notification dated: 27.06.2019	<b>R</b>	44-45
24.	Wakalatnama		46

Appellant  
Through

**Amin ur Rehman Yusufzai**

**Sajjad Mehsud**

**&**

**Khalid Khan**

Advocates, Peshawar,  
3-A, Park Avenue, Bhattani Plaza,  
University Town, Peshawar

Cell No.0321-9022964, 0333-9981464

Dated: 09.05.2020

①

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

Service Appeal No: 4938 of 2020  
(Alongwith Interim Relief)

Syed Javed Iqbal S/O Syed Altaf Hussain  
RO Qandeel, Post Office Madyan,  
Tehsil Bahrain District Swat.  
Presently posted as Superintendent  
Deputy Commissioner Office, Swat. ....

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 4283

Dated: 02/6/2020 Appellant

**V E R S U S**

1. Government of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar.
2. Senior Member Board of Revenue (Revenue & Estate Department), Govt. of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Commissioner Malakand Division at Saidu Sharif Swat.
4. Deputy Commissioner Swat at Gul Kada.
5. Shah Jahan, Ex-Assistant in the Office of Deputy Commissioner Swat. . . **Respondents**

**SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 READ WITH ALL ENABLING PROVISIONS OF LAW/RULES, GOVERNING THE SUBJECT, AGAINST NOTIFICATION ENDORSEMENT NO.EST:II/DPC/Swat/606-11, DATED: 07.01.2020 OF RESPONDENT NO.1, VIDE WHICH PROMOTION ORDER/NOTIFICATION DATED: 14.06.2016 OF THE APPELLANT TO THE POST OF SUPERINTENDENT (BPS-17) HAS UNILATERALLY BEEN SET ASIDE.**

**Prayer in Appeal:**

**On acceptance of instant service appeal, impugned Notification dated: 07.01.2020 of Respondent No.1, may be set aside and Notification dated: 14.06.2016 may be restored with all back benefits, in the best interest of justice and equity.**

=====

**Respectfully Sheweth:**

1. That services of appellant, while posted as Assistant in the office of Commissioner Malakand Division at Saidu Sharif Swat, have been placed at the disposal of the then Political Agent (now Deputy Commissioner) Bajaur, vide order dated: 27.02.2015, consequent upon his written request through letter dated: 25.02.2015. **(Copies of office order dated: 27.02.2015 & office letter dated: 25.02.2015 are attached as Annexures "A" & "B" respectively).**
2. That appellant had been adjusted against the vacant post of Assistant in the office of the then Political Agent (now Deputy Commissioner) Bajaur, vide order dated: 05.05.2015. **(Copy of office order dated: 05.05.2015 is attached as Annexure "C").**
3. That appellant, being senior most Assistant (BPS-16) working in the office of the then Political Agent (now Deputy Commissioner) Bajaur, evident from seniority list as it stood on 31.12.2015, has been promoted as Superintendent (BPS-17), by the Competent Authority, vide Notification dated: 14.06.2016, upon the recommendation of Departmental Promotion Committee, headed by the SMBR/ Respondent No.2, approved by the worthy Chief Secretary/Respondent No.1. **(Copies of the seniority list dated: 11.01.2016, approval ncte dated: 05.06.2016 of the worthy Chief Secretary & Notification dated: 14.06.2016, are Annexures "D", "E" & "F" respectively).**

Filed to-day  
Registrar  
2/6/2020

4. That promotion Notification dated: 14.06.2016 supra of the appellant has been challenged by one Ghulam Muhammad (Assistant in the office of the then Political Agent now Deputy Commissioner Bajaur), however turned down by the Competent Authority i.e. SMBR, vide order dated: 14.05.2019.

**(Copy of order dated: 14.05.2019 is attached as Annexure "G").**

5. That promotion Notification dated: 14.06.2016 supra of the appellant has again been challenged by one Alamgir Khan (Assistant in the office of Deputy Commissioner Swat), through departmental appeal dated: 18.09.2019, but met the same fate and has been turned down on 29.10.2019 by Respondent No.1, communicated vide letter dated: 05.11.2019, issued by SMBR / Respondent No.2.

**(Copies of departmental appeal dated: 18.09.2019, decision dated: 29.10.2019 of the worthy Chief Secretary & communication letter dated: 05.11.2019, are attached as Annexures "H", "I" & "J" respectively).**

6. That feeling aggrieved from decision dated: 29.10.2019 supra of the worthy Chief Secretary / respondent No.1, the said Alamgir Khan preferred Service Appeal No.1609/2019, which has been admitted for regular hearing and notices have also been issued to the concerned quarters, including the worthy Chief Secretary, vide order dated: 03.01.2020, which is still pending adjudication before this Hon'ble Tribunal.

**(Copy of order sheet dated: 03.01.2020 of this Hon'ble Tribunal alongwith memo of Appeal No.1609/2019 is attached as Annexure "K").**

7. That during pendency of appeal No.1609/2019 supra, another departmental appeal has been preferred but through Respondent No.5/Shah Jehan Khan (now superannuated from service), which has unilaterally been allowed, vide impugned Notification dated: 07.01.2020.

**(Copies of Departmental Appeal dated: 23.09.2019 and Notification dated: 07.01.2020, are attached as Annexures "L" & "M" respectively).**

8. That appellant approached the Competent Authority/ Respondent No.1, through Departmental Representation/Review dated: 10.01.2020, against unilateral Notification dated: 07.01.2020 supra, with the following prayer:

**"It is, therefore, requested that on acceptance of instant Review Petition, impugned Notification dated: 07.01.2020 may be re-visited, appeal dated: 17.09.2019 of Mr. Shah Jahan (Annexed at I) may be turned down and promotion order dated: 14.06.2016 of the appellant may be restored, in the best interest of justice and equity."**

Which has been considered at appropriate level and the concerned Department/ Respondent No.2 has submitted favourable remarks in favour of appellant, however, Respondent No.1, instead to allow his pending appeal, kept it in abeyance, reasons best known to him, irrespective of the fact that more than statutory period of 3 months have been elapsed, which resulted into instant appeal, inter-alia, on the following grounds:

**(Copy of Departmental Appeal/ Review dated: 10.01.2020 and remarks of the concerned quarters are attached as Annexures "N" & "O" respectively).**

**G R O U N D S:**

A. That impugned Notification dated: 07.01.2020 of Respondent No.1 is against the law, facts and material available on file, hence untenable.

- B. That Respondent No.1, prior to issue impugned Notification dated: 07.01.2020, has neither conducted regular inquiry nor opportunity of hearing, whatsoever of nature, has been afforded to the appellant, hence condemned unheard, which attracts the doctrine of **audi alteram partem**.
- C. That Respondent No.1 has no lawful authority to either entertain repeated departmental appeals against the promotion notification dated: 14.06.2016 of the appellant, particularly in view of previous decisions dated: 24.05.2019 & 29.10.2019, vide which similarly placed appeals have been rejected, needless to add that at the time of passing the impugned Notification dated: 07.01.2020, this Hon'ble Tribunal has already been taken cognizance into the matter and Respondent No.1 alongwith other concerned quarters have been issued notices vide order dated: 03.01.2020 in Service Appeal No.1609/2019, pending adjudication against the same promotion Notification dated: 14.06.2016 ibid of the appellant, therefore, respondent No.1 has acted without jurisdiction.
- D. That appellant has been promoted as Superintendent (BPS-17), vide Notification dated: 13.06.2006, under the District Ministerial Service Rules, 2001, published in the official gazette on 18.01.2010 and subsequently amended vide Notification dated: 23.01.2015, through which the post of Superintendent (BPS-17) has to be filled by promotion on the basis of seniority-cum-fitness, from amongst the Assistants of the District concerned, with at least 5 years' service in the offices of respective Deputy Commissioners & Political Agents but astonishingly when the rules ibid have subsequently been amended, vide Notification dated: 27.06.2019 and the post of Superintendent has been ordered to be filled by promotion on the basis of seniority-cum-fitness from amongst the Assistants with five years' service in the offices of Commissioners & Deputy Commissioners on the basis of **joint seniority list** of Assistants of the Division concerned. The impugned unilateral Notification has been managed in utter disregard to law/rules governing the subject. It is worth to mention that appellant has been promoted as Superintendent (BPS-17) on 14.06.2016 i.e. much prior from the latest amendments dated: 27.06.2019 made in the relevant rules, therefore, Respondent No.5 has neither got cause of action nor locus standi to even challenge basic promotion Notification dated: 16.06.2016 of the appellant, not only because that Respondent No.5 is/was Assistant (BPS-16) while appellant is Superintendent (BPS-17) but also because the Departmental Appeal has been filed after a lapse of more than 3 years, even then, entertained and allowed, which has caused grave miscarriage of justice.
- (Copies of District Ministerial Service Rules, 2001 alongwith Notification dated: 13.06.2006 (gazetted) on 18.01.2010, Notification dated: 23.01.2015 & Notification dated: 27.06.2019, are attached as Annexures "P", "Q" & "R" respectively).**
- E. That Respondent No.1 has passed the impugned Notification dated: 07.01.2020 in presence of his own decision dated: 05.11.2019, vide which he has turned down similar nature of departmental appeal of another employee of the same office i.e. Alamgir Khan, but astonishingly allowed subsequent departmental appeal of respondent No.5, pertains to the same nature, against one and the same promotion Notification of the appellant, which attracts the **doctrine of approbate and reprobate**.

4

- F. That appellant, being qualified/eligible, has been promoted against vacant post of Superintendent in District Bajaur (the then Bajaur Agency), by the Competent Authority, in due course of law/rules governing the subject, however his such promotion Notification dated; 14.06.2016 has unilaterally been turned down by Respondent No.1 through impugned Notification dated: 07.01.2020, while accepting appeal made by an employee of District Swat i.e. stranger to the rules, hence the impugned Notification is liable to be set at naught not only because the same is coram non judge besides being illegal and void ab-initio but also because principle of locus poenitentiae is also attracted.
  
- G. That, any other ground, with permission of this Hon'ble Tribunal, will be taken at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of instant Service Appeal, impugned order/Notification dated: 07.01.2020 of Respondent No.1 may be set aside and Notification dated: 14.06.2016 may be restored with all back benefits, in the best interest of justice and equity.

Any other relief, not specifically prayed for, and deemed appropriate to this Hon'ble Tribunal, in circumstances of the case, may be granted to the appellant.

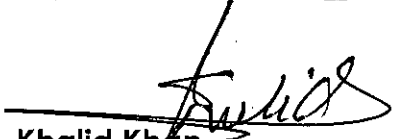


Appellant  
Through

Amin ur Rehman Yusufzai 

Sajjad Mehsud 

&

  
Khalid Khan  
Advocates, Peshawar,  
3-A, Park Avenue, Bhattani Plaza,  
University Town, Peshawar  
Cell No.0321-9022964, 0333-9981464

Dated: 09.05.2020

5

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

Service Appeal No. \_\_\_\_\_ of 2020  
(Alongwith Interim Relief)

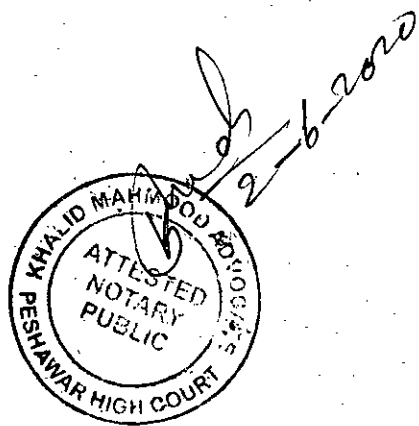
Syed Javed Iqbal. ....Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others. .... Respondents

**AFFIDAVIT**

I, Syed Javed Iqbal S/O Syed Altaf Hussain RO Qandeel, Post Office Madyan, Tehsil Bahrain District Swat. Presently posted as Superintendent Deputy Commissioner Office, Swat, do hereby solemnly affirm and declare on oath that the contents of accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*[Handwritten Signature]*

DEPONENT



6

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

Service Appeal No. \_\_\_\_\_ of 2020  
(Alongwith Interim Relief)

Syed Javed Iqbal. ....Appellant

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others. .... Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Syed Javed Iqbal S/O Syed Altaf Hussain  
RO Qandeel, Post Office Madyan,  
Tehsil Bahrain District Swat.  
Presently posted as Superintendent  
Deputy Commissioner Office, Swat.

**RESPONDENTS**

1. Government of Khyber Pakhtunkhwa through-its Chief Secretary, Civil Secretariat, Peshawar.
2. Senior Member Board of Revenue (Revenue & Estate Department), Govt. of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Commissioner Malakand Division at Saidu Sharif Swat.
4. Deputy Commissioner Swat at Gul Kada.
5. Shah Jahan, Ex-Assistant in the Office of Deputy Commissioner Swat.

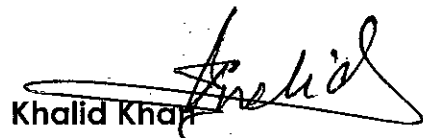


Appellant  
Through

Amin ur Rehman Yusufzai 

Sajjad Mehsud 

&

  
Khalid Khan  
Advocates, Peshawar,  
3-A, Park Avenue, Bhattani Plaza,  
University Town, Peshawar  
Cell No.0321-9022964, 0333-9981464

Dated: 09.05.2020

(7)

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

Civil Misc. No. \_\_\_\_\_ of 2020

I N

Service Appeal No. \_\_\_\_\_ of 2020  
(Alongwith Interim Relief)

Syed Javed Iqbal. .... Applicant/Appellant

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others. .... Respondents

**APPLICATION FOR SUSPENSION OPERATION OF IMPUGNED NOTIFICATION  
DATED: 07.01.2020, TILL FINAL DECISION OF THE TITLED SERVICE APPEAL.**

**Respectfully Sheweth:-**

1. That the titled appeal has been filed today wherein no date has yet been fixed for hearing.
2. That facts and grounds of the titled appeal may please be considered as integral part and parcel of instant application.
3. Those valuable rights' of applicant are involved into the matter and if the subject relief has not been granted he will suffer irreparable loss.
4. That applicant has got good prima facie case in his favour and is very much sanguine of its success. Moreover, balance of convenience also lies in his favour.
5. That the subject relief, if granted, will neither affect Respondent No.5 nor any other employee.

It is therefore, most humbly prayed that on acceptance of instant application, operation of impugned Notification dated: 07.01.2020 may please be suspended, till final decision of the titled appeal, so as to secure the ends of justice.



Applicant/Appellant

Through

Amin ur Rehman Yusufzai 

Sajjad Mehsud 

&

  
Khalid Khan

Advocates, Peshawar,  
3-A, Park Avenue, Bhattani Plaza,  
University Town, Peshawar  
Cell No.0321-9022964, 0333-9981464

Dated: 09.05.2020

②

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

Civil Misc. No. \_\_\_\_\_ of 2020

I N

Service Appeal No. \_\_\_\_\_ of 2020  
(Alongwith Interim Relief)

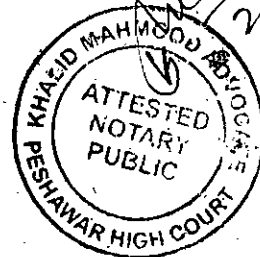
Syed Javed Iqbal. .... Applicant/Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others. .... Respondents

**AFFIDAVIT**

I, Syed Javed Iqbal S/O Syed Altaf Hussain RO Qandeel, Post Office Madyan, Tehsil Bahrain District Swat. Presently posted as Superintendent Deputy Commissioner Office, Swat, do hereby solemnly affirm and declare on oath that the contents of accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



9

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

Civil Misc. No. \_\_\_\_\_ of 2020

I N

Service Appeal No. \_\_\_\_\_ of 2020  
(Alongwith Interim Relief)

Syed Javed Iqbal. .... Applicant/Appellant

**V E R S U S**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others. .... Respondents

**APPLICATION FOR CONDONATION OF DELAY, IF ANY.**

**Respectfully Sheweth:-**

1. That the titled appeal has been filed today wherein no date has yet been fixed for hearing.
2. That facts and grounds of the titled appeal may please be considered as integral part and parcel of instant applicant.
3. That valuable rights of applicant are involved into the matter and if the subject relief has not been granted he will suffer irreparable loss. Moreover, he has got good prima facie case in his favour and is very much sanguine of its success. Besides balance of convenience which also lies in his favour.
4. That impugned Notification has been issued on 07.01.2020, departmental appeal was filed on 10.01.2020 and the instant appeal was due on or before 09.05.2020, however, could not institute due to unexceptional circumstances arisen of pandemic of COVID-19, hence the instant application. Needless to add that this Hon'ble Tribunal remained closed w.e.f. mid of March 2020 till 31.05.2020.
5. That delay in filing of titled appeal, if any, is not deliberated rather occasioned inadvertently, hence liable to be condoned.

It is therefore, most humbly prayed that on acceptance of instant application, delay in filing of titled appeal, if any, may be condoned in the best interest of justice and equity.

  
Applicant/Appellant

Through

  
Amin ur Rehman Yusufzai

  
Sajjad Mehsud

&

  
Khalid Khan  
Advocates, Peshawar,  
3-A, Park Avenue, Bhattani Plaza,  
University Town, Peshawar  
Cell No.0321-9022964, 0333-9981464

Dated: 09.05.2020

10

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

Civil Misc. No. \_\_\_\_\_ of 2020

I N

Service Appeal No. \_\_\_\_\_ of 2020  
(Alongwith Interim Relief)

Syed Javed Iqbal..... **Applicant/Appellant**

**VERSUS**

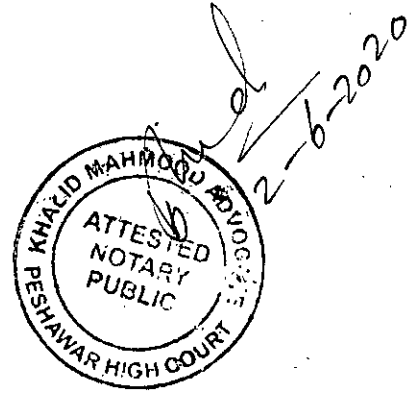
Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others..... **Respondents**

**AFFIDAVIT**

I, Syed Javed Iqbal S/O Syed Altaf Hussain RO Qandeel, Post Office Madyan, Tehsil Bahrain District Swat. Presently posted as Superintendent Deputy Commissioner Office, Swat, do hereby solemnly affirm and declare on oath that the contents of accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*Javed*

**DEPONENT**





Annex-3 (A) (11)

**OFFICE OF THE  
COMMISSIONER MALAKAND DIVISION  
SAIDU SHARIF SWAT**

Dated 27/02/2015

**OFFICE ORDER:**

No. 533 /2/3/Estt: In pursuance of the Political Agent, Bajaur Agency, letter No.1035/S/5, dated 25.02.2015, the services of Syed Javed Iqbal, Assistant (BPS-16) of this office are hereby placed at the disposal of the Political Agent, Bajaur for further posting against the vacant post of Assistant in his office with immediate effect in the public interest.

Sd/-  
**COMMISSIONER MALAKAND DIVISION**

No. 534-48/2/3/Estt:

Copy forwarded to:-

1. The Secretary, Law and Order Department FATA Secretariat, Peshawar.
2. The Political Agent, Bajaur Agency.
3. The District Comptroller of Accounts, Swat.
4. The Agency Account officer, Bajaur Agency.
5. Accounts Officer (Local).
6. Official Concerned.
7. Personal File.

**SECRETARY TO COMMISSIONER  
MALAKAND DIVISION**  
Ph# 0946-9240458

Attested  
Per

Amex- (B)

(12)

OFFICE OF THE  
POLITICAL AGENT BAJAUR.

No. 1035 /S/S Dt: 25/02/2015


To

The Commissioner;  
Malakand Division  
At Saidu-Sharif, Swat.

Subject: NEW INITIATIVES AND PROVISION OF OFFICE ASSISTANT.

This Administration is planning to initiate some new initiatives in Education and Health alongwith reforms in Levies and Judicial system. For the purpose, a competent Office Assistant may please be provided to look after and manage the office work for the purpose.

  
POLITICAL AGENT BAJAUR.

Attested  


Annex -

©

60

13

OFFICE OF THE POLITICAL AGENT BAJAUR AGENCY AT KHAR

ORDER

No. 2403 / Accff

Dated Khar the, 05 May 2015

Syed Javed Iqbal, Assistant (BPS-16) transferred vide Commissioner, Malakand Division Order bearing No.533/2/3/Estt dated 27/2/2015, is hereby adjusted against the vacant post of Assistant in this office, against the quota meant for direct recruitment in the public interest.

No. 2404-08 / Accff

~~POLITICAL AGENT BAJAUR~~  
Dated Khar the 05 May 2015

Copy to:

- 1- Secretary, Law & Order, FATA Secretariat, Peshawar
- 2- Commissioner, Malakand Division at Saidu-Sharif, Swat
- 3- Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar
- 4- Agency Accounts Officer, Bajaur
- 5- Official concerned

~~POLITICAL AGENT BAJAUR~~

Attested

Per



**FINAL SENIORITY LIST OF MINISTERIAL STAFF OFFICE OF THE POLITICAL AGENT, BAJAUR AS IT STOOD ON 31/12/2015.**

**OFFICER ORDER:**

Dated 11/01/2015

No. \_\_\_\_\_/2/14/Acctt: In pursuance of Section 8.(1) & (5) of the Civil Servant Act, 1973, Final Seniority List of Ministerial Staff working in the Office of the Political Agent, Bajaur and subordinate offices, as it stood on 31-12-2015, is hereby notified as follows for information of all concerned:

No.	Name of official	Qualification	Date of Birth	Date of 1 <sup>st</sup> entry into govt. service	Date of Regular Appointment			Date of Regular Appointment		Remarks
					Junior Clerk	Senior Clerk	Assistant	Domicile	Method of Appointment	
<b>SENIOR SCALE STENOGRAPHER</b>										
1.	--	--	--	--	--	--	--	--	--	Vacant since 13-10-2014 due to retirement of Nisar Muhammad Senior Scale Stenographer.
<b>ASSISTANT (BPS-16)</b>										
1	Syed Javid Iqbal	B.A-LLB	26/06/1972	06/06/1994	06/06/1994	--	29/12/2008	Swat	Direct	
2	Mr. Noor Habib Gul	B.A	10/11/1957	22/11/1975	22/11/1975	--	30/12/2013	Bajaur	Direct	
<b>SENIOR CLERK (BPS-14)</b>										
1	Mr. Akhun Zada	F.S.C	02/02/1956	13/05/1975	13/05/1976	18/03/2008	--	Bajaur	Direct	
2	Mr Bahadar Khan	MA/LLB	01/09/1958	13/05/1976	13/05/1976	17/09/2011	--	Bajaur	Direct	
3	Mr. Nek Muhammad	F.A	04/04/1958	23/07/1997	23/07/1997	30/12/2013	--	Bajaur	Direct	
4	Mr. Muhammad Habib	F.A	15/07/1959	25/11/1981	25/11/1981	30/12/2013	--	Bajaur	Direct	
5	Mr. Gulam Muhammad	F.A	08/11/1950	25/11/1981	25/11/1981	11/12/2014	--	Bajaur	Direct	

Amex -

(14)

*Alleged*

*X*

	Mr.Ghasu Rahman	F.A	01/06/1962	25/11/1981	25/11/1981/	11/12/2014	--	Bajaur	Direct	
7	Mr. Abdul Qayum	B.A	03/09/1957	25/11/1981	25/11/1981	22/12/2014	--	Bajaur	Direct	
<b>JUNIOR SCALE STENOGRAPHER (BPS-14)</b>										
1	Muhammad Riaz	M.A	01/02/1984	18/03/2008 as JSS	----	--	--	Bajaur	Direct	
<b>JUNIOR CLERK(BPS-11)</b>										
1.	Mr.Abdur Rahim	F.A	07/04/1959	01/05/1982	01/05/1982	--	--	Bajaur	Direct	
2.	Mr.Hayat Khan	Matric	01/02/1967	01/04/1984	01/04/1984	--	--	Bajaur	Direct	
3.	Mr. Noorul Basar	B.Sc	15/10/1957	06/11/1984	06/11/1984	--	--	Bajaur	Direct	
4.	Mr. Shah Ahmad	M.A-MLS	11/12/1962	06/11/1984	06/11/1984	--	--	Bajaur	Direct	
5.	Mr. Said Nasib Sha	B.A	01/07/1965	01/11/1984	01/11/1984	--	--	Bajaur	Direct	
6.	Mr .Raman Gul	B.A	15/04/1968	03/04/1988	03/04/1988	--	--	Charsadda	Direct	
7.	Mr. Mutabar Khan	B.A	04/03/1979	25/08/1999	25/08/1999	--	--	Bajaur	Direct	
8.	Mr. Sha Hussain	B.A	02/01/1974	01/01/1999	06/12/2006	--	--	Bajaur	Promote	
9.	Mr. Hamidullah	Matric	01/02/1979	24/04/2002	11/07/2009	--	--	Bajaur	Direct	
10.	Mr. Muhammad Fayaz	B.A	12/03/1978	13/03/2012	13/03/2012	--	--	Bajaur	Direct	
11.	MR. Fazal Hadi	F.A	08/04/1984	18/05/2012	18/05/2012	--	--	Bajaur	Direct	
12.	Mr. Rowaid Khan	F.A	24/01/1992	21/05/2012	21/05/2012	--	--	Bajaur	Direct	
13.	Mr. Tahir Hussain	B.A	15/06/1987	29/09/2005	02/10/2013	--	--	Bajaur	Promotee	
14.	Umar Farooq	Matric /DAE	15/06/1995	11/12/2014	11/12/2014	--	--	Bajaur	Direct	
15.	Mr. Alam Zeb	F.A	04/03/1981	23/10/2001	09/12/2015	--	--	Bajaur	Promotee	
16.	Mr. Badshah Zada	M.A	02/01/1982	09/12/2015	09/12/2015	--	--	Bajaur	Direct	
17.	Mr. Zia-ud-Din	MA (Pol:Science)	14/09/1980	09/12/2015	09/12/2015	--	--	Bajaur	Direct	
18.	Mr. Anwar Hussain	MA (Pol:Science)	12/02/1982	09/12/2015	09/12/2015	--	--	Bajaur	Direct	

15

*Attested*

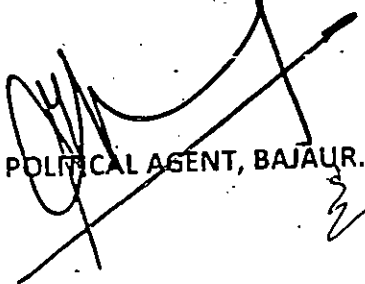
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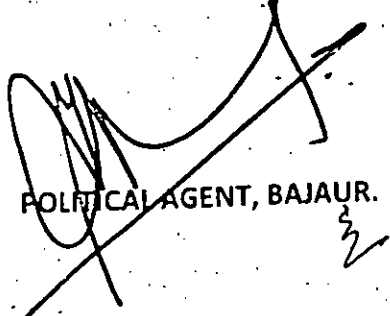
Mr. Khalid Anwar	MA (Pol:Science)	06/01/1985	09/12/2015	09/12/2015	--	--	Bajaur	Direct	
20. Rizwanullah	M.A (Islamyat)	01/12/1989	09/12/2015	09/12/2015	--	--	Bajaur	Direct	
21. Mr. Hidayatullah	BCS	12/04/1990	09/12/2015	09/12/2015	--	--	Bajaur	Direct	
22. Mr. Taif Islam	M.A (Islamyat)	15/04/1988	09/12/2015	09/12/2015	--	--	Bajaur	Direct	

No. \_\_\_\_\_/2/14/Acctt:

Copy forwarded to:

1. The Secretary Board of Revenue, Revenue and Estate Department Khyber Pakhtunkhwa, Peshawar.
2. The Section Officer, Establishment Administration Infrastructure & Coordination Department, FATA Secretariat, Peshawar.

  
 POLITICAL AGENT, BAJAUR.

  
 POLITICAL AGENT, BAJAUR.

Attested

Annex

17

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT



NOTE FOR CHIEF SECRETARY

Subject: PROMOTION OF ASSISTANT (BPS-16) TO THE POST OF SUPERINTENDENT (BPS-17).

Departmental Promotion Committee meeting was convened to consider Mr. Syed Javid Iqbal Assistant (BPS-16) for promotion against the vacant post of Superintendent (BPS-17) in the office of Political Agent Bajaur Agency.

2. The Departmental Promotion Committee examined the relevant record and recommended Mr. Syed Javid Iqbal Assistant (BPS-16) for promotion to the post of Superintendent (BPS-17), minutes of the DPC is at (Annexure-A).

3. Chief Secretary, Khyber Pakhtunkhwa being Competent Authority is requested to approve the recommendations of the Committee for promotion of Mr. Syed Javid Iqbal Assistant (BPS-16) as Superintendent (BPS-17) on regular basis.

*[Signature]*  
9/5/2016  
Senior Member  
Senior Member  
Board of Revenue  
Khyber Pakhtunkhwa

Chief Secretary

By No. 65  
Date 10-5-2016  
Govt. of Khyber Pakhtun Khwa

Diary No. 744  
Date 10-5-16

910

18

4. The note for Chief Secretary, Khyber Pakhtunkhwa regarding promotion of Assistant (BS-16) to the post of Superintendent (BS-17) in Board of Revenue has been examined. According to relevant service rules, the post is meant for promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with at least five years service in the offices of respective Deputy Commissioner and Political Agents. Departmental Selection Committee has recommended Syed Javed Iqbal, Assistant (BS-16) for promotion to the post of Superintendent (BS-17) in the office of Political Agent Bajuar (Annex-A) and found in order.

5. The Chief Secretary, Khyber Pakhtunkhwa, being appointing authority for posts in BS-17, under Rule 4 (1) (b) Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, may approve the proposal. The officers will be on probation for a period of one year in terms of rule-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

PS/SMBR  
By No. 65  
Date 2/6/16  
Govt. of Khyber Pakhtun Khwa

*(Signature)*  
(Humaira Ahmed) 2/6/16  
Secretary Establishment

Chief Secretary  
Khyber Pakhtunkhwa

*Approved*

*(Signature)*  
2/6/16  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa

*SMBR*

*(Signature)*  
5/6/2016

*AS(E)*

*(Signature)*  
6/6/16

*(Signature)*  
5/6/16

U.A.I.C.S Khyber Pakhtunkhwa  
No. 190  
Date 2-6-16

PS / Secy P.W. & S.A.S  
Diary No. 977  
Date 2/6/16

100

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6 Annex (E) (19)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 14/06/2016

**NOTIFICATION**

No. Estt:II/DPC/\_\_\_\_\_ On the recommendation of Departmental Promotion Committee, Syed Javed Iqbal, Assistant (BS-16) office of the Political Agent Bajuar is promoted as Superintendent (BS-17) on regular basis with immediate effect.

On promotion, Syed Javed Iqbal Superintendent will be on probation for a period of one year in terms of section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules-1989.

Consequent upon his promotion, he is posted as superintendent in the office of Political Agent Bajuar Agency against the vacant post.

By order of  
Senior Member

End: No. Estt:II/DPC/16496-99

Copy forwarded to:-

1. Commissioner Malakand Division Saidu Sharif at Swat.
2. Political Agent Bajuar.
3. District Accounts Officer, Bajuar Agency.
4. Officer concerned.

                      
Secretary - I

Attested

Annex 9

20

**BEFORE THE SENIOR MEMBER BOARD OF REVENUE  
KHYBER PAKHTUNKHWA**

Mr. Ghulam Muhammad Assistant, office of the Deputy Commissioner Bajaur..... Appellant

Versus

Syed Javed Iqbal. Superintendent Deputy Commissioner office Bajaur.....Respondent

**ORDER**

This is an appeal / representation filed by Mr. Ghulam Muhammad Assistant office of the Deputy Commissioner Bajaur against the adjustment of Syed Javed Iqbal the then Assistant office of the Commissioner Malakand now Superintendent in Deputy Commissioner Bajaur office and adjustment somewhere else in Malakand Division.

Facts of the case are that the Deputy Commissioner Bajaur made request to Commissioner Malakand for the services of a competent Assistant on 25.02.2015. Commissioner Malakand placed the services of the respondent (Syed Javed Iqbal) at the disposal of Deputy Commissioner Bajaur on 27.02.2015 who adjusted him permanently as Assistant against the vacant post falls in the share of initial quota. His name was included in the seniority list of Assistants of Bajaur District and on availability of post, he was accordingly promoted as Superintendent in Bajaur District on 14.06.2016 being the senior most.

The main contention of the appellant is, that Syed Javed Iqbal is basically employee of Commissioner Malakand and domicile holder of Swat District therefore he may be repatriated and adjustment somewhere else in Malakand Division outside Bajaur District.

Reply/views of Commissioner Malakand and Deputy Commissioner Bajaur gone through which reveals that respondent Syed Javed Iqbal was adjusted as Assistant in the office of Deputy Commissioner Bajaur on 05.05.2015 against the vacant post falls under 25% direct quota. At that time no one including the appellant raised any written objection over his adjustment, while on the other hand the appellant was working as Senior Clerk in that office. Secondly for the purpose of promotion / seniority, the Law and Order Department FATA Secretariat, Peshawar directed the Deputy Commissioner Bajaur on 03.03.2015 for separation of the two cadres i.e Political Administration and the Federal Levies Ministerial Staff. All the staff members including appellant and the respondent submitted their option for fixation of seniority. In the said option the name of the respondent is reflected at S. No. 1 as Assistant while the appellant reflected at S. No. 09 as Senior Clerk, but the appellant did not raise any objection on that Seniority at that time too.

Later on, after the retirement of Mr. Inayat Khan. Superintendent, the Political agent Bajaur forwarded the case of the respondent to the Board of Revenue for promotion against the vacant post of Superintendent and on recommendation of the Departmental Promotion Committee, Syed Javed Iqbal was promoted as Superintendent on 14.06.2016 and

21

assumed the charge as such on 15.06.2016, but the appellant or any other official of Bajaur District did not raise any objection on his promotion or charge assumption. Thirdly the appellant has recently been promoted as Assistant on 23.11.2018 and is still on probation till 23.11.2019 and is not eligible for further promotion. According to Rules five years service as Assistant is required for promotion to the post of Superintendent, which the appellant also does not possess and thus appellant is not eligible for regular promotion to the post of Superintendent. Even he does not qualify/complete minimum 2 years service for appointment on Acting Charge Basis as required under the rules. Fourthly, the date of birth of the appellant is 08.11.1960, hence he cannot be made eligible for such promotion till his retirement i.e 07.11.2020.

Keeping in view the foregoing discussion, the appellant has no prima facie case as he has recently been promoted as Assistant BS-16 and on probation till 23.11.2019. He will attain the age of superannuation prior to completion the prescribed 5 years length of service as required under the rules. Beside, there is no written proof available to show that the appellant has filed any appeal against the adjustment of the respondent from 27.02.2015 till date, hence the appeal of the appellant is also badly time barred. The appeal having no legal ground is therefore dismissed.

Announced

24.05.2019.

Fakhre Alam  
Senior Member

Attested



Annexure (H) 99  
PS/C.S Khyber Pakhtunkhwa  
Diary No. 8537 (WR)  
Date 19-09-2019

To,

The Honorable Chief Secretary,  
Govt: of Khyber Pakhtunkhwa, Peshawar.

Subject:

APPEAL

Respected Sir,

It is submitted that my promotion case from the post of Assistant (BPS-16) to the rank of Superintendent (BS-17) was sent to the Board of Revenue, Khyber Pakhtunkhwa vide Deputy Commissioner, Swat letter No. 10049/4/DC/Estt: dated: 25/03/2019 and Commissioner, Malakand Division letter No. 1403-04/2/24/Estt: dated: 08/04/2019 under Notification No. 2074/Estt:I/II/135/SSRC, dated: 23/01/2015 wherein method of recruitment for the post of Superintendent is "by promotion on the basis of seniority cum fitness from amongst the Assistants (BPS-16) of the District concerned with at least five years service in the offices of respective Deputy Commissioner".

Now, the Board of Revenue, Khyber Pakhtunkhwa vide Notification No. Estt:II/Posting/Transfer/29572-75, dated: 12/09/2019 has transferred/posted Syed Javed Iqbal Superintendent against the vacant post in Deputy Commissioner Office, Swat which affected my seniority and promotion case already submitted to the Board of Revenue, Khyber Pakhtunkhwa.

Sir, my case for promotion to the post of Superintendent was submitted to the concerned authorities vide Notification No. 2074/ Estt:I/II/135/SSRC, dated: 23/01/2015 being senior most among the Assistants but unfortunately not processed before promulgation of the new policy.

It is therefore, humbly requested that the posting order of Syed Javed Iqbal Superintendent may kindly be cancelled/withdraw and my case for promotion to the post of Superintendent may kindly be considered under District Promotion Policy, please.

Yours Obediently,

(ALAMGIR, ASSISTANT)  
DC Office Swat.  
Dated: 18/09/2019

PS to Chief Secretary  
Govt: of Khyber Pakhtunkhwa

MBR-III  
20/9/19

MBR-III

20/9/19

SMBR

19/9

Attested

Ames

(I)

(23)

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.



REVD-1417

**NOTE FOR CHIEF SECRETARY**

**SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION.**

Attention is requested to application submitted by Mr. Alamgir, Assistant, office of the Deputy Commissioner Swat for promotion as Superintendent BS-17 (Annexure-A).

Facts of the case are that on 08.04.2019 Commissioner Malakand Division forwarded promotion case of Assistant to the post of Superintendent BS-17 against the only one vacant post in Deputy Commissioner Office Swat (Annexure-B). During examination of the case, the PERs of the senior most official namely Mr. Shah Jehan were found missing, therefore, Commissioner Malakand was asked to provide the missing ACRs for the period from 2010 to 2018 to enable the Department to place the case before DPC (Annexure-C). The same were provided by Commissioner Malakand on 11.07.2019 (Annexure-D) and accordingly M/S Zahir Shah and Tariq Aziz were promoted as Superintendent BS-17 on the basis of joint seniority list of Assistant of Malakand Division on their own turn vide minutes of the DPC (Annexure-E) and promotion order is at (Annexure-F). It is pertinent to mention here that amendment in the rules have been notified vide Revenue & Estate Department notification dated 27.06.2019 (Annexure-G) according to which the post of Superintendent shall be filled in by promotion on the basis of seniority-cum-fitness, from amongst the Assistant with five years service as such in the offices of Commissioners and Deputy Commissioners on the basis of joint seniority list of Assistants of the Division concerned.

The applicant is a junior most Assistant of the office of Deputy Commissioner Swat. His name is at S. No. 22 of the Divisional seniority list of Assistants of Malakand Division. The request of the applicant does not cover the rules and cannot be acceded to. His application/appeal is liable to be dismissed.

Secretary Establishment

*M. Zaman*  
09/10  
Senior Member  
Senior Member  
Board of Revenue  
Khyber Pakhtunkhwa

*Accepted*  
*N.P.P.*

G.O. Recd-IV  
S.G.A.D. Diary No. 161  
Dated 11-10-19

PS/SMBR  
Dy No. 206  
FTS/REVD. 1417  
Date 10/10/2019  
Govt. of Khyber Pakhtunkhwa

PS/Secy ER&AD KP  
Diary No. 2337  
FTS No. 101017  
Date 10/10/19

24

4. The Note for Chief Secretary, Khyber Pakhtunkhwa has been examined. Mr. Alamgir, Assistant, office of the Deputy Commissioner, Swat has submitted Departmental Appeal regarding promotion to the post of Superintendent (BS-17) (Annex-A).

5. Service Rules of the post of Superintendent have been amended/Notified on 27.06.2019, where-under, promotion is given to be made from amongst Assistants of the Division concerned (Annex-G). Earlier, such promotion was to be made from amongst Assistants of the District instead. The request of the appellant to reverse the promotion made under existing Service Rules and to follow previous rules for the purpose is unfounded.

6. In view of the above the appeal is not entertainable.

CAIC, S Khyber Pakhtunkhwa  
No: 4622  
Date: 29-10

*[Signature]*  
Syed Jamal-ud-Din Shah  
Secretary Establishment  
October 29, 2019

Chief Secretary  
Khyber Pakhtunkhwa

*Appeal dismissed*

*Recy/Estab*

*[Signature]*  
29/x  
Chief Secretary

*SMPBR*

*Accepted*

*[Signature]*  
SECRETARY ESTABLISHMENT  
Establishment & Administration  
Department.

*Say-i*  
*[Signature]*

*[Signature]*  
31/10/19

*30/9/19*

8737  
PTS No: 29/10/19

Amman

(J)

(25)

(23)



GOVERNMENT OF KHYBER PAKHTUNKHWA,

BOARD OF REVENUE,

REVENUE & ESTATE DEPARTMENT.

No. Estt: II/DPC/Swat 34954

Dated Peshawar the 5/11/2018

5/11/2019

To

Mr. Alanigir, Assistant,  
Deputy Commissioner office Swat.

SUBJECT: APPEAL

Your Departmental Appeal has been examined and filed by the Competent Authority.

Assistant Secretary (Estt.)

Amreeq (K)  
Appeal No. 1609/2019  
Alamgir Khan vs Govt



03.01.2020

Counsel for the appellant present (26)

Contends that through impugned notification dated 12.09.2019 the respondent No. 8 was transferred and posted as Superintendent BPS-17 at the Deputy Commissioner office Swat against a vacant post. Resultantly, the case of promotion of appellant against the post of Superintendent was adversely affected although he was fit and eligible in all respects for promotion to BPS-17. At the time of recommendation of appellant for promotion to be placed before the DPC, the post in the relevant office was duly available but was filled in by transfer of respondent No. 8 which was against the rules regarding promotion of officials in the Board of Revenue.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 18.02.2020 before S.B.

Appellant Deposited Security Process Fee  
3/1/20

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

SDA  
Chairman

Date of Presentation of Application 16-01-2020  
Number of Words 800  
Copying Fee 10-00  
Urgent 4-00  
Total 14-00  
Name of Copyist  
Date of Completion of Copy 16-01-2020  
Date of Delivery of Copy 16-01-2020

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BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 1609 /2019

Khyber Pakhtunkhwa  
Service Tribunal

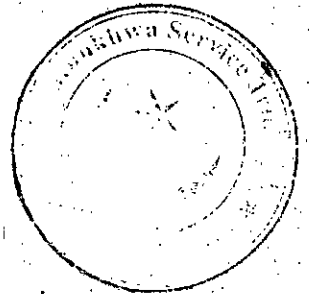
Diary No. 1696

Date 29-11-2019

Alamgir Khan S/o Aitabar Gul  
R/o Saidu Sharif, District Swat  
Presently posted as Assistant Deputy Commissioner,  
Commissioner Office, Swat.....Appellant

**V E R S U S**

1. Govt of KPK through Chief Secretary,  
Civil Secretariat, Peshawar
2. Secretary Establishment, KPK,  
Civil Secretariat, Peshawar
3. Secretary, Revenue and Estate Department, Peshawar
4. Senior Member, Board of Revenue, Peshawar
5. Commissioner Malakand Division (Rev/Gen),  
Saidu Sharif, Swat
6. Deputy Commissioner, Swat
7. Deputy Commissioner, Bajawar
8. Syed Javid Iqbal, Superintendent,  
Deputy Commissioner Office, Swat.....Respondents



Filed to-day

Registrar

29/11/19

Service appeal u/s 4 of the Khyber  
Pakhtunkhwa Services Tribunal Act, 1974  
against the Notification No. Esst://  
POSTING/TRANSFER/29572-75 DATED  
12.09.2019, whereby respondent No.08  
was transferred/ posted against the  
vacant post in Deputy Commissioner  
office, swat against the law, rules, policy

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Annex

(L)

Spl. Secretary (Regular)  
Establishment Department  
Diary No. 2264w/12  
Date 25/09/19

PS/Secy E&AD KP  
Diary No. 7328/14  
FTS No.  
Date 23-9-19

PS/Secy Khyber Pakhtunkhwa  
Diary No. 8613 (old)  
Date 23-09-2019

(28)

The Honorable Chief Secretary,  
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE ILLEGAL ORDER OF PROMOTION TO THE POST OF SUPERINTENDENT BPS-17 AND POSTING OF ALIEN AGAINST THE VACANT POST IN DEPUTY COMMISSIONER OFFICE SWAT.

Sir,

I am serving in District Administration since 1982. During my Service I have been posted as Tehsildar in BPS-16 and remained there for almost fifteen years against my reserve Quota on the basis of serenity cum fitness as envisaged in rules, however suddenly been repatriated without any reason instated of judgment of the competent court of law in my favour which are part and parcel of record of Revenue Department Khyber Pakhtunkhwa. In the meanwhile a post of Superintendent BPS-17 fell vacant with effect from 04 January 2019, wherein I am top of seniority list circulated by the concerned for the year 2019, however due to severe intrigues by some of the staff of the office of Deputy Commissioner, Swat with the on-questioning support of the Administrative Officer of the said office, tried much to hinder my way for promotion on either ways for the simple reason to accommodate a joiner one namely Javed Iqbal, domiciled of Swat and illicitly been transferred/promoted to District Bajawar by the ill minds of Establishment Section of Board of Revenue, Khyber Pakhtunkhwa, for their own ends rampant their. Both the offices under discussion above tried their best to hamper promotion as such either on the pretext on non-availability of ACRs and than inquiries on the fake version of non compliance of orders which can easily be verified from my service record spreading over 36 years. Such behavior have had well been predicated in my application (copy enclosed) for perusal.

It is, therefore, requested that all the illegal acts perpetuated against me with out any ethics, and rules, and my pending case of promoting as such since January 2019, before the Board of Revenue Khyber Pakhtunkhwa and simultaneously posting of junior person named above whose service is throughout the negation of law and ethics, may kindly be reviewed, granting me my legitimate right of promotion and posting according to the law with effect from 04/01/2019 please.

Dated: 17/09/2019

Yours Sincerely,

(SHAH JAHAN)  
Assistant BPS-16

Office of the Deputy Commissioner Swat.

22/9  
Chief Secretary  
of Khyber Pakhtunkhwa  
Reg/Estab

m

24/9  
\*SOP  
AS(P-II)

5012-12  
26/9  
D.R. Khan

525

Attested  
Ch. J. Iqbal  
25/9

Annex

(M)



GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.

(29)

Peshawar dated the 07/01/2020.

**NOTIFICATION**

Estt:II/DPC/Swat/\_\_\_\_\_ Whereas, Mr. Syed Javed Iqbal was promoted by Board of Revenue vide order No. Estt:II/DPC/16496-99 dated 14.06.2016 to the post of Superintendent in Bajaur, based on his seniority bearing No. 4221/Promotion/Acctt: dated 23.06.2015.

2. AND WHEREAS, aggrieved with the promotion of Syed Javed Iqbal, Mr. Shah Jehan, an Assistant in the office of Deputy Commissioner Swat filed an appeal to the undersigned on 17.09.2019 for declaring the said promotion illegal and discriminatory.

3. AND WHEREAS, Revenue Department was given an opportunity to justify the promotion and the seniority considered for such promotion, where after the appellate authority i.e. the Chief Secretary, Khyber Pakhtunkhwa shall pass a speaking order, with reasons, within a reasonable time frame, enabling the appellant to avail remedy available to him under the law, if he still felt aggrieved from the final order in his case.

4. AND WHEREAS, the Board of Revenue had admitted that no provision existed for appointment of a candidate in other district. Under the relevant service rules, the posts of Assistant in Districts were required to be filled from candidates of the district concerned. However, as reflected in the seniority list, Syed Javed Iqbal held the domicile of Swat.

5. AND WHEREAS, seniority of Syed Javed Iqbal was fixed from the date of his previous appointment as Assistant in the office of Commissioner Malakand (29.12.2008), instead of the date of his adjustment in Bajaur (05.05.2015), in violation of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

6. AND WHEREAS, as per the seniority list of District Bajaur, an Assistant namely Mr. Noor Habib Gul was available at the time of the adjustment of Syed Javed Iqbal. The date of appointment of Mr. Noor Habib Gul as Assistant was 30.12.2013, thus, he being already appointed before the said adjustment was senior in the District but he was rendered junior to his junior (Syed Javed Iqbal) and deprived him from promotion to the post of Superintendent right at the verge of his retirement on superannuation on 09.11.2017 as his date of birth recorded in the seniority list was 10.11.1957.

7. AND WHEREAS, the adjustment and fixation of the seniority of Syed Javed Iqbal as Assistant in Bajaur were illegal and such adjustment and seniority were based for his promotion to the post of Superintendent, so impugned, therefore, this promotion was also illegal.

8. NOW THEREFORE, after thorough perusal of the record and in light of the relevant law and rules, I, Chief Secretary, Khyber Pakhtunkhwa being appellate authority, in terms of rule 5 (1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 decide to set aside the promotion order of Syed Javed Iqbal as Superintendent made on 14.06.2016.

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Estt:II/DPC/Swat/ 606-11

Copy forwarded to the:-

1. Commissioner Malakand Division, Saidu Sharif, Mingora.
2. Deputy Commissioner, Swat and Bajaur.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. PS to Secretary Establishment.

Assistant Secretary (Estt:)



Secretary E & AD

Diary No - 352

dttd = 14-1-2020

222(N)E

10-01-2020 ①

**BEFORE THE WORTHY CHIEF SECRETARY,**

**KHYBER PAKHTUNKHWA, PESHAWAR**

Amir

(N)

30

Subject: **DEPARTMENTAL REPRESENTATION / REVIEW AGAINST NOTIFICATION ENDORSEMENT**  
**NO.EST:II/DPC/Swat/606-11 DATED: 07.01.2020.**

**Respected Sir,**

1. That applicant was appointed as Assistant (BPS-14), in the office of Commissioner Malakand Division Saidu Sharif at Swat, consequent upon the recommendation of the Departmental Selection/Promotion Committee, vide order No.3760/2/2/Estt., dated: 29.12.2008 (**Copy enclosed as A**), moreover, name of applicant is reflecting at Serial No.5 of the final seniority list of Assistants in the office of the Commissioner Malakand Division, issued by the competent authority, vide Office Order dated: 26.02.2014 (**Copy enclosed as B**).
2. That, in pursuance of the then Political Agent Bajaur (Now Deputy Commissioner), letter No.1035/S/5, dated: 25.02.2015, services of the applicant were transferred to Bajaur, vide Office Order No.533/2/3/Estt., dated: 27.02.2015 (**Copies enclosed as C & D respectively**), moreover, he has been adjusted against the vacant post of Assistant in the office of DC Bajaur, vide Order No.2403/Asstt: (**Copy enclosed as E**).
3. That, final seniority list of ministerial staff in the office of the then Political Agent Bajaur, was issued vide Office Order dated: 11.01.2016 (**Copy enclosed as F**), wherein applicant stood at Serial No.1.
4. That applicant has been considered by the competent authority for promotion to the post of Superintendent (BS-17), which was lying vacant due to superannuation of Inayat Khan, evident from note for your honor prepared by SMBR on 09.05.2016 (**Copy enclosed as G/1**), and, after approval dated: 15.06.2016 (**Copy enclosed as G/2**) of your honor, applicant has been promoted, on the recommendations of the Departmental Promotion Committee, as Superintendent (BS-17), vide Notification endorsement No.Estt:II/DPC/16496-99, dated: 14.06.2016 (**Copy enclosed as G**).
5. That the competent authority/SMBR transferred applicant from District Bajaur to the Office of the Deputy Commissioner Swat, vide Notification No.Estt:II/ Posting/ Transfer/29572-75, dated: 12.09.2019 (**Copy enclosed as H**), against the vacant post of Superintendent (BS-17).
6. That promotion order dated: 14.06.2016, of applicant, as Superintendent, was assailed before your honor, by Mr. Shah Jahan, Assistant in the office of Deputy Commissioner Swat, through appeal dated: 17.09.2019 (**Copy enclosed as I**), which was allowed and the promotion order dated: 14.06.2016 of applicant has been set aside, vide Notification Endorsement No.Estt:II/DPC/Swat/606-11, dated: 07.01.2020 (**Copy enclosed as J**).

Attested



(31)

7. That, while issuing impugned notification dated: 07.01.2020, neither applicant has been granted opportunity of hearing nor the relevant law/rules, governing the subject, have been considered, rather the same has been issued in utter disregard whereof, which deserves to be re-visited, not only because the facts and material available on file have not been appreciated in its true perspective but also because applicant has been condemned unheard, which attracts the doctrine of *audi alteram partem*. It is worth to mention that Mr. Shah Jahan is neither aggrieved person nor his appeal before your honor was maintainable because he is the employee of Deputy Commissioner Swat as Assistant (BPS-16), while applicant is the employee of Board of Revenue as Superintendent (BS-17), similarly, seniority of both the employees have always been maintained separately i.e. seniority of Mr. Shah Jahan has been maintained in the office of Deputy Commissioner Swat, while that of applicant has been maintained in the office of Commissioner Malakand and thereafter in the office of Deputy Commissioner Bajaur (the then Political Agent), therefore, he has neither cause of action nor locus standi to question promotion order of the applicant.

**(Copies of relevant rules dated: 13.06.2006, Notification dated: 23.02.2015, Notification dated: 27.06.2019, Notifications dated: 23.01.2015 (2 in Nos.) and Notification dated: 25.06.2019 are Annexed at K, L, M, N, O & P respectively).**

8. That applicant is B.A/LL.B qualified and having more than 26 years spotless career at his credit, moreover, he performed duties for more than 4 years in the hardest area of District Bajaur, being transferred without obtaining his consent, needless to add that he always performed official duties to the best of his abilities with the utmost satisfaction of his superiors.

9. That, any other ground, with the permission of your honor, will be taken at the time of personal hearing, if granted.

It is, therefore, requested that on acceptance of instant Review Petition, impugned Notification dated: 07.01.2020 may be re-visited, appeal dated: 17.09.2019 of Mr. Shah Jahan (Annexed at I) may be turned down and promotion order dated: 14.06.2016 of the applicant may be restored, in the best interest of justice and equity.

**Interim Relief**

By way of interim relief, operation of impugned notification dated: 07.01.2020 (under review) may kindly be suspended, till final decision of instant review petition.

Dated: 10.01.2020

*Alleged*

Yours obediently,

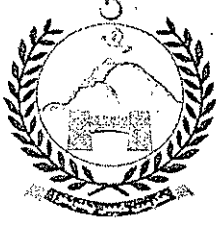
*[Signature]*

**SYED JAVED IQBAL**

Presently posted as Superintendent  
Deputy Commissioner Office, Swat.

03005744112

03459527473



## NOTE FOR CHIEF SECRETARY.

**SUBJECT:- DEPARTMENTAL REPRESENTATION / REVIEW AGAINST NOTIFICATION ENDORSEMENT NO. ESTT:II/DPC/SWAT/606-11 DATED 07.01.2020.**

Attention is requested to the Review Petition filed by Syed Javed Iqbal Ex-Superintendent office of the Deputy Commissioner Swat (Annexure-A).

### PARAWISE REPLY IS AS UNDER:-

1. Correct to the extent of appointment of the petitioner as Assistant in Commissioner office Malakand Division on 29.12.2008 (Annexure-B).
2. Correct to the extent that The then Political Agent Bajaur vide letter dated 25.02.2015 requested the Commissioner Malakand Division for placement of services of competent Assistant for initiating some new assignments. The Commissioner Malakand placed the services of Syed Javed Iqbal at the disposal of Political Agent Bajaur vide order dated 27.02.2015. Political Agent Bajaur adjusted him in his office vide order dated 05.05.2015 (Annexure-C). Mr. Shah Jehan, Assistant, of the office of Deputy Commissioner Swat was never affected with transfer and adjustment of Syed Javed Iqbal in District Bajaur nor he filed any application or appeal before any competent court of law. On adjustment of Syed Javed Iqbal in Bajaur, he was given seniority from the date of his appointment as Assistant i.e 29.12.2008 by the Deputy Commissioner Bajaur. The same neither objected to by the other employees of his office nor Mr. Shah Jehan, Assistant of the Deputy Commissioner office Swat as the complainant has no concern with the employees of District Bajaur or the Commissioner Office.
3. Correct to the extent that name of the petitioner was included in the seniority list of Assistants of the office of Political Agent Bajaur (Annexure-D).
4. Correct to the extent that the Deputy Commissioner Bajaur forwarded working paper alongwith other relevant documents for placing the same before the DPC. Syed Javed Iqbal being senior most in the seniority list was promoted to the post of Superintendent vide minutes of the meeting and promotion order dated 14.06.2016 (Annexure-E & F) when the post of Superintendent was at the District cadre in pursuance of Rules notified on 23.01.2015. Again Mr. Shah Jehan was not affected by this promotion being employee of Deputy Commissioner Office Swat.

*Attested*

*[Signature]*

(33)

5. Correct to the extent that on 27.06.2019 the Rules were amended and the post of Superintendent was declared as Divisional cadre for the purpose of promotion and transfer. Syed Javed Iqbal was transferred from Bajaur to the Deputy Commissioner Office Swat by the Competent Authority in pursuance of the said Rules.
6. Correct to the extent that in light of order dated 21.12.2019 Annexure-G passed by Chief Secretary Khyber Pakhtunkhwa, the promotion order dated 14.06.2016 of the petitioner as Superintendent was set aside vide notification dated 07.01.2020 (Annexure-H).
7. Correct to the extent that the promotion order of the petitioner was issued on 14.06.2016, while Mr. Shah Jehan filed appeal against the said order on 17.09.2019 i.e after a lapse of 03 Years 03 months and 03 days which was badly time barred. Beside, Mr. Shah Jehan had no locus standi as the petitioner was employee of the office of Commissioner Malakand while Mr. Shah Jehan was employee of the office of Deputy Commissioner Swat. Neither at the time of promotion of the petitioner as Superintendent nor at the time of his transfer from Bajaur to Swat no one was affected. Similarly, neither Mr. Shah Jehan Assistant nor any employee including the one Mr. Noor Habib Gul Assistant office of the defunct Political Agent office Bajaur has challenge the adjustment of the petitioner in Political Agent office Bajaur in any forum at that time. Lateron in the year 2019, an appeal filed by one Mr. Ghulam Muhammad Assistant, office of the defunct Political Agent Bajaur against the petitioner was dismissed by the Ex-Senior Member, Board of Revenue (Dr. Fakhre Alam) on 24.05.2019 (Annexure-I) while an appeal filed by Mr. Alamgir Assistant office of the Deputy Commissioner Swat against the promotion / transfer order of the petitioner has been dismissed by the Chief Secretary, being (Appellate authority) (Annexure-J).
8. Pertains to record.
9. It is upto the competent/appellate authority to give him chance of personal hearing.

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GOVT OF KHYBER PAKHTUNKHWA

Rule-3(1) of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules 1986 provides that where the order is made by the Government there shall be no appeal but the Civil Servant may submit a Review Petition.

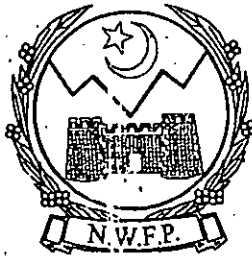
Since the impugned order dated 07.01.2020 was issued with the approval of Chief Secretary (appellate authority) therefore, the case is submitted for order of Chief Secretary Khyber Pakhtunkhwa as deem appropriate please.

  
Senior Member

Secretary Establishment



EXTRAORDINARY  
GOVERNMENT



Annex A P  
39  
REGISTERED NO. P.III

GAZETTE

## North-West Frontier Province

Published by Authority

PESHAWAR, MONDAY, 18TH JANUARY, 2010.

GOVERNMENT OF N.W.F.P.  
REVENUE AND ESTATE DEPARTMENT

### NOTIFICATION

Dated 13th June, 2006.

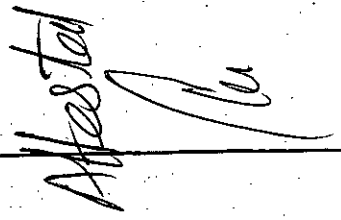
No. 5869-5950/Admn:II/1/296/Amendment.— In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all rules issued in this behalf, the Revenue Department in consultation with the Establishment and Administration Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the appendix to this Notification which shall be applicable to posts borne in the cadre of District Ministerial Services of Revenue and Estate Department specified in column 2 of the said Appendix.

Sd/-x-x-x  
SENIOR MEMBER,  
BOARD OF REVENUE, N.W.F.P.

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Printed and published by the Manager,  
Stacy & Pige Dept., NWFP, Pesh.

Attested  
[Signature]

  
 Affected

**DISTRICT MINISTERIAL SERVICE RULES, 2001.**

S.No.	Nomenclature of Post with Pay Scale	Prescribed qualification	Age	Method of recruitment
1	2	3	4	5
1.	Superintendent (BPS-16)	---	---	By promotion on the basis of seniority-cum-fitness from amongst holders of the post Assistant (BPS-11) with at least five years service as such in the offices of DCO, District Off (Revenue & Estate)/Collector, and EDO (F&P) Department and Political Agents Offices in Province.
2.	Private Secretary (BPS-16)	---	---	By promotion on the basis of seniority-cum-fitness from amongst holders of the post of Se Scale Stenographer (BPS-15) with at least five years service as such in the offices of D.C D.O. (R&E) and EDO (F/P) Department and Political Agents Offices in the Province.
3.	Senior Scale Stenographer (BPS-15)	(i) BA or equivalent qualification from a recognized university; and (ii) A speed of 100 words per minute in shorthand and 40 words per minute in typing in English. (iii) Knowledge of Computer in using MS Word and MS Excel.	---	(a) By promotion on the basis of seniority-cum-fitness from amongst Stenographer (B-12) with at least five years service as such; or (b) By initial recruitment if no suitable Stenographer is available for promotion.
4.	Junior Scale Stenographer (BPS-12)	(i) 2nd Class Bachelor Degree or equivalent qualification from a recognized university. (ii) A speed of 50 words per minute in shorthand in English and 35 words per minutes in typing. (iii) Knowledge of Computer in using MS Word and MS Excel.	18-30 years.	By initial recruitment.

N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 18th JANUARY, 2010 - 411

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1	2	3	4	5
5.	Data Control Assistant (BPS-12)	(i) 2nd Class Bachelor Degree with Computer Science, Mathematics, Physics, Statistics or Economics as one of the subject; and  (ii) One year diploma in Computer/Course recognized by the Board of Technical Education.	21-30 years.	(i) Fifty percent by initial recruitment; and  (ii) Fifty percent by promotion on basis of seniority-cum-fitness from amongst the holders of the posts of Computer Operator/K.P.O. with at least two years service as such.
6.	Assistant (BPS-11)	2nd Class Bachelor Degree or equivalent qualification from a recognized University.	18-30 years.	75% by promotion on the basis of seniority-cum-fitness from amongst Senior Clerks with at least five years service as Junior/Senior Clerk; and 25% by initial recruitment.
7.	Computer Operator/Key Punch Operator (BPS-11)	(i) BA/B.Sc. with Statistics/Economics/Mathematics/Physics as one of the subject; and  (ii) A minimum speed of 10000 key depression per hour for Punch/Data Entry/Verification.	18-25 years.	By initial recruitment.
8.	Senior Clerk (BPS-7)			By promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Junior Clerks having at least 3 years service as such.
9.	Junior Clerk (BPS-5)	(i) 2nd Division in S.S.C. or equivalent qualification from a recognized Board.  (ii) A speed of 30 words per minute in English typing.	18-30 years.	(i) 80% by initial recruitment; and  (ii) 20% by promotion from amongst the Qasids and holders of equivalent posts who possess S.S.C. 2nd Division and have at least three years service as such.  Provided that where no official is available for promotion the vacancy may be filled in by initial recruitment.  <b>EXPLANATION:</b> For the purposes of promotion there shall be maintained a common seniority list of eligible Qasids or holders of other equivalent post with particular reference to the dates of their continuous appointment; provided that officials in BPS-2 shall rank senior to officials in BPS-1 irrespective of their length of service.

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

Peshawar Dated the 23 / 1 / 2015

NOTIFICATION

No. 2074 In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department, in consultation with Establishment Department and the Finance Department, hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

APPENDIX

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Superintendent (BPS-17) —	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioner and Political Agents.



(437)

**GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT**

*Peshawar Dated the 23 / 1 / 2015*

**NOTIFICATION**

No. 2074 In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department, in consultation with Establishment Department and the Finance Department, hereby lays down the method of recruitment qualification and other condition specified in column 3 to 5 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Deputy Commissioners specified in column 2 of the said Appendix.

**APPENDIX**

S.No	Nomenclature of posts with BPS	Minimum qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Superintendent (BPS-17)	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioner and Political Agents.

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(438)

2.	Senior Scale Stenographer (BPS-16)	(i) At least Second Class Bachelor's Degree, from a recognized university; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and (iii) knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents; and  (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the offices of respective Deputy Commissioners and Political Agents:  Provided that if no suitable person is available for promotion then by initial recruitment.
3.	Assistant (BPS-16)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 years	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with atleast five years service as Junior and Senior Clerk in the Offices of Deputy Commissioners and Political Agents of district concerned; and  (b) twenty five percent by initial recruitment from amongst the candidates of the district concerned.
4.	Head Clerk (BPS-14)	....	....	By transfer from amongst Senior Clerks (BPS-14) of the district concerned.

50

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5.	Stenographer (BPS-14)	(i) At least Second Class Intermediate or equivalent qualification from a recognized Board; (ii) a speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and (iii) knowledge of computer in using MS Word, MS Excel.	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.
6.	Senior Clerk (BPS-14)	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the district concerned with atleast two years service as such.
7.	Computer Operator (BPS-12)	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years), from a recognized university; (ii) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-to 28 years	By initial recruitment from amongst the candidates of the district concerned.
8.	Pesh Imam (BPS-12)	Sanad in Dars-e- Nizami or a Sanad of Fazail-e-Arabi <b>Note:</b> Preference will be given Hafiz-e-Quran.	18-to 32 years	By initial recruitment from amongst the candidates of the district concerned.
9.	Sub Engineer (BPS-11)	Diploma in Associate Engineering in Civil Technology from Board of Technical Education with certificate in Computer Aided Design (CAD) from recognized Institution.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
10.	Junior Clerk (BPS-11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing.	18 to 30 years	(a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the district concerned with two years service as such, who have

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				passed Secondary School Certificate Examination; and (b) sixty seven percent by initial recruitment from the candidates of the district concerned. <b>Note:</b> For the purpose of promotion there shall be maintain a common seniority list of Qasid and Naib Qasid etc with reference to the date of their appointment: Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment: Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possession the requisite qualification shall be promoted in preference to the senior official or officials.
11.	Reader/Record Keeper (BPS-7)	At least second division in Secondary School Certificate or equivalent qualification from a recognized Board.	18 to 30 years	By initial recruitment from amongst the candidates of the district concerned.
12.	Alhamad (BPS-5)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board.	18-30 years	By initial recruitment from amongst the candidates of the district concerned.
13.	Driver (BPS-4)	Literate having LTV driving license issued by the competent authority. Preference will be given to those who have sufficient	18-32 years	By initial recruitment from amongst the candidates of the district concerned.

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*[Signature]*

		experience in driving, repair and maintenance of vehicles.		
14.	Khadim (BPS-4)	Literate. <b>Note:</b> Preference will be given to Hafiz-e-Quran	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
15.	Process Server (BPS-2)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned.
16.	Qasid (BPS-2)	---	---	By promotion on the basis of Seniority-cum-fitness, from amongst the Naib Qasids with two years as such.
17.	Naib Qasid/ Chowkidar/Sweeper/ Mali (BPS-1)	Literate.	18-32 years	By initial recruitment from amongst the candidates of the district concerned."

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*[Signature]*

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT

No. 2075-2114 / Admn: I/I/296/Amendment

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All District Officers (R&E)/Collectors, in Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 printed copies thereof to the undersigned for record.

Attested  


E/C

  
**DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT**

Annex

(R)

(44)

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

Peshawar Dated the 27/06/2019

NOTIFICATION

No. Estt: I/ II/135/SSRC/

In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment Department and Finance Department, hereby directs that in this Department's Notification No. 5869/Admn: I/II/296/Amendment, dated: 13.06.2006, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix:-

- (a) against Serial No. 1, in column No. 5, for the existing entry, the following shall be substituted, namely:
- "By promotion, on the basis of seniority cum-fitness, from amongst the Assistants with five years' service as such in the offices of Commissioners and Deputy Commissioners on the basis of joint seniority list of Assistants of the Division concerned.";
- (b) against Serial No. 2, in column No. 5, for the existing entry the following shall be substituted, namely:
- "By promotion, on the basis of seniority cum-fitness, from amongst the Senior Scale Stenographers with at least five years' service as such in the offices of the Commissioners and Deputy Commissioners at Divisional level."; and
- (c) against Serial No. 7A, in column No. 5, for the existing entry, the following shall be substituted, namely:
- "By transfer from amongst Senior Clerks of the office of the Commissioner of the Division concerned."

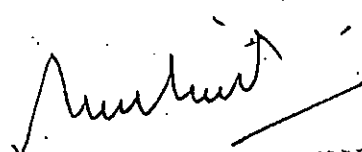
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Sd/-  
SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT

No. J-stt/J/II/135/SSRC/22360-67

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. All Commissioners in Khyber Pakhtunkhwa.
6. All Deputy Commissioners in Khyber Pakhtunkhwa.
7. PS to Minister for Revenue & Estate Khyber Pakhtunkhwa.
8. Controller, Government Printing Press Peshawar with the request to publish the above notification in official gazette and supply hundred printed copies thereof to the undersigned for record.

  
DEPUTY SECRETARY TO GOVERNMENT  
OF KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT.

Attested  




وکالت نامہ

بعدالت

سید محمد یونس فیض بخش کو ایڈووکیٹ

سید حامد اقبال نام

مخانب ایڈووکیٹ دعویٰ اجرم

تھانہ ایف آئی آر تاریخ

باعث تحریر آنکے

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام

امین الرحمن یوسفزئی ایڈووکیٹ ہائی کورٹ فیڈرل شریعت کورٹ آف پاکستان اینڈ سجاد احمد محسود ایڈووکیٹ ہائی کورٹ

کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بزور تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بزور تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد تاشی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفر درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا ہنگی علیحدہ مختار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختار نامہ لکھ دیا کہ سندر ہے مورخہ \_\_\_\_\_ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

SYED JAUED IQBAL

ATTESTED & ACCEPTED:

Amin ur Rehman Yusufzai  
Advocate High Court  
&  
Federal Shariat Court of Pakistan  
CNIC: 17301-5813582-3  
Ceil No. 0321-9022964  
BC-10-7562

*(Signature)*

Sajjad Ahmad Mehsud  
Advocate High Court  
Peshawar

*(Signature)*

Adv. Khalid Iqbal  
Be-18-1115

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 4938 of 2020

Syed Javed Iqbal .....Appellant

VERSUS

Senior Member Board of Revenue and others.....Respondents

**INDEX**

S. No	Description of documents	Annexure
1.	Comments	-
2.	Affidavit	-
3.	Placing of services of Syed Javed Iqbal at the disposal of defunct P.A Bajaur.	A
4.	Adjustment order as Assistant in PA office Bajaur	B
5.	Minutes of DPC	C
6.	Promotion Order	D
7.	Dismissal of Departmental Appeal of Ghulam Muhammad	E
8.	Dismissal of Departmental Appeal of Alamgir	F
9.	Withdrawal order of promotion of Syed Javed Iqbal	G

Assistant Secretary (Lit - I)  
Board of Revenue KPK

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

Service Appeal No. 4938 of 2020.

Syed Javed Iqbal..... Appellant.

**VERSUS**

Senior Member Board of Revenue and others..... Respondents.

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2 ARE AS UNDER:-**

**RESPECTFULL SHEWETH.**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action or locus standi.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the Appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is time barred.

**ON FACTS.**

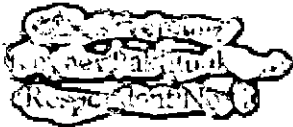
1. Correct to the extent that the then Political Agent Bajaur vide letter dated 25.02.2015 requested the Commissioner Malakand Division for placement of services of competent Assistant for initiating some new assignments. The Commissioner Malakand placed the services of Syed Javed Iqbal at the disposal of Political Agent Bajaur vide order dated 27.02.2015 (Annexure-A). Political Agent Bajaur adjusted him in his office vide order dated 05.05.2015 (Annexure-B). On adjustment of Syed Javed Iqbal in Bajaur, he was given seniority from the date of his appointment as Assistant i.e 29.12.2008 by the Deputy Commissioner Bajaur. The same neither objected to by the other employees of his office nor Mr. Shah Jehan, Assistant of the office of Deputy Commissioner Swat as the complainant (Mr. Shah Jehan) has no concern with the employees of District Bajaur or the Commissioner Office.
2. As in Para-1 above.
3. Correct to the extent of promotion of the appellant as Superintendent vide minutes of the Departmental Promotion Committee (Annexure-C) and promotion order (Annexure-D).
4. Correct to the extent that the appeal of one Mr. Ghulam Muhammad, Assistant against the adjustment order of the appellant was dismissed by the Senior Member, Board of Revenue (Annexure-E).

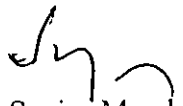
5. Correct to the extent that Departmental appeal of one Mr. Alamgir Assistant, office of the Deputy Commissioner Swat was dismissed by the appellate authority i.e Chief Secretary (Annexure-F).
6. Correct to the extent that Service Appeal of Mr. Alamgir Khan is pending adjudication before this Tribunal.
7. Correct to the extent that an appeal filed by one Mr. Shah Jehan Assistant office of the Deputy Commissioner Swat was allowed by the Chief Secretary and the promotion order of the appellant was withdrawn vide Notification dated 07.01.2020 (Annexure-G).
8. Correct to the extent that Departmental Representation/Review of the appellant is under consideration in the office of Chief Secretary Khyber Pakhtunkhwa.

### GROUNDS

- A. Incorrect. Notification dated 07.01.2020 has been issued with the approval of Chief Secretary Khyber Pakhtunkhwa.
- B. As in 'A' above.
- C. Incorrect. All the proceedings have been carried out according to law/rules by the Competent Authority.
- D. As in Para-1 of the facts.
- E. As in Para-4 & 5 of the facts.
- F. As in Para-3 of the facts.
- G. The respondent will also submit additional grounds at the time of arguments.

Keeping in view the above, the appeal of the appellant having no legal grounds may be dismissed with costs.



  
Senior Member,  
Board of Revenue  
Respondent No. 1392



Annex-C,

OFFICE OF THE  
COMMISSIONER MALAKAND DIVISION  
SAIDU SHARIF SWAT

Dated 27 /02/2015

**OFFICE ORDER:**

No. 533 /2/3/Estt: In pursuance of the Political Agent, Bajaur Agency, letter No.1035/S/5, dated 25.02.2015, the services of Syed Javed Iqbal, Assistant (BPS-16) of this office are hereby placed at the disposal of the Political Agent, Bajaur for further posting against the vacant post of Assistant in his office with immediate effect in the public interest.

Sd/-  
COMMISSIONER MALAKAND DIVISION

No. 534-40 /2/3/Estt:

Copy forwarded to:-

1. The Secretary, Law and Order Department FATA Secretariat, Peshawar.
2. The Political Agent, Bajaur Agency.
3. The District Comptroller of Accounts, Swat.
4. The Agency Account officer, Bajaur Agency.
5. Accounts Officer (Local).
6. Official Concerned.
7. Personal File.

SECRETARY TO COMMISSIONER  
MALAKAND DIVISION

Ph# 0946-9240458

A



4 Annex - E

9

OFFICE OF THE POLITICAL AGENT BAJAUR AGENCY AT KHAR

ORDER.

No. 2403 /Acctt.

Dated Khar the, 05 May 2015

Syed Javed Iqbal, Assistant (BPS-16) transferred vide Commissioner, Malakand Division Order bearing No.533/2/3/Estt dated 27/2/2015, is hereby adjusted against the vacant post of Assistant in this office, against the quota meant for direct recruitment in the public interest.

No. 2404-08/Acctt.

~~POLITICAL AGENT BAJAUR~~  
Dated Khar the 05 May 2015

Copy to:

- 1- Secretary, Law & Order, FATA Secretariat, Peshawar
- 2- Commissioner, Malakand Division at Saidu-Sharif, Swat
- 3- Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar
- 4- Agency Accounts Officer, Bajaur
- 5- Official concerned

~~POLITICAL AGENT BAJAUR~~

8/1

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

SUBJECT: MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 26.04.2016 at 09:00 AM UNDER THE CHAIRMANSHIP OF SENIOR MEMBER BOARD OF REVENUE KHYBER PAKHTUNKHWA.

A meeting of Departmental Promotion Committee was held on 26.04.2016 at 09:00 am in the office of Secretary Revenue & Estate Department under his Chairmanship for consideration of the promotion of Assistant (BPS-16) to the post of Superintendent (BPS-17) in Political Agent Office Bajaur, Senior Scale Stenographer to the post Private Secretary (BS-17) in Commissioner office Peshawar, Junior Scale Stenographer (BS-14) to the post of Senior Scale Stenographer (BS-16) office of the Deputy Commissioner Bannu and Political Agent Bajaur, Senior Clerk (BS-14) to the post of Assistant in the office of Deputy Commissioner Dir Lower, Tank, D.I Khan, Charsadda and Political Agent office South Waziristan Agency.

The following attended the meeting:-

1. Mr. Arshad Khan Afridi, Member  
Deputy Secretary Finance Department.
2. Muhammad Fayyaz Khan Member  
Section Officer (R-IV)  
Establishment Department.
3. Mr. Fakhur Zaman, Secretary  
Secretary-I, Board of Revenue

The following items were discussed:-

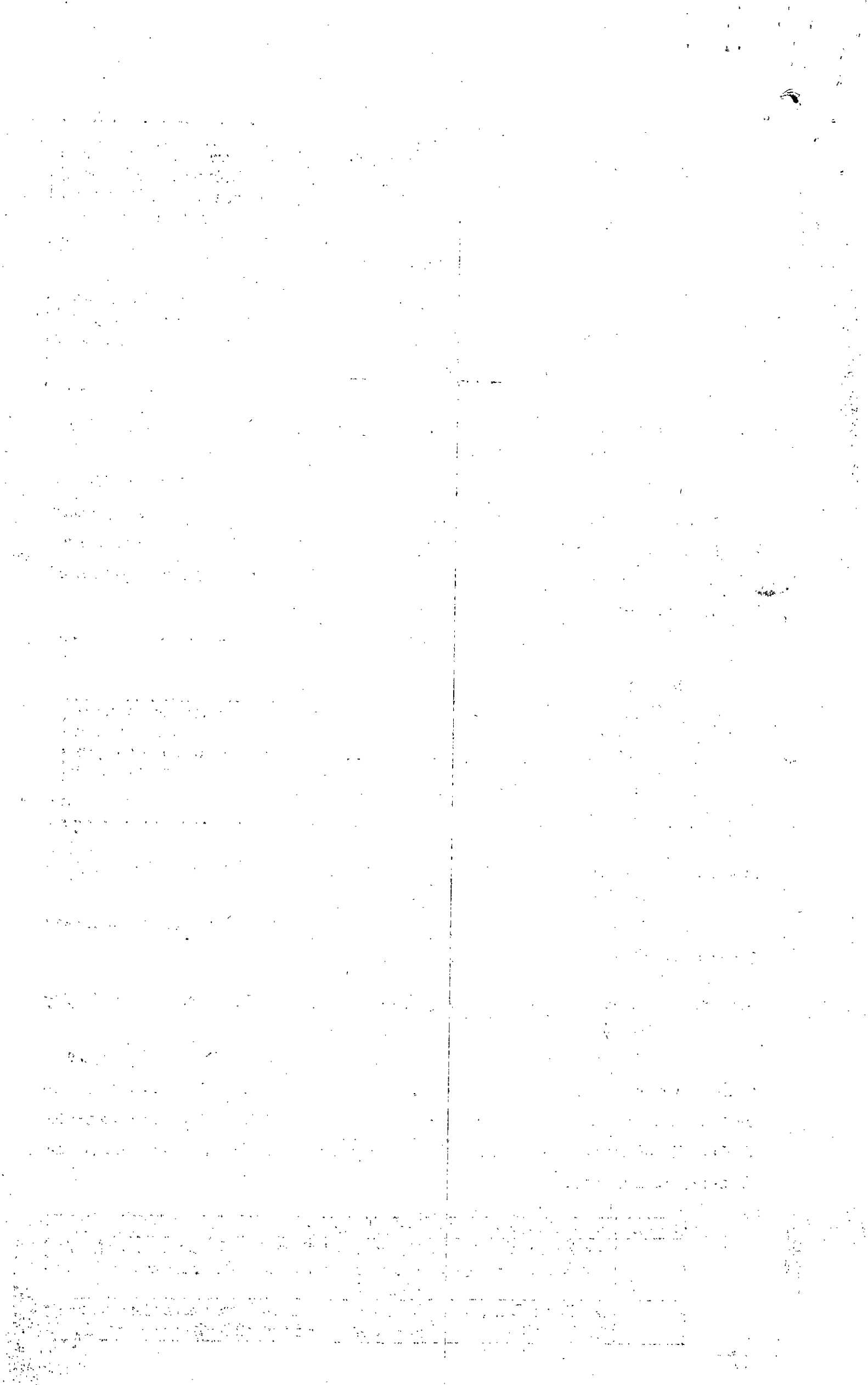
Item No. 1. Promotion of Assistant BPS-16 to the post of Superintendent BPS-17 in office of the Political Agent Bajaur Agency.

There is only vacant post of Superintendent in the office of Political Agent Bajaur Agency. For the purpose of promotion to the post of Superintendent, the Committee examined the record of the recommendees and make the following recommendations:-

S. No.	Name of official	Recommendations
1.	Syed Javeed Iqbal Assistant (BPS-16)	He was considered and found suitable for promotion to the post of Superintendent (BPS-17) on regular basis.

Item No. 2. Promotion of Senior Scale Stenographer (BPS-16) to the post of Private Secretary (BPS-17) in Commissioner Office Peshawar.

There is one vacant post of Private Secretary lying vacant due to creation in Commissioner Office Peshawar. For the purpose of promotion to the post of Private Secretary, the Committee examined the Seniority list and record of Senior Scale Stenographers of Commissioner Officer Peshawar Division and made the following observations:-





S. No.	Name of official	Recommendations
1.	Mr. Attaur Rehman Senior Scale Stenographer (BPS-16)	Representative of Commissioner Peshawar Division not attend the meeting. Beside, in the Seniority List of Senior Scale Stenographer for the year 2015 the pay scale has been written as (BS-17) instead of BS-16. Beside, Mr. Ziar has already been promoted as Private Secretary BS-17 while his name still exist at serial No.1 of the Seniority List. The Seniority List has also not been signed by Commissioner or ACR/GA. The Committee recommended to issue displeasure to the concerned officer of Commissioner Peshawar Division for his negligence.

Item No. 3. Promotion of Junior Scale Stenographer (BPS-14) to the post of Senior Scale Stenographer (BS-16) Political Agent Bajaur Agency.

There is one vacant post of Senior Scale Stenographer (BS-16) in the office of Political Agent Bajaur Agency lying vacant due to retirement of Mr. Nisar Muhammad, Senior Scale Stenographer (BS-16). For the purpose of promotion to the post of Senior Scale Stenographer (BS-16) the Committee examined the Seniority list of Senior Scale Stenographers (BS-16) of Political Agent Bajaur Agency and made the following observations:-

S. No.	Name of official	Recommendations
1.	Mr. Muhammad Riaz Junior Scale Stenographer (BPS-14)	The Committee examined the record and observed to clarify that under what quota the present vacancy occurred, but the representative of Political Agent Bajaur failed to explain the case. Deferred for the above reason.

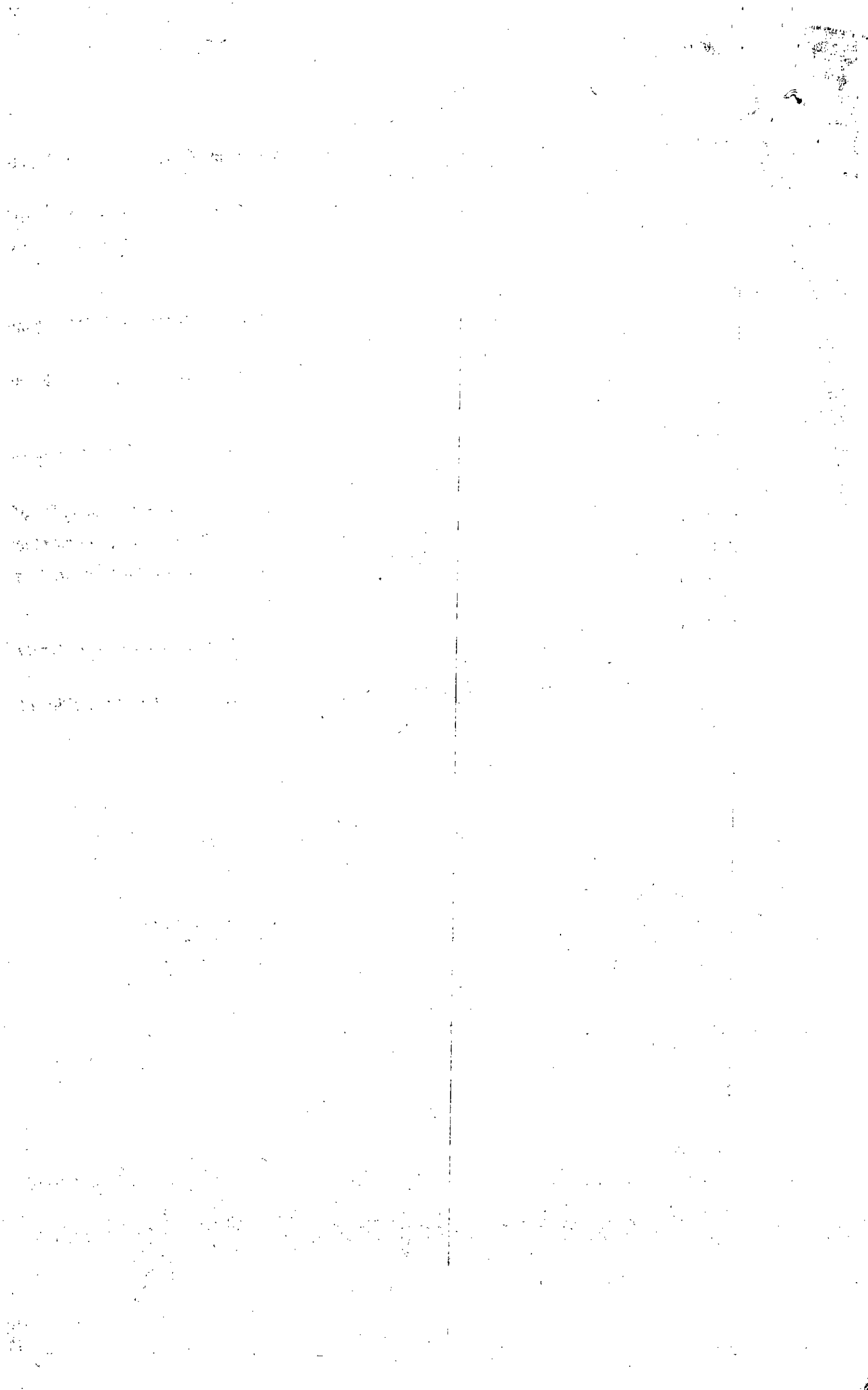
Item No. 4. Promotion of Junior Scale Stenographer (BPS-14) to the post of Senior Scale Stenographer (BS-16) Deputy Commissioner Bannu.

The case was deferred due to non-availability of the representative of Deputy Commissioner office Bannu.

Item No. 5. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Dir Lower.

There are 28 sanctioned posts of Assistant (BS-16) in District Dir Lower, out of which 21 posts comes under promotion quota. Two posts are lying vacant under 75% by promotion quota. For the purpose of promotion to the post of Assistant (BS-16) the Committee examined the Seniority list of Senior Clerk (BS-14) of Deputy Commissioner office Dir Lower and made the following recommendation:-

S. No.	Name of official	Recommendations
1.	Mr. Hazrat Noor Senior Clerk (BPS-14).	He was considered and found suitable for promotion to the post of Assistants (BS-16) on regular basis.
2.	Mr. Sultan Zaib Senior Clerk (BS-14)	He was considered and found suitable for promotion to the post of Assistants (BS-16) on regular basis.



Item No. 6. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office D.I Khan.

The case was discussed and deferred due to non attachment of copy of relevant portion of the Budget Book for the year 2015-16 with working paper. Beside, ACR of Mr. Hidayat Hussain Senior Clerk has also not been countersigned.

Item No. 7. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office of South Waziristan Agency.


The case was deferred due to non-availability of the representative of the office of Political Agent, South Waziristan Agency.

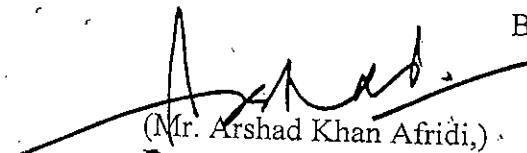
Item No. 8. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Tank.


The case was deferred due to ambiguity of sanction of Assistants in the office of Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting.


Item No. 9. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Charsadda.

The case was deferred due to non-availability of the representative of the office of Deputy Commissioner Charsadda.

  
(Fakhruz Zaman)  
Secretary-I,  
Board of Revenue  
(Secretary)

  
(Mr. Arshad Khan Afridi),  
Deputy Secretary (Regulation),  
Finance Department  
(Member)

  
(Muhammad Fayyaz Khan)  
Section Officer (Regulation-IV),  
Establishment Department.  
(Member)

  
(Afzal Latif)  
Secretary,  
Revenue & Estate Department  
(Chairman)

Note:- This Deptt has already advised the AD to amend the Service Rules according to P/A copy attached.

BEFORE THE SENIOR MEMBER BOARD OF REVENUE  
KHYBER PAKHTUNKHWA

Mr. Ghulam Muhammad Assistant, office of the Deputy Commissioner Bajaur..... Appellant

Versus

Syed Javed Iqbal, Superintendent Deputy Commissioner office Bajaur..... Respondent

ORDER

This is an appeal / representation filed by Mr. Ghulam Muhammad Assistant office of the Deputy Commissioner Bajaur against the adjustment of Syed Javed Iqbal the then Assistant office of the Commissioner Malakand now Superintendent in Deputy Commissioner Bajaur office and adjustment somewhere else in Malakand Division.

Facts of the case are that the Deputy Commissioner Bajaur made request to Commissioner Malakand for the services of a competent Assistant on 25.02.2015. Commissioner Malakand placed the services of the respondent (Syed Javed Iqbal) at the disposal of Deputy Commissioner Bajaur on 27.02.2015 who adjusted him permanently as Assistant against the vacant post falls in the share of initial quota. His name was included in the seniority list of Assistants of Bajaur District and on availability of post, he was accordingly promoted as Superintendent in Bajaur District on 14.06.2016 being the senior most.

The main contention of the appellant is, that Syed Javed Iqbal is basically employee of Commissioner Malakand and domicile holder of Swat District therefore he may be repatriated and adjustment somewhere else in Malakand Division outside Bajaur District.

Reply/views of Commissioner Malakand and Deputy Commissioner Bajaur gone through which reveals that respondent Syed Javed Iqbal was adjusted as Assistant in the office of Deputy Commissioner Bajaur on 05.05.2015 against the vacant post falls under 25% direct quota. At that time no one including the appellant raised any written objection over his adjustment, while on the other hand the appellant was working as Senior Clerk in that office. Secondly for the purpose of promotion / seniority, the Law and Order Department FATA Secretariat, Peshawar directed the Deputy Commissioner Bajaur on 03.03.2015 for separation of the two cadres i.e Political Administration and the Federal Levies Ministerial Staff. All the staff members including appellant and the respondent submitted their option for fixation of seniority. In the said option the name of the respondent is reflected at S. No. 1 as Assistant while the appellant reflected at S. No. 09 as Senior Clerk, but the appellant did not raise any objection on that Seniority at that time too.

Later on, after the retirement of Mr. Inayat Khan, Superintendent, the Political agent Bajaur forwarded the case of the respondent to the Board of Revenue for promotion against the vacant post of Superintendent and on recommendation of the Departmental Promotion Committee, Syed Javed Iqbal was promoted as Superintendent on 14.06.2016 and

assumed the charge as such on 15.06.2016, but the appellant or any other official of Bajaur District did not raise any objection on his promotion or charge assumption. Thirdly the appellant has recently been promoted as Assistant on 23.11.2018 and is still on probation till 23.11.2019 and is not eligible for further promotion. According to Rules five years service as Assistant is required for promotion to the post of Superintendent, which the appellant also does not possess and thus appellant is not eligible for regular promotion to the post of Superintendent. Even he does not qualify/complete minimum 2 years service for appointment on Acting Charge Basis as required under the rules. Fourthly, the date of birth of the appellant is 08.11.1960. hence he cannot be made eligible for such promotion till his retirement i.e 07.11.2020.

Keeping in view the foregoing discussion, the appellant has no prima facie case as he has recently been promoted as Assistant BS-16 and on probation till 23.11.2019. He will attain the age of superannuation prior to completion the prescribed 5 years length of service as required under the rules. Beside, there is no written proof available to show that the appellant has filed any appeal against the adjustment of the respondent from 27.02.2015 till date, hence the appeal of the appellant is also badly time barred. The appeal having no legal ground is therefore dismissed.

Announced

24.05.2019.



Fakhre Alam  
Senior Member

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.



REVD-1417

12/09/19

**NOTE FOR CHIEF SECRETARY**

**SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION.**

1. Attention is requested to application submitted by Mr. Alamgir, Assistant, office of the Deputy Commissioner Swat for promotion as Superintendent BS-17 (Annexure-A).

2. Facts of the case are that on 08.04.2019 Commissioner Malakand Division forwarded promotion case of Assistant to the post of Superintendent BS-17 against the only one vacant post in Deputy Commissioner Office Swat (Annexure-B). During examination of the case, the PERs of the senior most official namely Mr. Shah Jehan were found missing, therefore, Commissioner Malakand was asked to provide the missing ACRs for the period from 2010 to 2018 to enable the Department to place the case before DPC (Annexure-C). The same were provided by Commissioner Malakand on 11.07.2019 (Annexure-D) and accordingly M/S Zahir Shah and Tariq Aziz were promoted as Superintendent BS-17 on the basis of joint seniority list of Assistant of Malakand Division on their own turn vide minutes of the DPC (Annexure-E) and promotion order is at (Annexure-F). It is pertinent to mention here that amendment in the rules have been notified vide Revenue & Estate Department notification dated 27.06.2019 (Annexure-G) according to which the post of Superintendent shall be filled in by promotion on the basis of seniority-cum-fitness, from amongst the Assistant with five years service as such in the offices of Commissioners and Deputy Commissioners on the basis of joint seniority list of Assistants of the Division concerned.

3. The applicant is a junior most Assistant of the office of Deputy Commissioner Swat. His name is at S. No. 22 of the Divisional seniority list of Assistants of Malakand Division. The request of the applicant does not cover the rules and cannot be acceded to. His application/appeal is liable to be dismissed.

Secretary Establishment

*M. J. Khan*  
09/10/19  
Senior Member  
Senior Member  
Board of Revenue  
Khyber Pakhtunkhwa

*M. P. P.*

8-0 Reg-IV  
S&CAD, Diary No. 161  
Dated 11-10-19

PS/SMBR  
Dy No 206  
FTS/REVD 1417  
Date 10/10/19  
Govt. of Khyber Pakhtunkhwa

PS/Secy E&AD KP  
Diary No. 237  
FTS No. 10/10/19  
Date 10/10/19

CA/C.S Khyber Pakhtunkhwa

No: 4622

Date: 29-10

4. The Note for Chief Secretary, Khyber Pakhtunkhwa has been examined. Mr. Alamgir, Assistant, office of the Deputy Commissioner, Swat has submitted Departmental Appeal regarding promotion to the post of Superintendent (BS-17) (Annex-A).

5. Service Rules of the post of Superintendent have been amended/Notified on 27.06.2019, where-under, promotion is given to be made from amongst Assistants of the Division concerned (Annex-G). Earlier, such promotion was to be made from amongst Assistants of the District instead. The request of the appellant to reverse the promotion made under existing Service Rules and to follow previous rules for the purpose is unfounded.

6. In view of the above the appeal is not entertainable.

Syed Jamal-ud-Din Shah  
Secretary Establishment  
October 29, 2019

Chief Secretary  
Khyber Pakhtunkhwa

*Appeal dismissed*

*Secy/Estab*

*SMPSR*

*[Signature]*  
29/x  
Chief Secretary

SECRETARY ESTABLISHMENT  
Establishment & Administrative  
Department.

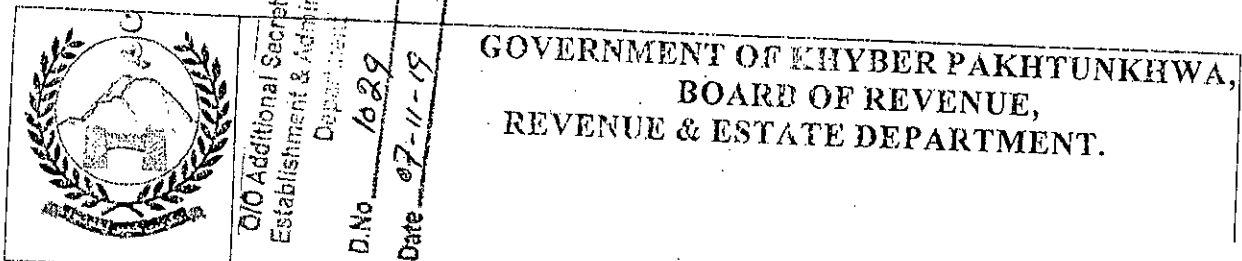
*Secy-I*  
*[Signature]*  
*SME*

*[Signature]*  
31/10/19  
*[Signature]*  
31/10

P.S to Chief Secretary  
Govt. of Khyber Pakhtunkhwa

Dated: 18/09/2019

*20/9/19*



D/O Additional Secretary (R&E)  
Establishment & Administration  
Department  
D.No 1629  
Date 07-11-19

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.



**NOTE FOR CHIEF SECRETARY**

**SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION.**

Attention is requested to application submitted by Mr. Shah Jehan, Assistant, office of the Deputy Commissioner Swat for promotion as Superintendent BS-17 (Annexure-A).

Facts of the case are that on 08.04.2019, Commissioner Malakand Division forwarded promotion case of the appellant to the post of Superintendent BS-17 against the only one vacant post in Deputy Commissioner Office Swat (Annexure-B). During examination of the case, the PERs of the appellant were found missing, therefore, Commissioner Malakand was asked to provide the missing PERs for the period from 2010 to 2018 to enable the Department to place his case before DPC (Annexure-C). Beside, another letter was addressed to Deputy Commissioner Swat with the request to direct Mr. Shah Jehan to provide the PERs within a week but in vain. The PERs of the appellant were provided by Commissioner Malakand on 11.07.2019 (Annexure-D). It is pertinent to mention here that amendment in the rules were notified vide Revenue & Estate Department notification dated 27.06.2019 (Annexure-E) according to which the post of Superintendent shall be filled in by promotion on the basis of seniority-cum-fitness, from amongst the Assistant with five years service as such in the offices of Commissioners and Deputy Commissioners on the basis of joint seniority list of Assistants of the Division concerned. Promotion case to the post of Superintendent was placed before the DPC on 02.08.2019 and M/S Zahir Shah and Tariq Aziz being the senior most were promoted as Superintendent BS-17 on the basis of joint seniority list of Assistant of Malakand Division on their own turn vide minutes of the DPC (Annexure-F) and promotion order is at (Annexure-G). In the seniority list of Assistants the name of the appellant is at S. No. 9 (Annexure-H)

It is further stated that Mr. Shah Jehan is basically Assistant office of the Deputy Commissioner Swat, while Mr. Javed Iqbal is Superintendent BS-17. In the year 2016, Mr. Javed Iqbal was adjusted permanently in the office of Deputy Commissioner Bajaur (Annexure-I). On the basis of his seniority in Bajaur (Annexure-J) he was promoted as Superintendent BS-17 (Annexure-K) on his own turn. According to Divisional Cadre Ministerial Service Rules amended on 27.05.2019, the post of Superintendent is a Divisional Cadre post and can be posted anywhere in the Division. Since Mr. Javed Iqbal Superintendent was transferred by the Competent Authority from Bajaur to Swat District (Annexure-L) under the rules and his transfer has not affected the seniority of the appellant.

Since the name of the appellant is at S. No. 9 of the Divisional seniority list of Assistants of Malakand Division. His request does not cover the rules and cannot be acceded to. His application/appeal is liable to be dismissed.

Secretary Establishment

*M. Jala*  
24/10/2019  
Senior Member  
Senior Member  
Board of Revenue  
Khyber Pakhtunkhwa

*W. P. J*

B-O Reg. IV  
SAGAD, Diary No. 203  
29-10-19

PS/SMPR  
SAGAD MP  
27/10/19

Dy No PS/SMPR  
FTS/REVD 142-0  
Date 28-10-19  
Govt. of Khyber Pakhtunkhwa

CAIC.S Khyber Pakhtunkhwa  
No: 1609  
Date: 29-10



Para-7/N:-

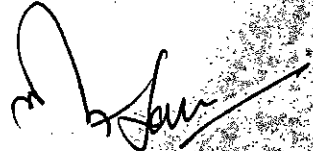
8. Syed Javed Iqbal was appointed as Assistant in the office of Divisional Commissioner Malakand Division on 29.12.2008. The then Political Agent Bajaur vide letter No. 1035/S/5 dated 25.02.2015 (Annex- M) requested the Commissioner Malakand Division for placement of services of competent Assistant for initiating some new assignments. The Commissioner Malakand placed services of Syed Javed Iqbal at the disposal of Political Agent Bajaur vide order dated 27.02.2015 (Annex- N). Political Agent Bajaur vide order dated 05.05.2015 adjusted him in his office. Mr. Shah Jehan (the appellant) being Assistant in the office of Deputy Commissioner Swat was never affected with transfer and adjustment of Syed Javed Iqbal in District Bajaur.

**Parawise reply is as under:-**

- i. Syed Javed Iqbal was transferred by Commissioner Malakand and adjusted by Deputy Commissioner Bajaur against the same post in the same scale as at that time there was no Assistant in PA office Bajaur.
- ii. Mr. Javed Iqbal was employee of the office of Divisional Commissioner Malakand and adjusted in Deputy Commissioner office Bajaur.
- iii. There is no provision in the District as well as Divisional Cadre Ministerial Service Rules for appointment of a candidate in other District.
- iv. On his adjustment in Bajaur he was given seniority from the date of his appointment as Assistant i.e 29.12.2008 by Deputy Commissioner Bajaur. The same neither objected to by the other employees of his office nor Mr. Shah Jehan, Assistant of the Deputy Commissioner office Swat as the appellant has no concern with the employees of District Bajaur or the Commissioner Office. Syed Javed Iqbal being senior in the office of Deputy Commissioner Bajaur was promoted to the post of Superintendent vide order dated 14.06.2016 when the post of Superintendent was at the District cadre in pursuance of Rules notified on 23.01.2015. Again the appellant was not affected by this promotion being employee of Deputy Commissioner Office Swat. On 27.06.2019 the Rules were amended and the post of Superintendent was declared as Divisional cadre for the purpose of promotion and transfer. Syed Javed Iqbal was transferred from Bajaur to the Deputy Commissioner Office Swat by the Competent Authority in pursuance of the said Rules. Promotion of the appellant Mr. Shah Jehan to the post of Superintendent has not been affected by the transfer of Syed Javed Iqbal Superintendent.

9. Para-4 is submitted for appropriate orders please.

Secretary Establishment

  
Senior Member  
~~Senior Member~~  
Board of Revenue  
Khyber Pakhtunkhwa

10. The observations of Establishment Department in paras 5-7 are responded in paras 8. The administrative department has admitted in para 8 (iii) that no provision existed for appointment of a candidate in other district. According to service rules, the posts of Assistant is required to be filled from candidates of the district concerned (**Annex-X**). Therefore, the adjustment of Syed Javed Iqbal in Bajaur (**Annex-I**) was illegal.

11. Moreover, his seniority was fixed from the date of his appointment as Assistant in the office of Commissioner Malakand (29.12.2008) (**Annex-J**) instead of the date of his subsequent adjustment in Bajaur (05.05.2015), in violation of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. Hence, the seniority was also unlawful.

12. Besides, the statement given in para 8 (i) regarding non-availability of an Assistant in Bajaur at the time of the transfer/adjustment of Syed Javed Iqbal is incorrect as the seniority at **Annex-J** reflects the name of Mr. Noor Habib Gul with the date of appointment of Assistant as 30.12.2013. Thus, he was rendered junior to his junior (Syed Javed Iqbal) and deprived from promotion to the post of Superintendent right at the verge of his retirement on superannuation on 09.11.2017 as his date of birth was 10.11.1957.

13. Therefore, the adjustment and fixation of the seniority of Syed Javed Iqbal as Assistant in Bajaur were illegal. On the basis of that, he was promoted to the post of Superintendent through impugned order (**Annex-K**), therefore, this promotion was also illegal.

14. In view of the above, the Chief Secretary, Khyber Pakhtunkhwa being appellate authority may:

- i) set aside the impugned order, under Rule 5 (1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 (**Annex-Y**); and
- ii) direct the Administrative Department to repatriate Syed Javed Iqbal to his original post/cadre.

*[Signature]*  
Syed Jamal-ud-Din Shah  
Secretary Establishment  
December 20, 2019

Chief Secretary Khyber Pakhtunkhwa

15 Para 14/n approved

*[Signature]*  
Syed Estab

*[Signature]*  
CHIEF SECRETARY  
Govt. of Khyber Pakhtunkhwa

16

SATBR

D.P.I.O

23/12

Yours Sincerely

*[Signature]*  
(SHAH JAHAN)

PS/Secy E&AD KP  
Diary No. 2265  
FTS No. 20-12-19  
Date: 20-12-19

5370  
20-12-19

5012-12  
26/19

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.

Peshawar dated the 07/01/2020.

NOTIFICATION

Estt:II/DPC/Swat/\_\_\_\_\_ Whereas, Mr. Syed Javed Iqbal was promoted by Board of Revenue vide order No. Estt:II/DPC/16496-99 dated 14.06.2016 to the post of Superintendent in Bajaur, based on his seniority bearing No. 4221/Promotion/Acctt: dated 23.06.2015.

2. AND WHEREAS, aggrieved with the promotion of Syed Javed Iqbal, Mr. Shah Jehan, an Assistant in the office of Deputy Commissioner Swat filed an appeal to the undersigned on 17.09.2019 for declaring the said promotion illegal and discriminatory.

3. AND WHEREAS, Revenue Department was given an opportunity to justify the promotion and the seniority considered for such promotion, where after the appellate authority i.e. the Chief Secretary, Khyber Pakhtunkhwa shall pass a speaking order, with reasons, within a reasonable time frame, enabling the appellant to avail remedy available to him under the law, if he still felt aggrieved from the final order in his case.

4. AND WHEREAS, the Board of Revenue had admitted that no provision existed for appointment of a candidate in other district. Under the relevant service rules, the posts of Assistant in Districts were required to be filled from candidates of the district concerned. However, as reflected in the seniority list, Syed Javed Iqbal held the domicile of Swat.

5. AND WHEREAS, seniority of Syed Javed Iqbal was fixed from the date of his previous appointment as Assistant in the office of Commissioner Malakand (29.12.2008), instead of the date of his adjustment in Bajaur (05.05.2015), in violation of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

6. AND WHEREAS, as per the seniority list of District Bajaur, an Assistant namely Mr. Noor Habib Gul was available at the time of the adjustment of Syed Javed Iqbal. The date of appointment of Mr. Noor Habib Gul as Assistant was 30.12.2013, thus, he being already appointed before the said adjustment was senior in the District but he was rendered junior to his junior (Syed Javed Iqbal) and deprived him from promotion to the post of Superintendent right at the verge of his retirement on superannuation on 09.11.2017 as his date of birth recorded in the seniority list was 10.11.1957.

7. AND WHEREAS, the adjustment and fixation of the seniority of Syed Javed Iqbal as Assistant in Bajaur were illegal and such adjustment and seniority were based for his promotion to the post of Superintendent, so impugned, therefore, this promotion was also illegal.

8. NOW THEREFORE, after thorough perusal of the record and in light of the relevant law and rules, I, Chief Secretary, Khyber Pakhtunkhwa being appellate authority, in terms of rule 5 (1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 decide to set aside the promotion order of Syed Javed Iqbal as Superintendent made on 14.06.2016.

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Estt:II/DPC/Swat/ 606-11

Copy forwarded to the:-

1. Commissioner Malakand Division, Saidu Sharif, Mingora.
2. Deputy Commissioner, Swat and Bajaur.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. PS to Secretary Establishment.

Assistant Secretary (Estt:)

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

Service Appeal No. 4938/2020

Syed Javed Iqbal .....APPELLANT

**VERSUS**

Government of Khyber Pakhtunkhwa etc ..... Respondent

**INDEX**

<b><u>S. No</u></b>	<b><u>Description of Documents</u></b>	<b><u>Annexure</u></b>	<b><u>Pages</u></b>
1.	Index		
2.	Comments		1
3.	Affidavit		2
4.	Authority Letter		3



**AHMED SHER**

(PS to Deputy Commissioner, Swat)

Contact: 0344-9620588

Office# 0946-9240470

CNIC# 15601-1008447-9

①

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

**Service Appeal No. 4938/2020**

Syed Javed Iqbal s/o Syed Altaf Hussain  
R/O Qandeel Madyan Swat  
Presently posted as Superintendent, Office of the Deputy Commissioner, Swat

..... APPELLANT

**VERSUS**

- 1- Govt: of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
- 2- Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
- 3- Commissioner, Malakand Division, Saidu Sharif.
- 4- Deputy Commissioner, Swat.
- 5- Shah Jehan, Ex-Assistant, Office of the Deputy Commissioner, Swat

..... RESPONDENTS

**JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO. 3 & 4.**

Respectfully Sheweth,


- 1- Correct
- 2- Correct.
- 3- Correct.
- 4- Correct.
- 5- Correct.
- 6- Correct.
- 7- Correct.
- 8- Correct to the extent that the Departmental representation/review of the appellant is under consideration in the office of Chief Secretary, Khyber Pakhtunkhwa.

**Grounds**

- A- Incorrect. Notification dated: 07/01/2020 has been issued with the approval of Chief Secretary, Khyber Pakhtunkhwa.
- B- As in "A" above.
- C- Incorrect. All the proceedings have been carried out according to law/rules by the Competent Authority.
- D- No comments.
- E- Incorrect. As above in Para-A.
- F- Incorrect. As above in Para-A.
- G- The respondent will also submit additional grounds at the time of arguments.

**PRAYER**

It is therefore, humbly prayed that the instant appeal is not maintainable and may kindly be withdrawn, please.



Commissioner, Malakand Division  
**RESPONDENT NO. 3**  
Commissioner, Malakand Division,



Deputy Commissioner, Swat  
**RESPONDENT NO. 4**

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 4938/2020

Syed Javed Iqbal .....APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa etc ..... Respondent

AFFIDAVIT

I, Ahmad Sher (Private Secretary to Deputy Commissioner, Swat) do hereby solemnly affirm and state on oath that the whole contents of these comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this august court.

Deponent



Ahmad Sher

(PS to Deputy Commissioner, Swat)  
Office Phone No. 0946-9240470  
Cell No. 0344-9620588  
CNIC No.15601-1008447-9



OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0946-9240336

Fax No: 0946-9240329

E-mail: [Deputycommissionerswat1@gmail.com](mailto:Deputycommissionerswat1@gmail.com)

No. 1858 /5/DC/Estt.

Dated: 05/8 /2020

**AUTHORITY LETTER**

Mr. Ahmad Sher, Litigation Incharge (BS-17) is hereby authorized to attend the Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar in service appeal No. 4938/20 titled "Syed Javed Iqbal Vs Govt: of Khyber Pakhtunkhwa through Chief Secretary & Others" on behalf of Respondent No. 03 & 04..

DEPUTY COMMISSIONER,  
SWAT.

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 4938/2020

Syed Javed Iqbal.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

**I N D E X**

S.No	Description of documents	Annexure	Pages
1.	Reply with affidavit		1-4
2.	Copy of Complaint	A	5

Dated:-13-08-2020

  
Respondent No 5

Through

  
Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan



①

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 4938/2020

Syed Javed Iqbal.....**Appellant**



**VERSUS**

Govt. and Others.....**Respondents**

**REPLY/COMMENTS ON BEHALF OF RESPONDENT NO 5**

**Preliminary Objections**

1. That the appellant has got no cause of action and locus standi to file instant appeal.
2. That the Instant appeal is not maintainable in its present form.
3. That the appellant is estopped by his own conduct to bring instant appeal.
4. That the appellant has not come to this honorable Tribunal with clean hands.
5. That the appellant has concealed material facts from this honorable tribunal.
6. That this honorable Tribunal has got no jurisdiction to entertain and adjudicate upon the matter.
7. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
8. That appeal of the appellant is time barred.

**PARAWISE COMMENTS ON FACTS**

1. Para No 1 pertains to the service record of the appellant however it is added that the appellant is the domicile holder of District Swat and was the employee of Commissioner office Swat, further his services

were wrongly placed at the disposal of the then Political Agent Bajaur.

2. Para No 2 is incorrect as stated above, the appellant had no service rights to had been adjusted in the office of the then Political Agent, as according to the rules notified on 23-01-2015 (**Annexure Q**), the appellant was not the employee of the Political Agent Bajaur nor had the requisite length of 5 service in the Bajaur but strangely he was promoted in violation of law and rules on the subject.
3. Para No 3 is incorrect and denied, further added that the appellant as per the prevailing law of the time had no right to had been promoted in the then Political Agent office Bajaur.
4. Para 4 pertains to record.
5. Para 5 of the Appeal pertains to record, however as the appellant was promoted in violation of law and rules on the subject so the order has been impugned before this honorable tribunal in Service Appeal No 1609/2019. The replying respondent has also filed complaint to the NAB KPK also. (**Copy of Complaint is enclosed as Annexure A**).
6. Para No 6 pertains to record; however the matter is still subjudice before this honorable tribunal.
7. Para under reply is correct to the extent of filing departmental appeal however it is added that the appellant challenged not only his promotion order but also his posting order in the Deputy Commissioner office Swat, further added that the appellant is junior to the appellant but he was placed as Superintendent above the appellant in violation of the norms of justice. Further the appellant has filed Service Appeal No ...../2019 for his promotion as

Superintendent which has been admitted for full hearing and wherein the appellant has been made as party.

8. Para under reply pertains to record, rest of the para is legal.

**REPLY TO GROUNDS:**

- A. Incorrect, the impugned order is according to law, rules, facts and service record.
- B. Para under reply pertains to official respondents however it is added that after falling the vacancy of Superintendent due to the retirement of Obaid Ullah when the case of appellant was processed for promotion as Superintendent, the appellant was brought by transfer to the office of the Deputy Commissioner Swat though according to rules the post of Superintendent is to be filled by promotion and not by transfer, and thus the appellant succeeded in depriving the replying respondent of his due right of promotion.
- C. Para under reply does not relate to the replying respondent however as stated above the appellant was wrongly promoted.
- D. Incorrect, the appellant has tried to mislead this honorable tribunal, as stated above according to the prevailing rules of the time i.e 23-01-2015 the appellant was not entitled for promotion while the rules of 2019 has no retrospective effect so the same are irrelevant.
- E. Para under reply does not relate to the replying respondent.
- F. Para under reply is incorrect, upon coming into surface the irregularities and illegalities and more particularly the mode prescribed by law, as according to law the appellant was not entitled to promotion neither in the office of the then Political Agent Office

4

Bajaur nor in the office of Deputy Commissioner Office Swat as he was the employee of Commissioner office Malakand besides the appellant is junior to the replying respondent.

G. The replying respondent also seeks the leave of this honorable tribunal for additional grounds etc at the time of arguments.

**It is therefore prayed that appeal of the appellant may kindly be dismissed with heavy costs.**

**Dated:-13-08-2020**

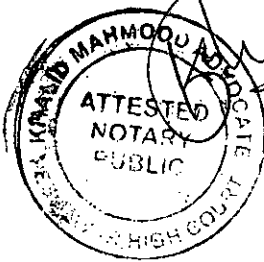
  
**Respondent No 5**

**Through**

  
**Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan**

**AFFIDAVIT**

I, Shah Jahan, Ex Assistant in the office of Deputy Commissioner Swat, (Respondent No 5), do hereby solemnly affirm and declare on oath that the contents of accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



  
**DEPONENT**

Before the:-

Director General,  
National Accountability Bureau,  
Khyber Pakhtunkhwa Peshawar.

Subject:-

MIS-USE OF AUTHORITY AND CORRUPT PRACTICES OF AJMAL KHAN ASSISTANT SECRETARY, BORAD OF REVENUE AND SUPERINTENDENT JAVID IQBAL PRESENTLY POSTED AT DEPUTY COMMISSIONER OFFICE SWAT.

R/Sir,

I have to bring in your kind notices the illegal practices and use of public office for own end, namely Ajmal and Syed Javid Iqbal who has got illegal promotion throughout his service through the behest of the former, as detailed below:-

" Syed Javid Iqbal was basically appointed as Junior Clerk in BPS-5 in Deputy Commissioner Office Swat through unfair means and after devolution of power plan he was adjusted as Secretary Union Council. Moreover illegally he has been re-adjusted in DOR & E/ Collector Swat without the support of law, rules and regulations. Then he was appointed as Assistant in BPS-16 in the office of Commissioner Malakand Division and remained there for some time. In the meanwhile a post of Superintendent (BPS-17) , was sighted there and at once he succeeded in getting himself transferred to Bajawar in utter violation of law and rules which resulted overriding of rights of the bonafide residents/officials of the office of Deputy Commissioner Bajawar. Moreover he also got promoted himself as Superintendent (BPS-17) with the entire support of one Ajmal, Assistant Secretary Board of Revenue KPK and thus both satisfied their thrust in the garb of "public interest". This is not the end, further he has been transferred to Deputy Commissioner office Swat in the same manner. Moreover he would head all the senior most either in the District or Division.

As a matter of facts the entire services of both the above are the embodiment of corruption and corrupt practices and according to Accountability laws this is a sacred duty to curb it with the iron hand and to stop this menace and ensure justice well in time.

Thanks with anticipation.

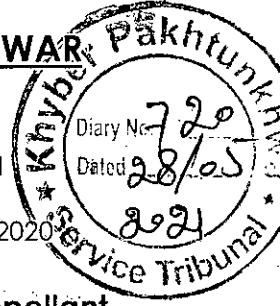
Faithfully,

(SHAHJEHAN)

Dated the, 25-09-2019

0343077/132

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



*Put up to the worthy chairman along with relevant appeal*

Civil Misc. No. \_\_\_\_\_ of 2021

I N

Service Appeal No. 4938 of 2020

Syed Javed Iqbal.....

Applicant/Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa through its Chief Secretary & 4 others: ..... Respondents

**APPLICATION FOR AND ON BEHALF OF APPLICANT/APPELLANT, FOR ACCELERATION THE DATE OF HEARING FROM 27.07.2021 TO AN EARLY DATE, CONVENIENT TO THIS HON'BLE TRIBUNAL.**

Respectfully Sheweth:-

1. That the titled appeal is pending adjudication before this Hon'ble Tribunal, wherein date 27.07.2021 is fixed therein for onward proceedings.
2. That the titled appeal is ripe up for final arguments, however, could not finally adjudicate upon due to COVID-19 policy of this Hon'ble Tribunal: It is pertinent to mention herein that applicant has not been paid monthly salary since passing of impugned notification dated: 07.01.2020, hence the instant application.
3. That applicant alongwith his family, consisting of 5 minor children, is passing through difficult time due to stoppage of his salary by the respondent department, under the garb of impugned notification dated: 07.01.2020, hence proprietary demands to accelerate the date i.e. 27.07.2021 be accelerate to an early date, convenient to this Hon'ble Tribunal.

It is therefore, most humbly prayed that on acceptance of instant application, the date fixed in the titled appeal i.e. 27.07.2021, be accelerated to an early date, convenient to this Hon'ble Tribunal.

*Order  
02/06/2021  
Request is regretted.*

Applicant/Appellant

*Syed Javed Iqbal*

Syed Javed Iqbal  
S/O Syed Altaf Hussain  
R/O Qandeel, P.O Madyan,  
Tehsil Bahrain District Swat



## OFFICE OF THE DEPUTY COMMISSIONER, SWAT.

Tel No: 0946-9240336  
Fax No: 0946-9240329

No. 9485 /7/DC/Estt:

E-mail: [Deputycommissionerswat1@gmail.com](mailto:Deputycommissionerswat1@gmail.com)

Dated: 26/03/ /2020

### ORDER.

Without prejudice to the legal remedies available to Provincial Government and in pursuance of judgement of the Peshawar High Court dated: 19/02/2020 in WP No. 5673-P/2019, Mr. Shah Jehan, Assistant (BPS-16) of this office shall stand retired from Govt. service on 19/03/2020 (After-noon) on attaining the age of superannuation, as his date of birth is 20/03/1960, subject to CPLA/Appeal of the Provincial Government against aforementioned judgement of Peshawar High Court and any order contrary as and when issued by the apex Court of Pakistan.

In pursuance of Rule-20 of the Khyber Pakhtunkhwa, Civil Servant Revised Leave Rules, 1981, read with Finance Department Khyber Pakhtunkhwa Notification No. SO (FR).FD 5-92/2005/Vol-V, dated: 13/12/2012, sanction is hereby accorded to the grant of leave encashment of LPR for a maximum period of 365 days in lump-sum in favour of Mr. Shah Jehan, Assistant (BPS-16) of this office.

DEPUTY COMMISSIONER,  
SWAT.

No. 9486-89 /7/DC/Estt:

Copy forwarded to the:-

- 1- District Comptroller of Accounts, Swat.
- 2- Assistant Commissioner, Charbagh Swat.
- 3- Nazir-II, local office for necessary action.
- 4- Official concerned.

DEPUTY COMMISSIONER,  
SWAT.



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 2432 /ST

Dated: 08/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

To

The Senior Member Board of Revenue,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 4938/2020, SYED JAVED IQBAL.

I am directed to forward herewith a certified copy of Judgement dated 09.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR



*(Signature)*  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

**WORKING PAPER**

**SUBJECT: PROMOTION OF ASSISTANT (BPS-16) TO THE POST OF SUPERINTENDENT (BPS-17) ON REGULAR BASIS IN OFFICE OF THE POLITICAL AGENT BAJAUR AGENCY.**

In terms of the provision of Notification No.2074/Estt.I/II/135/SSRC dated 23/01/2015 (Annexure-A), the following method of promotion has been prescribed for the post of Superintendent (BPS-17)

By promotion on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) of the district concerned with atleast five years service in the offices of respective Deputy Commissioner and Political Agents.

2. There is only 01 sanctioned post of Superintendent (BPS-17) in Office of Political Agent Bajaur in the current financial year 2014-15, which is lying vacant due to retirement of Mr. Inayat Khan, Superintendent vide this department Notification No. Estt:II/304/7899 dated 07/4/2015 (Annexure-B) :

Detail of post is as under:

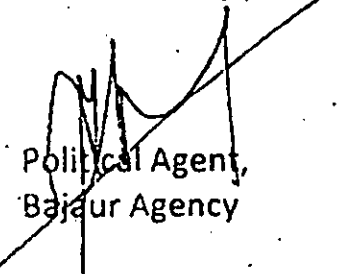
Sanctioned strength.	Existing working strength	Vacancy
01	-	01

3. The post is required to be filled in by way of promotion under the provision of Khyber Pakhtunkhwa Civil servant (Appointment, Promotion and Transfer) Rules – 1989. There are 02 sanctioned posts of Assistants (BPS-16) in office of the Political Agent Bajaur, their seniority position as it stood on 31/5/2015 (Annexure-C) is given below:

S #	Name	Seniority position	Date of promotion as Assistant	Whether or not 5 years length of service as Assistant completed	Whether or not already appointed on ACB	Remarks
1	Syed Javed Iqbal	1 <sup>st</sup>	29/12/2008	Yes	No	
2	Mr. Noor Habib Gul	2 <sup>nd</sup>	30/12/2013	No	No	

It is certified that:

1. The Official at S.No.1, included in the panel has the prescribed minimum length of qualifying service experience as required under the service recruitment rules.
2. Neither disciplinary/Departmental Proceedings/NAB cases pending against any of them nor any penalty imposed on any one of them during service.
3. They are regular members of the service/cadre and presently working in their respective service cadre.
4. Seniority list of Assistant (BPS-16) of office of the Political Agent Bajaur as stood on 31/5/2015 is final and not under dispute.
5. Synopsis of ACRs duly attested in respect of the recommendees is placed on Board.
6. The Departmental Promotion Committee is requested to determine the suitability of one Assistant (BPS-16) for promotion to the post of Superintendent, (BPS-17) from the panel above on regular basis.

  
Political Agent,  
Bajaur Agency

  
Secretary-I

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

**SUBJECT:** MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 26.04.2016 at 09:00 AM UNDER THE CHAIRMANSHIP OF SENIOR MEMBER BOARD OF REVENUE KHYBER PAKHTUNKHWA.

A meeting of Departmental Promotion Committee was held on 26.04.2016 at 09:00 am in the office of Secretary Revenue & Estate Department under his Chairmanship for consideration of the promotion of Assistant (BPS-16) to the post of Superintendent (BPS-17) in Political Agent Office Bajaur, Senior Scale Stenographer to the post Private Secretary (BS-17) in Commissioner office Peshawar, Junior Scale Stenographer (BS-14) to the post of Senior Scale Stenographer (BS-16) office of the Deputy Commissioner Bannu and Political Agent Bajaur, Senior Clerk (BS-14) to the post of Assistant in the office of Deputy Commissioner Dir Lower, Tank, D.I Khan, Charsadda and Political Agent office South Waziristan Agency.

The following attended the meeting:-

1. Mr. Arshad Khan Afridi, Member  
Deputy Secretary Finance Department.
2. Muhammad Fayyaz Khan Member  
Section Officer (R-IV)  
Establishment Department.
3. Mr. Fakhur Zaman, Secretary  
Secretary-I, Board of Revenue

The following items were discussed:-

Item No. 1. Promotion of Assistant BPS-16 to the post of Superintendent BPS-17 in office of the Political Agent Bajaur Agency.

There is only vacant post of Superintendent in the office of Political Agent Bajaur Agency. For the purpose of promotion to the post of Superintendent, the Committee examined the record of the recommendees and make the following recommendations:-

S. No.	Name of official	Recommendations
1.	Syed Javeed Iqbal Assistant (BPS-16)	He was considered and found suitable for promotion to the post of Superintendent (BPS-17) on regular basis.

Item No. 2. Promotion of Senior Scale Stenographer (BPS-16) to the post of Private Secretary (BPS-17) in Commissioner Office Peshawar.

There is one vacant post of Private Secretary lying vacant due to creation in Commissioner Office Peshawar. For the purpose of promotion to the post of Private Secretary, the Committee examined the Seniority list and record of Senior Scale Stenographers of Commissioner Office Peshawar Division and made the following observations:-

S. No.	Name of official	Recommendations
1.	Mr. Attaur Rehman Senior Scale Stenographer (BPS-16)	Representative of Commissioner Peshawar Division not attend the meeting. Beside, in the Seniority List of Senior Scale Stenographer for the year 2015 the pay scale has been written as (BS-17) instead of BS-16. Beside, Mr. Ziar has already been promoted as Private Secretary BS-17 while his name still exist at serial No.1 of the Seniority List. The Seniority List has also not been signed by Commissioner or ACR/GA. The Committee recommended to issue displeasure to the concerned officer of Commissioner Peshawar Division for his negligence.

Item No. 3. Promotion of Junior Scale Stenographer (BPS-14) to the post of Senior Scale Stenographer (BS-16) Political Agent Bajaur Agency.

There is one vacant post of Senior Scale Stenographer (BS-16) in the office of Political Agent Bajaur Agency lying vacant due to retirement of Mr. Nisar Muhammad, Senior Scale Stenographer (BS-16). For the purpose of promotion to the post of Senior Scale Stenographer (BS-16) the Committee examined the Seniority list of Senior Scale Stenographers (BS-16) of Political Agent Bajaur Agency and made the following observations:-

S. No.	Name of official	Recommendations
1.	Mr. Muhammad Riaz Junior Scale Stenographer (BPS-14)	The Committee examined the record and observed to clarify that under what quota the present vacancy occurred, but the representative of Political Agent Bajaur failed to explain the case. Deferred for the above reason.

Item No. 4. Promotion of Junior Scale Stenographer (BPS-14) to the post of Senior Scale Stenographer (BS-16) Deputy Commissioner Bannu.

The case was deferred due to non-availability of the representative of Deputy Commissioner office Bannu.

Item No. 5. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Dir Lower.

There are 28 sanctioned posts of Assistant (BS-16) in District Dir Lower, out of which 21 posts comes under promotion quota. Two posts are lying vacant under 75% by promotion quota. For the purpose of promotion to the post of Assistant (BS-16) the Committee examined the Seniority list of Senior Clerk (BS-14) of Deputy Commissioner office Dir Lower and made the following recommendation:-

S. No.	Name of official	Recommendations
1.	Mr. Hazrat Noor Senior Clerk (BPS-14).	He was considered and found suitable for promotion to the post of Assistants (BS-16) on regular basis.
2.	Mr. Sultan Zaib Senior Clerk (BS-14)	He was considered and found suitable for promotion to the post of Assistants (BS-16) on regular basis.

Estt#7-3

P.A

Item No. 6. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office D.I Khan.

The case was discussed and deferred due to non attachment of copy of relevant portion of the Budget Book for the year 2015-16 with working paper. Beside, ACR of Mr. Hidayat Hussain Senior Clerk has also not been countersigned.

Item No. 7. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office of South Waziristan Agency.


The case was deferred due to non-availability of the representative of the office of Political Agent, South Waziristan Agency.


Item No. 8. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Tank.


The case was deferred due to ambiguity of sanction of Assistants in the office of Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting.


Item No. 9. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Charsadda.

The case was deferred due to non-availability of the representative of the office of Deputy Commissioner Charsadda.

  
( Fakhruz Zaman )  
Secretary-I,  
Board of Revenue  
(Secretary)

  
(Mr. Arshad Khan Afridi,)  
Deputy Secretary (Regulation),  
Finance Department  
(Member)

  
(Muhammad Fayyaz Khan)  
Section Officer (Regulation-IV),  
Establishment Department.  
(Member)

  
(Afzal Latif)  
Secretary,  
Revenue & Estate Department  
(Chairman) 9/5/2016.