

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 15613/2020

Shah Saood S/O Abdul Hassan, Accountant (BPS-16), Directorate of
S&T, Khyber Pakhtunkhwa, Peshawar.

VERSUS

The Secretary ST&IT Department, Khyber Pakhtunkhwa, Peshawar and
02 others.

ORDER
09.01.2023

Syed Noman Ali Bukhari, Advocate for the appellant present.

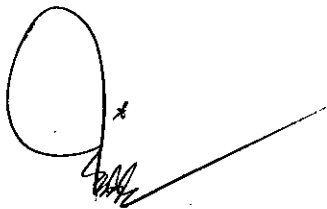
Mr. Naseer-ud-Din Shah, Assistant Advocate General for official
respondents present.

Learned counsel for the appellant stated at the bar that the
grievance of the appellant has been redressed, therefore, as per
instruction of the appellant, he wants to withdraw the instant appeal. In
this regard, written endorsement of learned counsel for the appellant
obtained at margin of order sheet.

In view of the above, the appeal in hand is dismissed as withdrawn.

Parties are left to bear their own costs. File be consigned to the record
room.

ANNOUNCED
09.01.2023



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

SCANNED
POST
Peshawar

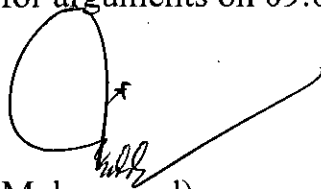
*That the services of the appellant was redressed by
the Department, therefore, the appellant wants to withdraw his appeal.
N/A 09/01/23*

22.11.2022

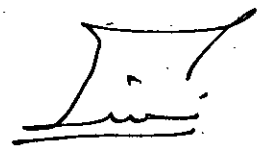
Junior of learned counsel for the appellant present. Mr. Iftikhar Ali, Superintendent alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 09.01.2023 before the D.B.

SCANNER
KFST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)


P

10.11.2021

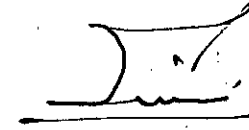
Syed Noman Ali Bukhari, Advocate for the appellant present and submitted application for extension of time for submission of security fee. Application is allowed and appellant is directed to deposit security and process fee within 03 days, thereafter notice be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. Adjourned. To come up for arguments before the D.B on 01.02.2022.

Appellant Deposited
Security & Process Fee

25/11/21



(ATIQ UR REHMAN WAZIR)
MEMBER (E)

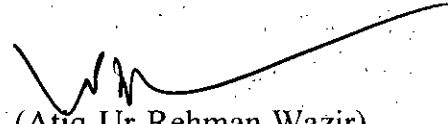


(SALAH-UD-DIN)
MEMBER (J)

01.02.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Falak Niaz, AD for respondents present. None present on behalf of private respondent No. 3, hence proceeded ex-parte.

Reply/comments on behalf of official respondents have already been submitted through office, which are placed on file.. To come up for arguments before the D.B on 27.05.2022.




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

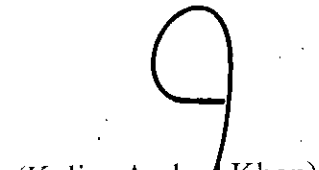
27th May, 2022

Clerk of the counsel present. Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG for respondents present.

Arguments could not be heard due to general strike of the bar. Adjourned. To come up for arguments on 08.08.2022 before D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

8.8.22 Due to the Public holi days the case is adjourned to 22-11-22

Readers

17.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 24.06.2021 before S.B.


Reader

24.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The 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 for submission of written reply/comments in office within 10 days of the receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 10.11.2021 before the D.B.

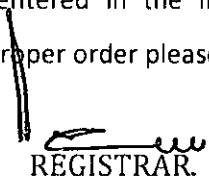



Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15613 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/12/2020	<p>The appeal of Mr. Shah Saood resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR,</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/01/2021</u></p> <p> CHAIRMAN</p>
	18.01.2021	<p>Appellant present through counsel.</p> <p>He made a request for adjournment. Adjourned. To come up for preliminary arguments on 17.03.2021 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>

The appeal of Mr. Shah Saood son of Abdul Hassan Accountant Directorate of S&T Khyber Pakhtunkhwa Peshawar received today i.e. on 26.11.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of departmental appeal against the impugned final seniority list mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 3920 /S.T,

Dt. 26/11 /2020.

Caw
REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv., Pesh.

Respected Sir,

The appellant Departmental appeal is submitted as per attached page in the impugned list which is available at page 31.

Resubmitted after compliance

[Signature]

8/12/2020



1. The first part of the document
 discusses the general principles
 of the system. It is divided into
 three main sections: the first
 section deals with the basic
 concepts, the second section
 deals with the practical
 application, and the third
 section deals with the
 results. The first section
 is the most important, as it
 provides the foundation for
 the entire system. The second
 section is also very important,
 as it shows how the system
 can be used in practice. The
 third section is the least
 important, as it only shows
 the results of the system.

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1/1/3

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

Appeal No. _____/2020

Shah Saood

V/S

Government of KP etc

INDEX

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2.	Copy of appointment order dated 26.11.2009	A	5
3.	Copy of notification dated 03.03.2011	B	6
4.	Copies of extension notifications	C To C4	7-11
5.	Copy of Regularization Act, 2016	D	12-14
6.	Copy of departmental notification dated 07.12.2016	E	15
7.	Copy of Tentative Seniority List dated 30.12.2016.	F	16
8.	Copy of The Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018	G	17-22
9.	Absorption Notification dated 06.04.2018	H	23
10.	Copy of Tentative Seniority List dated 08.06.2020	I	25
11.	Copy of objection application against the tentative seniority list	J	26-27
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A Saood

APPELLANT

Shah Saood

THROUGH:

M. Asif Yousafzai

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

Syed Noman Ali Bukhari

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

Taimur Ali Khan

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

S. Khanz

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 15613 /2020

**Khyber Pakhtukhwa
Service Tribunal**

Mr. Shah Saood S/O Abdul Hassan,
Accountant (BPS-16),
Directorate of S&T, Khyber Pakhtunkhwa, Peshawar.

Diary No. 15753

Dated 26/11/2020

APPELLANT

VERSUS

1. The Secretary ST&IT Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director, Science & Technology (S&T), Khyber Pakhtunkhwa, Peshawar.
3. Amir Muhammad, Accountant (BPS-16), Directorate of Science & Technology, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST NOTIFICATION DATED. 04.08.2020 WHEREBY THE APPELLANT'S NAME HAS BEEN WRONGLY PLACED AT S.NO.2 OF THE FINAL SENIORITY LIST AND AGAINST THE INACTION OF THE RESPONDENTS FOR NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN STATUTORY PERIOD OF NINETY DAYS.

.....

Filed to-day

ew
Registrar
26/11/2020

PRAYER:

That on acceptance of this appeal the impugned seniority list may be set-aside with the directions to the respondent to place the name of the appellant at S.No.1 of the final seniority list by modifying the same as per law and rules. Any other remedy, which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Re-submitted to -day
and filed.

ew
Registrar
8/12/2020

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was initially appointed as Accountant on fixed pay/contract basis on 26.11.2009 in the respondent department. The appellant performed his duties with full zeal and zest, and that no complaint has been filed against him regarding his performance of duty. **(Copy of appointment order dated 26.11.2009 is attached as Annexure - "A")**.
2. That the appellant vide notification dated 03.03.2011 was again appointed as Accountant (BPS-16) in the Directorate of Information Technology, KP on *ad-hoc* basis for a period of one year. **(Copy of notification dated 03.03.2011 is attached as Annexure - "B")**.
3. That the appellant, every year got yearly extension in his ad-hoc appointment from 2011 till 2016, until his regularization in the year 2016. **(Copies of extension notifications are attached as Annexures - "C, C1, C2, C3, & C4")**.
4. That the appellant along with other employees of the Directorate of Information Technology got regularization on 29.09.2016 under the Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology (Regularization of Services) Act, 2016 which was further endorsed in the departmental notification dated 07.12.2016. **(Copies of Regularization Act, 2016 and departmental notification dated 07.12.2016 are attached as Annexures - "D" & "E")**.
5. That the tentative seniority list in the Directorate of Information Technology (ST & IT) Department, Peshawar was issued on 30.12.2016 in which the date of regular appointment/ promotion to present post of the appellant is recorded as 02.03.2011. **(Copy of Tentative Seniority List dated 30.12.2016 is attached as Annexure - "F")**.
6. That thereafter; under The Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018; the appellant along with others got absorbed in the Directorate of Science and Technology, Khyber Pakhtunkhwa by opting to be remained as civil servant as per requirement of the law. **(Copies of The Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018 and Absorption Notification dated 06.04.2018 are attached as Annexure - "G" & Annexure - "H")**.
7. That on 08.06.2020 a tentative seniority list was notified in which the appellant seniority has been counted from 07.12.2016 which is the date of notification of regularization in the Directorate of Information and Technology and he was shown junior to the private respondent

namely, Mr. Amir Muhammad (BPS-16) Accountant which is against the law and rules as well as various judgments of the superior courts. **(Copy of Tentative Seniority List dated 08.06.2020 is attached as Annexure - "I").**

8. That the appellant filed objections against the tentative seniority list on 22.06.2020 which was rejected on 27.07.2020. **(Copies of objection application against the tentative seniority list and further rejection order are attached as Annexures - "J" & "K").**

9. That the department notified Final Seniority List on 04.08.2020 in which he was again shown junior to the private respondent; against which the appellant filed departmental appeal on 12.08.2020 which was not responded within the statutory period of 90 days. **(Copies of Final Seniority List dated 04.08.2020 and second departmental appeal are attached as Annexures - "L" & "M").**

10. That now the appellant comes to this August Tribunal on the following grounds amongst others:

GROUND:

- A. That the impugned seniority list dated 04.04.2020 and not deciding the departmental appeal of the appellant within 90 days, is against the law, facts, norms of justice and material on record. Therefore, such action and inaction of the respondent department is illegal and unlawful.
- B. That the appellant's service was regularized in the light, of Regularization Act of 2016 dated 29.09.2016 wherein the appellant's appointment has been ad-hoc with effect from 2011 and is being declared valid, and since then (03.03.2011) the appellant has been continuously performing his duties as civil servant. Therefore, as per law regarding seniority is to be counted with effect from the date of regular/ continuous officiation.
- C. That upon the creation of IT Board under the Act of 2018 dated 05.03.2018 all those employees who opted to remain as civil servant shall be absorbed in the Directorate of Science and Technology. Therefore, keeping in view the principle of restructuring/ absorption in the spirit of Rule-17 of the Khyber Pakhtunkhwa APT Rules, 1989 the seniority of the appellant was required to be counted with effect from the date of continuous officiation.
- D. That before the creation of the IT Board the appellant date of regular appointment was recorded as 02.03.2011 in the tentative seniority list and that remained in field for a long period. Therefore, keeping in

view the judgement reported as 2014 PLD 338 and the Principle of Locus Poenitentiae the appellant seniority could not be disturbed.

- E. That as per the spirit of Section-8 of the KP Civil Servant Act, 1973 and Rule-17 of the APT Rules,1989; the appellant has wrongly been placed at serial no. 2 and as such the same final seniority list needs rectification.
- F. That there are numerous judgements of the superior courts wherein it has been held that regularization is the continuation of the previous appointment and cannot be termed as fresh appointment. Therefore, the official is entitled to the seniority from the date of first appointment.
- G. That the appellant has not been treated as per law and rules, and has been deprived from the seniority benefits by exercising authority in a fanciful manner.
- H. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT

Shah Saood
Shah Saood

THROUGH:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

Taimur Ali Khan
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

S. Khan
(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR

To

Mr. Shah Saood S/o Abdul Hassan

Subject: APPOINTMENT AS ACCOUNTANT ON FIXED PAY/CONTRACT BASIS

On the recommendations of the Departmental Selection Committee, the Competent Authority has been pleased to offer you the subject post on fixed pay of Rs. 25,000/- PM in the Project "Establishment of IT Directorate".

Terms and Conditions of your service will be as under:-

- i. Your fixed pay contract appointment will be for the remaining/extended period of the Project. On completion of the project your services shall be stand terminated.
- ii. Your appointment will be purely on contract basis and if your performance is found unsatisfactory, your services shall be terminated on 15 days notice or on payment of 15 days salary in lieu thereof.
- iii. You will work against the subject post for which you are recruited and will not be transferred to any other post in the project or any other project under the same department/government.
- iv. You will produce an undertaking that during the employment, you will be held responsible for the losses (accruing to the project due to you and shall be held answerable therefore).
- v. You will produce a Medical Fitness Certificate from any government Hospital.
- vi. Your appointment will not confer on you any right for regular appointment/absorption against the post of Computer Operator nor your services will count towards seniority/promotion/pension.

If the above terms and conditions are acceptable to you, you are advised to report for duty to the undersigned within 10 days of the issue of this offer, failing which this offer shall stand cancelled.

(Signature)
26/11/09

(Muhammad Imran)
Assistant Director-IT

Copy forwarded to the:-

Director, Directorate of IT.

Assistant Director-IT

(Signature)
ATTESTED

12611
12611
3

AD/ST
Syad *(AS)*

GOVERNMENT OF KHYBER PAKHTUNKHWA

SCIENCE & TECHNOLOGY AND INFORMATION TECHNOLOGY
DEPARTMENT PESHAWAR

Dated Peshawar, the 3rd March, 2011. 2 5 5 7

NOTIFICATION.

NO.SO(E)/ST&IT/KP/2-36/S.Rules-IT/08. The Competent Authority on the recommendations of Departmental Selection Board is pleased to order the appointment of Mr. Shah Saood as Accountant (BPS-16) in the Directorate of Information Technology, Khyber Pakhtunkhwa **on ad-hoc basis for a period of one year** or till the availability of selectee of Public Service Commission which ever is earlier with immediate effect.

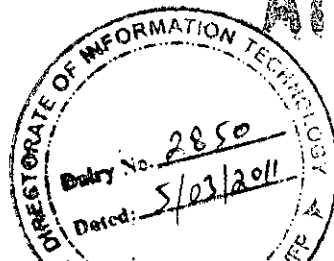
- 3- He will assume the charge within 15 days from the date of issuance of this notification after which his appointment shall be treated as cancelled.
- 4- He will produce a Medical certificate from any Government Hospital.

Secretary ST & IT

Endst. No. and date even.

Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PS to Minister for ST&IT Department, Khyber Pakhtunkhwa.
- 3- PS to Secretary ST&IT Department.
- 4- The Director Information Technology, Khyber Pakhtunkhwa Peshawar.
- 5- The Section Officer (General)/ D.S(Admn) ST&IT Department.
- 6- Officer concerned.
- 7- Personal file.



ATTESTED

(WAMIQ)
SECTION OFFICER (ESTT)

4/7
30



GOVERNMENT OF KHYBER PAKHTUNKHWA Annexure (C)

ST & IT DEPARTMENT PESHAWAR

2nd Floor, SDU Building, Khyber Road, Peshawar.

Phone No. 091-9212722

Fax No. 091-9212401

Dated Peshawar, the 29th February, 2012

(7)

NOTIFICATION:

No. SO (E)/ST&IT/KPK/2-5/IT Directorate/11/Vol-VII. 938 In exercise of powers conferred under rule 4(2)(ii) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, extension in service on ad-hoc basis in favour of Mr. Shah Saood, Accountant (BPS-16) Directorate of Information Technology, Khyber Pakhtunkhwa for further period of one year with effect from 02-03-2012 or till the arrival of recommendee of Khyber Pakhtunkhwa Public Service Commission, whichever is earlier.

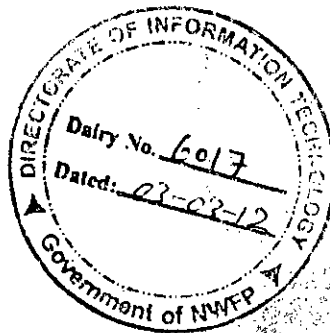
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA,
ST & IT DEPARTMENT

Endst. No. and date even.

Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- Director Information Technology, Khyber Pakhtunkhwa.
- 3- PS to Minister for ST&IT Department, Peshawar.
- 4- PS to Secretary ST&IT Department.
- 5- The Section Officer (G)/DS (Admn) ST&IT Department.
- 6- Officer concerned.
- 7- Personal file.

SECTION OFFICER (ESTT)



ATTESTED

Handwritten initials/signature

Annexure- (C1)

(8)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT PESHAWAR

2nd Floor, SDU Building, Khyber Road, Peshawar.

Dated Peshawar, the 28th February, 2013.

NOTIFICATION

No. SO (E)/ST&IT/KPK/1-67/Acctt:/PF/S.Saood/2012. The Competent Authority is pleased to accord extension in service on ad-hoc basis in favour of Mr. Shah Saood, Accountant (BPS-16), Directorate of Information Technology, Khyber Pakhtunkhwa for further period of one year with effect from 3-3-2013 or till the arrival of recommendee of Khyber Pakhtunkhwa, Public Service Commission, which ever is earlier.

SECRETARY TO GOVT. OF KP,
ST & IT DEPARTMENT

Endst. No. and date even.

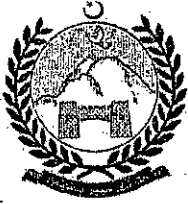
Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- PS to Minister for ST&IT Department, Peshawar.
- 3- Director Information Technology, Khyber Pakhtunkhwa.
- 4- PS to Secretary ST&IT Department.
- 5- The Section Officer (G)/DS (Admn) ST&IT Department.
- 6- Officer Concerned.
- 7- Personal files.

(Wamiq)

SECTION OFFICER (ESTT)


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT PESHAWAR

Dated Peshawar, the 25th March, 2014.

NOTIFICATION

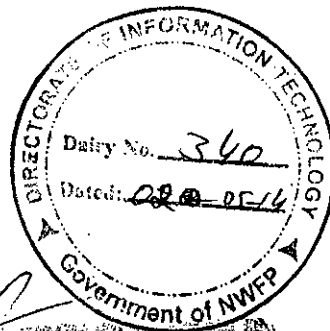
No.SO(E)/ST&IT/KP/1-67/Acctt:/PF/S.Saeed/201. The Competent Authority is pleased to accord extension in service on ad-hoc basis in favour of Mr. Shah Saood, Accountant (BPS-16), Directorate of Information Technology, Khyber Pakhtunkhwa for further period of one year with effect from 3-3-2014 or till the arrival of recommendee of Khyber Pakhtunkhwa, Public Service Commission, whichever is earlier.

SECRETARY ST&IT

Endst. No. and date even.

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- PS to Secretary ST&IT Department.
- 3- Director Information Technology, Khyber Pakhtunkhwa.
- 4- Officer concerned.
- 5- Personal file.


SECTION OFFICER(ESTT)



ATTESTED

Annexure - (C3)

(10)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT PESHAWAR
2nd Floor, SDU Building, Khyber Road, Peshawar.

Dated Peshawar, the 13th February, 2015

OFFICE ORDER

No. SO (E)/ST&IT/KP/1-67/Acctt:/PF/SSaood/2012.

Competent Authority is pleased to accord extension in service on ad-hoc basis in favour of Mr. Shah Saood, Accountant (BPS-16), Directorate of Information Technology, Khyber Pakhtunkhwa for period of one year w.e.f. 3-3-2015, or till the arrival of recommendee of Khyber Pakhtunkhwa, Public Service commission, whichever is earlier.

SECRETARY TO GOVT. OF KP,
ST & IT DEPARTMENT

Endst. No. and date even.

Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- The Director, Information Technology w/r to his letter No. Dir/IT/KP/Adhoc-contract/15/246 dated 14-1-2015...
- 3- PS to Secretary ST&IT Department.
- 4- Officer concerned.
- 5- Personal file.

SECTION OFFICER (ESTT)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT PESHAWAR

Dated Peshawar, the 1st March, 2016.

NOTIFICATION.

No.SO(E)/ST&IT/KP/1-67/Acctt:/PF/S.Saeed/201. The Competent Authority is pleased to accord extension in service on ad-hoc basis in favour of Mr. Shah Saood, Accountant (BPS-16), Directorate of Information Technology, Khyber Pakhtunkhwa for further period of one year with effect from 3-3-2016 or till the arrival of recommendee of Khyber Pakhtunkhwa, Public Service Commission, whichever is earlier.

SECRETARY ST&ITDEPARTMENT

Endst. No. and date even.

Copy forwarded for information to:-

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- PS to Secretary ST&IT Department.
- 3- Director Information Technology, Khyber Pakhtunkhwa w/r Directorate-IT/Ad-hoc contract/15 dated 14-01-2015.
- 4- Officer concerned.
- 5- Personal file.

SECTION OFFICER (ESTT)

ATTESTED

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 29TH SEPTEMBER, 2016

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 29th September, 2016.

No. PA/Khyber Pakhtunkhwa/Bills/2016/9355.—The Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology (Regularization of Services) Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 20th September, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 28th September, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA ADHOC EMPLOYEES OF DIRECTORATE
OF INFORMATION TECHNOLOGY (REGULARIZATION OF SERVICES)
ACT, 2016**

(KHYBER PAKHTUNKHWA ACT NO. XIX OF 2016)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 29th September, 2016).*

AN
ACT

*to provide for regularization of services of certain employees
appointed on adhoc basis in the Directorate of Information Technology,
Khyber Pakhtunkhwa.*

Preamble:- WHEREAS it is expedient to provide for regularization of certain employees appointed in the Directorate of Information Technology in 2011 on adhoc basis and other ancillary matters hereinafter appearing;

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ATTESTED

It is hereby enacted as follows:-

1. **Short title and commencement.**-- (1) This Act may be called the Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology (Regularization of Services) Act, 2016.

(2) It shall come into force at once.

2. **Definitions.**-- (1) In this Act unless the context otherwise requires,-

(a) **"Commission"** means the Khyber Pakhtunkhwa Public Service Commission;

(b) **"Department"** means Science & Technology and Information Technology Department;

(c) **"employees"** means employees the Deputy Director (BPS-18), Network Manager (BPS-17) IIS Manager (BPS-17), Accountant (BPS-16) and Computer Operator (BPS-12) appointed on adhoc basis by the Government in the Directorate of Information Technology of Khyber Pakhtunkhwa, in 2011;

(d) **"Government"** means the Government of Khyber Pakhtunkhwa;

(e) **"Law or Rule"** means the law or rule for the time being in force governing the selection and appointment of civil servants; and

(f) **"Post"** means the posts of the Deputy Director (BPS-18), Network Manager (BPS-17), IIS Manager (BPS-17), Accountant (BPS-16) and Computer Operator (BPS-12) in the Department and is required to be filled on the recommendation of the Commission.

(2) The expression "adhoc appointment" shall have the same meanings as respectively assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Civil Servants Act No. XVIII of 1973).

3. **Regularization of services of certain employees of the Directorate of Information Technology.**--(1) All employees appointed on adhoc basis by the Government in the Directorate of Information Technology in the year of 2011 and holding posts till the commencement of this Act, shall be deemed to have validly been appointed to those posts on regular basis from the date of the commencement of this Act:

Provided that-

(a) such employees were appointed against those posts which falls within the ambit of the Commission;


ATTESTED

- (b) the services of such employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette; and
- (c) such employees possess the qualification and experience prescribed for the posts to which they are appointed on regular basis.

4. **Determination of pay scales.**-- All employees whose services are regularized under this Act or in the process of attaining service at commencement of this Act shall be placed on basic pay scale, given as under:-

- i. Deputy Director (BPS-18)
- ii. Network Manager (BPS-17)
- iii. IIS Manager (BPS-17)
- iv. Accountant (BPS-16)
- v. Computer Operator (BPS-12)


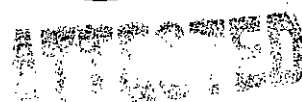
5. **Determination of seniority.**-- (1) Those employees whose service are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior under the services tenure spent on adhoc basis against approved posts to all civil servant ongoing to the same service or cadre as the case may be who are in service on regular basis on the commencement of this Act and shall also rank junior to such other person, if any who, in pursuance the recommendation of the commission or committee, or body, constituted for the purpose, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The inter-se-seniority of the employees, whose services are regularized under this Act with in the same service or cadre, shall be determined on the basis of their continuous officiating in such service or cadre.

6. **Overriding effect.**--Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of in consistency to this Act shall cease to have effect.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

(KIFAYATULLAH KHAN AFRIDI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT**

Dated Peshawar, the 7th December, 2016.

NOTIFICATION

No.SOE/ST&IT/KP/2-5/IT Dirtt:/2016. In pursuance of Khyber Pakhtunkhwa Ad-hoc Employees of Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016), the Competent Authority is pleased to regularize the services of the following Officers/officials of the Directorate of Information Technology, Khyber Pakhtunkhwa, against the posts which they are holding on ad-hoc basis:-

S. No.	Name of Officers/officials	Designation/BPS
i-	Mr. Bilal Jabbar	Deputy Director (BPS-18)
ii-	Mr. Zia Ullah Khan	Network/System Manager (BPS-17)
iii-	Mr. Abdul Basit	IIS Manager (BPS-17)
iv-	Mr. Shah Saood	Accountant (BPS-16)
v-	Mr. Muhammad Kashif	Computer Operator (BPS-12)

2-

Terms and conditions of their regularization are as under:-

- i- The above employees appointed on ad-hoc basis by the Government in the Directorate of Information Technology in the year 2011 and holding posts till the commencement of this Act, shall be deemed to have validly been appointed to those posts on regular basis from the date of commencement of this Act.
- ii- The above employees whose services are regularized under this Act or in the process of attaining services at the commencement of this Act, shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who pursuant of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective services or cadre, irrespective of their actual date of appointment.
- iii- The seniority interse of the employees, whose services are regularized under this Act, within the same services or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

**CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

Endst. No. and date even:-

Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa.
- 2- The Secretary to Speaker, Provincial Assembly, Khyber Pakhtunkhwa.
- 3- The Deputy Speaker, Provincial Assembly, Khyber Pakhtunkhwa.
- 4- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 5- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- 6- Chairman, Khyber Pakhtunkhwa Public Service Commission, Fort Road Peshawar.
- 7- PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 8- Manager, Government Printing Press Department, Khyber Pakhtunkhwa for publication in the Official Gazette.
- 9- PS to Senior Minister for -IT, Khyber Pakhtunkhwa.
- 10- PS to Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
- 11- PS to Secretary ST&IT, Khyber Pakhtunkhwa.
12. PA to Managing Director KP IT Board.
13. Officers/officials concerned.

(WAMIQ)

SECTION OFFICER (ESTT)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT PESHAWAR
2nd Floor, SDU Building, Khyber Road, Peshawar.

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NOTIFICATION:

No. SO(E)ST&IT/KP/IT Dirtt: Regularization/Vol-I / In pursuance of section 8(1) of Khyber Pakhtunkhwa Civil Servants Act 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and transfer) Rules 1989 the tentative seniority list of Accountant BPS-16 as it stood on 30/12/2016 Directorate of IT is hereby circulated for general information.

Tentative Seniority list of Accountant (BPS-16) in the Directorate of Information Technology
(ST&IT Department Govt. of Khyber Pakhtunkhwa)
Dated: 30/12/2016

S.No.	Name of officer	Academic Qualification	Date of Birth	Date of 1 st entry in Govt. service	BPS	Date of Regular appointment/promotion to present post	Department	Remarks
1	2	3	4	5	6	7	8	9
1.	Shah Saood S/o Abdul Hassan	M.Com. University of Peshawar	02/02/ 1983	01/07/2007	BPS- 16	02/03/2011	Directorate of Information Technology, (ST&IT Department)	Appointed by initial recruitment

Endst: No. of even No. & date

Copy forwarded to:-

1. Deputy Secretary (Admin), ST&IT Department.
2. PA to Director-IT Khyber Pakhtunkhwa.

Sd/-

Secretary
ST&IT Department

Section Officer (D)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 5TH MARCH, 2018.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 5th March, 2018.

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

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

(KHYBER PAKHTUNKHWA ACT NO. IV OF 2018)

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

AN
ACT

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

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

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

(2) It shall come into force at once.

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

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


It is hereby enacted as follows:".

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

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

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

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ATTESTED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


ATTESTED

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

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

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

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


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

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

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

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


TESTED

Annexure - (H)

no 397
10/4/18
23



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT

Dated Peshawar, the 6th April, 2018

1394 To 4409

NOTIFICATION

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

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

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

**CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

Endst. No. and date even:-

Copy forwarded to:-

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

SECTION OFFICER (ESTT)

ATTACHED

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DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204 3rd Floor, Deans Trade Center Sadar CANTT
Peshawar



No. Dirtt:/S&T/ KP/1-83/ Seniority List/ 3171
Dated June 3, 2020

To

All officials in BPS-16 and below at non developmental side,
Directorate of S&T, Government of Khyber Pakhtunkhwa.

Subject: **TENTATIVE SENIORITY LISTS**

Attached herewith is the tentative seniority lists for your information.

If you have any objection on this seniority list, it may be communicated to this
office within one month time after its receipt please.


Director S&T 31/6/20

Copy to:

PS to Secretary ST&IT Department for information please.

Director S&T


ATTESTED



DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
 TF: 204 3rd Floor, Deans Trade Center Sadar CANTT
<http://www.dost.kp.gov.pk>

**NOTIFICATION: 3171**

So. SOE/ ST&IT/ KP/ 2-36/ KC/ 2018-19. In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and keeping in view of their dates of initial appointment (ad hoc as well as regular dates of appointment), absorption of staff of erstwhile IT Directorate into the Directorate of S&T after KP IT Board Amendment Act 2018 (Khyber Pakhtunkhwa Act No. IV-2018), Khyber Pakhtunkhwa, Ad hoc employees of Directorate of Information Technology (Regularization of Services) Act, 2016 which has been promulgated by the Provincial Assembly Section 4 (Determination of Pay Scales) & 5 (Determination of Seniority), the tentative Seniority list of Accountants (as stood on 14-1-2020) Directorate of S&T, Khyber Pakhtunkhwa, is hereby notified/circulated for general information.

S. No	Name Of Officer/ Official	Father Name	Qualification	Domicile	Date Of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Amir Muhammad Accountant (B-16)	Muhammad Rafiq	MS Finance	Khyber	20-09-1985	08-6-2016	08-6-2016	Direct appointment
2	Shah Saood Accountant (B-16)	Abdul Hassan	M. Com	Peshawar	02-02-1983	03-03-2011	07-12-2016	Direct Appointment

Copy to:

PS to Secretary S&IT Department for information please.

ATTENDED

DIRECTOR (S&T) 16/1/2020

DIRECTOR (S&T)

Annexure (J)

(26)

To

Director (S&T),
Directorate of Science & Technology,
Government of Khyber Pakhtunkhwa.

[Handwritten Signature]
22-6-2020

Subject: TENTATIVE SENIORITY LISTS

Dear Sir,

This is in reference to Office Letter No. Dir:IT/S&T/KP/1-83/Seniority List/ 3171 dated 03-06-2020 received on 10-06-2020 on the subject noted above and furnish the observation of seniority list issued, on the post of Accountant BS-16 for your kind consideration and rectification on the following points.

1. The undersigned has been appointed in Directorate of Information Technology, Government of Khyber Pakhtunkhwa and first entered into Government Servant in 2007. The undersigned have been appointed to the present post in 03-03-2011 in Directorate of Information Technology. In The same services holding the same post the service of undersigned has been regularized through Act on **29-09-2016** and Notification was issued on 07-12-2016 under pursuance of Khyber Pakhtunkhwa Ad-hoc Employees of Directorate of Information Technology (Regularization of Services) Act 2016. **Directorate of IT, the Employees Regularization Act 2016 provides the legal frame work for "regularization of certain employees appointed on ad-hoc basis in the Directorate of IT, KP". The Act has further clarified and settled the service conditions of the employees of Directorate IT through notification dated 07-12-2016 and subsequent issuance of the seniority lists of the employees of IT Directorate dated 30-12-2016 (Annexed)** in which the Date of entry into the Government Service is mentioned as 01-07-2007 and Date of appointment/promotion to present post is mentioned as 02-03-2011. This tentative seniority list has been dully approved by Administrative Secretary ST&IT Department for Accountant BS-16 of Directorate of Information Technology. However, it has been observed that the subject tentatively seniority list required corrections/considerations in the light of already approved tentative seniority issued by Administrative Department which is higher forum than this Directorate.
2. In pursuance of clause (iii) of Section 3A of Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018, "all the civil servants in Directorate of Information Technology, shall be given an option, either to continue to serve as civil servant or may opt for the employment of the Board. The option shall be exercised within a period of thirty days after the commencement of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018. Those employees, who do not opt for their absorption in the Board, shall be absorbed in the Directorate of Science and Technology where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under, **To justify this clause it is suffice it to say that the express provisions of the KP IT Board Amended Act 2018, regarding in the merger and absorption of the employees of Directorate of IT staff has been definitively determined by the Act itself. Section 3, Clause (iii), requires the absorption of the Directorate of IT employees in the Directorate of Science and Technology.** The Administrative Department has issues Notification (annexed) on 06-04-2018 in which all the regular employees of Directorate of Information Technology were hereby absorbed in Directorate of Science and Technology to continue as civil servant, which clearly means that these staff has been absorbed from one attached department to

ATTESTED

another attached department under same Administrative Department i.e. ST&IT Department. Furthermore, the employees has been absorbed in continuations of their services as civil servants and has not been placed/absorbed/transferred from any Surplus pool, as no Surplus pool has been generated/created by Administrative Department or whatsoever the authority is for these employees. In the meanwhile, rules/regulation for surplus employees are also not applicable to this kind of absorption. Furthermore, during the merger nor the Act the has any provision for fixation of staff seniority nor the Notification has any provision of placing the absorbed employees will be treated as junior. It is to bring into to your kind consideration that the committee has totally neglected the already issued tentative seniority list by Administrative Department or they should have taken advised/guidance/opinion by the Administrative Department which was also not considered.

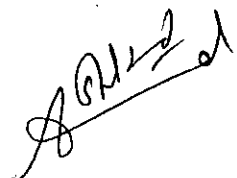
3. After the absorptions of Directorate of IT employees and Employees absorbed from regularized projects all officers are from IT background and higher in numbers than of Science & Technology background, it has been observed that the constituted committee members are from Science & technology and no such member has been considered from IT side which may leads this fixation of seniority as biased and self-promotion. The committee has also included the member who has already placed complaints in the same seniority fixation to Administrative Department which should be not considered as the case may be controversial from his side as well. It was also observed that constituted Committee may not have that experience of catering such important issue related to employee's promotion and future protectives.

4. In view of above, it is requested to please consider the observation and reconstitute the committee for fixation of seniority list in the best interest of Directorate staff. It is further requested to consider my seniority as per the approved tentative seniority issued by Administrative Department in 30-12-2016 as no such interventions has been made after merging of Directorate of IT or to take opinion/clarification/guidance from Administrative Department or Establishment Department in the matter please.

(SHAH SAOOD)
ACCOUNTANT

Copy for Information to:

1. PS to Secretary ST&IT Department.
2. PA to Additional Director, Directorate of Science & Technology.


(SHAH SAOOD)
ACCOUNTANT


ATTESTED

Annexure - (K)



DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204-210 3rd Floor, Deans Trade Center Sadar Cantt Peshawar
Phone #091-9212881, fax 091-9212583-www.dost.kp.gov.pk



28

Reference No.Dirtt:/S&T/KP/ 3399
Dated July 27, 2020

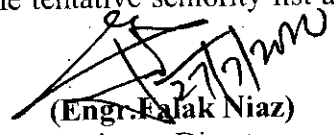
To

Mr.Shah Saood,
Accountant BPS-16, Directorate of S&T,
Peshawar.

SUBJECT: TENTATIVE SENIORITY LIST.

I am directed to refer to your application No.Nil dated Nil on the subject noted above to state that your seniority list has been prepared in pursuance of Khyber Pakhtunkhwa Adhoc employees of Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016) and Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018).

In view of the above, you have been correctly placed in the tentative seniority list and your application is hereby regretted.


(Engr. Falak Niaz)
Assistant Director

Copy for information to;

1. SO (E), ST&IT Department Govt of Khyber Pakhtunkhwa.
2. PS to Secretary ST&IT Department Govt of Khyber Pakhtunkhwa.
3. PA to Additional Secretary ST&IT Department Govt of Khyber Pakhtunkhwa.
4. PA to Director, Directorate of S&T

(Engr. Falak Niaz)
Assistant Director


ATTESTED
ATTESTED



DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204 3rd Floor, Deans Trade Center Sadar CANTT
Peshawar



No. Dir:tt:/S&T/ KP/1-83/ Seniority List/ 3443
Dated August 4, 2020

To:

✓ All officials in BPS-16 and below at non developmental side,
Directorate of S&T, Government of Khyber Pakhtunkhwa.

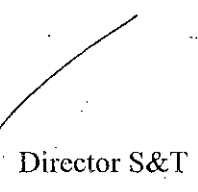
Subject: **FINAL SENIORITY LISTS**

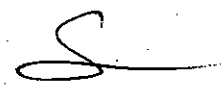
In continuation to the tentative seniority lists of this office, issued vide letter of even no dated June 3, 2020, enclosed please find herewith final seniority list of officers and officials for your information.


Director S&T

Copy to:

PS to Secretary ST&IT Department for information please.


Director S&T


ATTESTED

Annexure - (L)

DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204 3rd Floor, Deans Trade Center Sadar CANTT
<http://www.dost.kp.gov.pk>



NOTIFICATION:
No. SOE/ ST&IT/ KP/ 2-36/ KC/ 2018-19.

In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and keeping in view of their dates of initial appointment (adhoc as well as regular dates of appointment), absorption of staff of erstwhile IT Directorate into the Directorate of S&T after KP IT Board Amendment Act 2018 (Khyber Pakhtunkhwa Act No. IV 2018), Khyber Pakhtunkhwa, Adhoc employees of Directorate of Information Technology (Regularization of Services) Act, 2016 which has been promulgated by the Provincial Assembly Section 4 (Determination of Pay Scales) & 5 (Determination of Seniority), the final Seniority list of Accountants (as stood on 4-8-2020) Directorate of S&T, Khyber Pakhtunkhwa, is hereby notified/circulated for general information.

S. No	Name Of Officer/ Official	Father Name	Qualification	Domicile	Date Of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Amir Muhammad Accountant (B-16)	Muhammad Rafiq	MS Finance	Khyber	20-09-1985	08-6-2016	08-6-2016	Direct appointment
2	Shah Saood Accountant (B-16)	Abdul Hassan	M. Com	Peshawar	02-02-1983	03-03-2011	07-12-2016	Direct Appointment

DIRECTOR (S&T) 4/8/2020

Copy to:

PS to Secretary, ST&IT Department for information please.

DIRECTOR (S&T)

RECEIVED

30

M (31)
R/C

To

The secretary to Govt. of Khyber Pakhtunkhwa,
ST&IT Department.

Subject: **FINAL SENIORITY LIST**

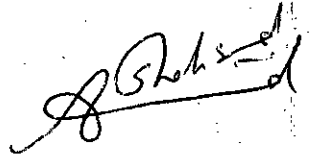
Dear Sir,

This is in reference to the subject noted above and to place the matter for your kind consideration please. Directorate of science & Technology has issued tentative seniority list of the staff BPS- 16 and below against which the undersigned has furnished the observation (letter attached as Flag-A). directorate of Science & Technology vide Letter no. Dir:tt:/S&T/KP/2299 dated 27-07-2020 (Letter attached at Flag-B)has regretted my appeal without assigning cogent reason/rules on the observation.

It is therefore requested that my observation/representation attached at F/A over the Final seniority list of accountant (BPS-16) may be considered in light of rules/regulations. The Supreme Court of Pakistan full Bench has already settled a same nature case (Copy attached for ready reference).

Thanking you in anticipation for placing me in the final seniority list at my due place.

Dafkani
Amir Ali
12/08/2020



(SHAH SAOOD)
Accountant BPS-16
Directorate of Science & Technology
Dated: 12-08-2020

ST&IT
Dir:tt No. 1357

32

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP SERVICE TRIBUNAL, PESHAWAR.

Shah Saood

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Government of KP etc.

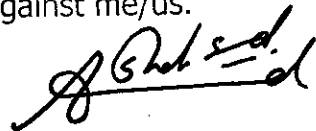
(Respondent)
(Defendant)

I/We, Shah Saood appellant

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

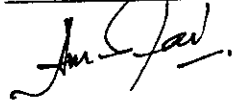
I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED



M. ASIF YOUSAFZAI
Advocate Supreme Court Peshawar.

TAIMUR ALI KHAN
Advocate High Court, Peshawar

SYED NOMAN ALI BUKHARI
Advocate High Court

& S. Khan
SHAIKHAR KHAN YOUSAFZAI
Advocate.

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

1/2/2022

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL No.15613/2020

SHAH SAOOD

VS

GOVERNMENT OF KHYBER PAKHTUNKHWA

through

The Secretary,
Science & Technology & Information Technology Department,
Civil Secretariat Peshawar.

Respondent No.1

The Director Science & Technology (S&T),
The Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar.

Respondent No.2

Mr. Amir Muhammad, Accountant (BPS-16),
Directorate of Science & Technology, Khyber Pakhtunkhwa,
Peshawar.

Respondent No.3

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

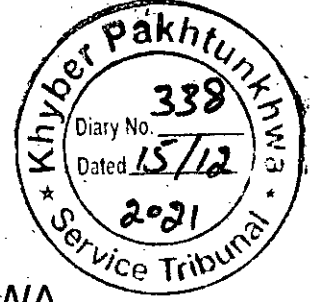
APPEAL No.15613/2020

SHAH SAOOD

VS

GOVERNMENT OF KHYBER PAKHTUNKHWA

through



The Secretary,
Science & Technology and Information Technology Department,
Civil Secretariat Peshawar.

Respondent No.1

The Director Science & Technology (S&T),
The Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar.

Respondent No.2

Mr. Amir Muhammad, Accountant (BPS-16),
Directorate of Science & Technology, Khyber Pakhtunkhwa,
Peshawar

Respondent No.3

Subject: Joint Para wise comments of the Respondents No.1,2,&3.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. The appellant has not come to the learned Tribunal with clean hands.
2. The appellant has no locus standi to file this service appeal.
3. The case is not maintainable to file.
4. The appellant has been treated equally after observance of all codal formalities laid down for all provincial Govt. Departments.
5. The instant appeal is based on equivocal and ambiguous statements.
6. The appellant has misled & misguided this tribunal in filing the instant appeal.
7. Based on mala fide intentions, the petitioner wants to stop the promotion process and career progression of other servants.
8. That the appellant has been estopped by his own conduct.

FACTS:

1. **Correct**, Pertaining to the petitioner's personal identity, character and profile, hence need no comment.
2. **Correct**, the appellant Mr. Shah Saood was appointed on adhoc basis in Erstwhile Directorate of IT by Departmental Selection Committee till the regular appointment from the Khyber Pakhtunkhwa Public Service Commission vide

ST&IT Department Notification No. SO(E)ST&IT/KP/2-36/S.Rules-IT/08 dated 03-03-2011 (ANNEXED " E ").

3. **Correct**, as pointed out by the appellant himself that his services and appointment was regularized in 29th September, 2016 and not earlier.
4. **Correct**, as mentioned in Para No. 2, Mr. Shah Saood along with other Adhoc employees of the erstwhile Directorate of Information technology were regularized under the Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology "Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016), dated 29-09-2016. (ANNEXED "F"). Consequent upon the enactment, the Department of ST & IT issued a Notification in pursuance of the Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology "Regularization of Services" Act, 2016 vide Notification No. SOE/ST&IT/KP/2-5/IT Dir:IT/2016 dated 07-12-2016 wherein the services of the Appellant Mr. Shah Saood were regularized along with other officials of the erstwhile Directorate of Information Technology **from the date of commencement** of the above mentioned Act (ANNEXED " G ").
5. **Incorrect**, Regular appointment can only be considered from the date of regularization and not on initial appointment on adhoc basis. It is further elaborated in the Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016) in Section 3, Clause (1) *"All employees appointed on adhoc basis by the Government in the Directorate of Information Technology in the year of 2011 and holding posts till the commencement of this Act, shall be deemed to have validly been appointed to those posts on regular basis from the date of the commencement of this Act: Provided that- (a) such employees were appointed against those posts which falls within the ambit of the Commission; (b) the services of such employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette; and (c) such employees possess the qualification and experience prescribed for the posts to which they are appointed on regular basis"*. This clearly mentions that the regular appointment will be considered on the regular posts of erstwhile DoIT after the commencement of this Act. In addition, the Section 5 of the Act is also reproduced herein as, *"Determination of seniority.- (1) Those employees whose service are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior under the services tenure spent on adhoc basis against approved posts to all civil servant ongoing to the same service or cadre as the case may be who are in service on regular basis on the commencement of this Act and shall also rank junior to such other person, if any who, in pursuance the recommendation of the commission or committee, or body, constituted for the purpose, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment. (2) The inter-se-seniority of the employees, whose services are regularized under this Act with in the same service or cadre, shall be determined on the basis of their continuous officiating in such service or cadre.*

6. **Correct**, The Appellant along with other regular employees of the Erstwhile Directorate of Information Technology were given an option to continue their regular services in the Directorate of Science & Technology or accept being absorbed in the KP IT Board as per Section 3(A) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) dated 5th March, 2018 (**ANNEXED "H"**). The regular employees of the erstwhile Directorate of Information Technology did not opt for absorption in the KP IT Board and opted for continuation of their services in the Directorate of Science & Technology. Consequently, Department of Science & Technology and Information Technology issued a Notification regarding absorption notification No. SOE/ST&IT/KP/1-9/Merging of DoIT-KPITB/17/V-II dated April 06, 2018 of regular employees of erstwhile Directorate of Information Technology in the Directorate of Science & Technology (**ANNEXED "I"**).

1. The respondent No. 3 Mr. Amir Muhammad was appointed on 08-06-2016 on regular basis in the Directorate of Science & Technology through KP Public Service Commission (**ANNEXED "J"**). Whereas, the appellant was appointed by Departmental Selection Committee (DSC) on adhoc basis as shown in the seniority list (**ANNEXED "K"**) therefore, he is senior to the appellant as per Khyber Pakhtunkhwa Civil Servants Act 1973 and prevailing Khyber Pakhtunkhwa Appointment, Promotion and Transfer (APT) Rules 1989. Therefore adhoc appointment and adhoc service rendered by the appellant Mr. Shah Saood cannot be considered as regular service as per Government Rules. It is therefore not a correct and valid plea that the appellant services may considered for seniority from 03-03-2011. The rules & regulations of Esta Code pages 134-135 do not count the adhoc service towards Seniority/promotions in following words:

"Counting of Ad hoc Service:

- (ix) *Special conditions with regard to Ad hoc Service-Ad hoc appointments will not confer any right on the Government servants in the matter of regular appointment to the same post nor the service will count towards seniority.*
- (x) *Service in an Ad hoc capacity will count as experience for the purpose of minimum qualification of a post."*(**ANNEXED "L"**).

7. The private respondent Mr. Amir Muhammad was appointed in the Directorate of Science & Technology through KP Public Service Commission on 08-06-2016. Whereas the services of the appellant were regularized **from the date of commencement of the relevant Act**. In light of the factual position, this directorate issued a Tentative seniority list wherein Mr. Amir Muhammad was

shown senior to the appellant Mr. Shah Saood on the basis of regular appointment to the post of Accountant. It has been explained in the earlier paras that the length of adhoc service cannot be considered as regular service under the prevalent rules. Rather adhoc appointment is made to ensure that the office work continues without any hindrance until a regular appointee duly recommended by the KP Public Service Commission comes in. It is further elaborated through the initial appointment order of the Appellant Mr. Shah Saood that services rendered by him under the adhoc appointment would not be considered towards the seniority. In his subsequent appointment orders, it is clearly written that **his services were regularized after the commencement of the above-mentioned act.**

- 8. The appeal against the issuance of seniority list was properly examined and replied vide Dir:IT/S&T/KP/3399 dated 27-07-2020 which was not covered under the rules and laws. Therefore, it was turned down (**ANNEXED "M"**).

GROUND:

- A) Appeal is incorrect and illegal, as Adhoc appointment is an aberration rather than a norm. Therefore, terming adhoc appointment as regular service is tantamount to meeting injustice to those employees who are appointed through proper channel after going through the rigorous procedures of recruitment by the Public Service Commission.
- B) As stated in earlier paras continuous adhoc service cannot be termed as regular service toward seniority as the appellant was appointed on adhoc basis. Whereas, in the regularization Act, it is clearly written that the employees of Directorate of IT would be considered regular from the date of commencement of this Act and not vice versa.
- C) It is a wrong interpretation of the Rule-17 of the Appointment, Promotion & Transfer Rules, 1989. As the appellant was regularized vide Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016) in which Section 3 & 5 clearly determine the seniority and later on being absorbed in Directorate of Science & Technology through KP IT Board as per Section 3(A) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) dated 5th March, 2018 of the Act.
- D) **Incorrect**, Therefore, the seniority of the appellant is determined in the light of the erstwhile Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016) in which Section 3 & 5 clearly determine the seniority and later on being absorbed in Directorate of Science &


Technology through KP IT Board as per Section 3(A) of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018) dated 5th March, 2018 of the Act. Therefore the respondent No. 3 Mr. Amir Muhammad was considered senior as far as their cadre is concerned in relation to the appellant Mr. Shah Saood. The same has been reflected in the seniority list issued by this directorate dated 08-06-2020.


- E) **Incorrect**, In this regard, reference of the Khyber Pakhtunkhwa Civil servants Act, 1973 is made towards the Section 8 Clause(4) which states that, "*Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post*" (ANNEXED "N"). As the appellant was appointed on regular basis from the date of commencement of the **Regularization Act**, Therefore, his services on regular basis can only be considered from that date and not vice versa.
- F) **Incorrect** statement of the grounds. The appellant seniority is determined in the light of above mentioned acts 2016 & 2018 accordingly.
- G) This statement is wild conjecture. The Directorate General of Science & Technology and the Department of Science & Technology and Information Technology has treated the appellant as per law and rules. A person cannot be granted seniority as per his whims and wishes.
- H) No Comments.

PRAYER:

It is humbly prayed before the honorable Service Tribunal that the prayer and interim relief sought after by the appellant may be dismissed as devoid of any legal merit and set aside.

In view of the above paras, it is humbly prayed that the instant Service Appeal No. 15613/2020 being devoid of merit may please be dismissed in the best public interest.


SECRETARY
ST&IT Department
 Govt. of Khyber Pakhtunkhwa
 (Respondent No.1)


DIRECTOR - General
SCIENCE & TECHNOLOGY
 Govt. of Khyber Pakhtunkhwa
 (Respondent No.2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL No.15613/2020

SHAH SAOOD

VS

GOVERNMENT OF KHYBER PAKHTUNKHWA

through

The Secretary,
Science & Technology & Information Technology Department,
Civil Secretariat Peshawar.

Respondent No.1

The Director Science & Technology (S&T),
The Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar.

Respondent No.2

Mr. Amir Muhammad, Accountant (BPS-16),
Directorate of Science & Technology, Khyber Pakhtunkhwa,
Peshawar.

Respondent No.3

AFFIDAVIT

I Engr. Falak Niaz, Assistant Director BPS-17 Directorate of S&T Khyber Pakhtunkhwa being authorized officer to file the joint Para-wise comments pertaining to Appeal No. 15613/2020 titled as Shah Saood VS Government of Khyber Pakhtunkhwa, hereby solemnly declare on oath that the subject comments to be submitted before the honorable court are true and facts based to the best of my knowledge. Furthermore, nothing has been concealed from the honorable court.



ENGR: FALAK NIAZ
ASSISTANT DIRECTOR
CNIC NO: 16102-6578578-5



APPEAL No.15613/2020

SHAH SAOOD

VS

GOVERNMENT OF KHYBER PAKHTUNKHWA

through

The Secretary,
Science & Technology & Information Technology Department,
Civil Secretariat Peshawar.

Respondent No.1

The Director Science & Technology (S&T),
The Directorate General of Science & Technology (DoST),
Khyber Pakhtunkhwa, Peshawar.


Respondent No.2

Mr. Amir Muhammad, Accountant (BPS-16),
Directorate of Science & Technology, Khyber Pakhtunkhwa,
Peshawar.

Respondent No.3

AUTHORITY LETTER

Mr. Engr. Falak Niaz, Assistant Director BPS-17 Directorate of S&T Khyber Pakhtunkhwa is hereby authorized to file the joint Para-wise comments pertaining to Appeal No. 15613/2020 titled as Shah Saood VS Government of Khyber Pakhtunkhwa, with this direction to attend the court dates for hearing and allied proceedings punctually, on behalf of the respondents.


SECRETARY
ST&IT Department
Govt. of Khyber Pakhtunkhwa
(Respondent No.1)


DIRECTOR General
Science & Technology (S&T)
Directorate of Science & Technology (DoST)
(Respondent No.2)

(9)

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

Appeal No. 15613 /2020

Shah Saood

V/S

Government of KP etc

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7.	Copy of Tentative Seniority List dated 30.12.2016	F	16
8.	Copy of The Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018	G	17-22
9.	Absorption Notification dated 06.04.2018	H	23
10.	Copy of Tentative Seniority List dated 08.06.2020.	I	25
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12.	Copy of Rejection Order	K	28
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15.	Vakalat Nama	-----	

A. Saood

APPELLANT

Shah Saood

THROUGH:

M. Asif Yousafzai

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

Syed Noman Ali Bukhari

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

Taimur Ali Khan

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

S. Khanz

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR

(11)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 15613 /2020

Mr. Shah Saood S/O Abdul Hassan,
Accountant (BPS-16),
Directorate of S&T, Khyber Pakhtunkhwa, Peshawar.

APPELLANT

VERSUS

1. The Secretary ST&IT Department, Khyber Pakhtunkhwa,
Peshawar.
2. The Director, Science & Technology (S&T), Khyber
Pakhtunkhwa, Peshawar.
3. Amir Muhammad, Accountant (BPS-16), Directorate of Science &
Technology, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
AGAINST NOTIFICATION DATED. 04.08.2020
WHEREBY THE APPELLANT'S NAME HAS BEEN
WRONGLY PLACED AT S.NO.2 OF THE FINAL
SENIORITY LIST AND AGAINST THE INACTION
OF THE RESPONDENTS FOR NOT DECIDING THE
DEPARTMENTAL APPEAL WITHIN STATUTORY
PERIOD OF NINETY DAYS.**

.....

PRAYER:

That on acceptance of this appeal the impugned seniority list may be set-aside with the directions to the respondent to place the name of the appellant at S.No.1 of the final seniority list by modifying the same as per law and rules. Any other remedy, which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

namely, Mr. Amir Muhammad (BPS-16) Accountant which is against the law and rules as well as various judgments of the superior courts. (Copy of Tentative Seniority List dated 08.06.2020 is attached as Annexure - "I").

8. That the appellant filed objections against the tentative seniority list on 22.06.2020 which was rejected on 27.07.2020. (Copies of objection application against the tentative seniority list and further rejection order are attached as Annexures - "J" & "K").
9. That the department notified Final Seniority List on 04.08.2020 in which he was again shown junior to the private respondent; against which the appellant filed departmental appeal on 12.08.2020 which was not responded within the statutory period of 90 days. (Copies of Final Seniority List dated 04.08.2020 and second departmental appeal are attached as Annexures - "L" & "M").
10. That now the appellant comes to this August Tribunal on the following grounds amongst others:

GROUND:

- A. That the impugned seniority list dated 04.04.2020 and not deciding the departmental appeal of the appellant within 90 days, is against the law, facts, norms of justice and material on record. Therefore, such action and inaction of the respondent department is illegal and unlawful.
- B. That the appellant's service was regularized in the light of Regularization Act of 2016 dated 29.09.2016 wherein the appellant's appointment has been ad-hoc with effect from 2011 and is being declared valid, and since then (03.03.2011) the appellant has been continuously performing his duties as civil servant. Therefore, as per law regarding seniority is to be counted with effect from the date of regular/ continuous officiation.
- C. That upon the creation of IT Board under the Act of 2018 dated 05.03.2018 all those employees who opted to remain as civil servant shall be absorbed in the Directorate of Science and Technology. Therefore, keeping in view the principle of restructuring/ absorption in the spirit of Rule-17 of the Khyber Pakhtunkhwa APT Rules, 1989 the seniority of the appellant was required to be counted with effect from the date of continuous officiation.
- D. That before the creation of the IT Board the appellant date of regular appointment was recorded as 02.03.2011 in the tentative seniority list and that remained in field for a long period. Therefore, keeping in

(14)

view the judgement reported as 2014 PLD 338. and the Principle of Locus Poenitentiae the appellant seniority could not be disturbed.

E. That as per the spirit of Section-8 of the KP Civil Servant Act, 1973 and Rule-17 of the APT Rules, 1989; the appellant has wrongly been placed at serial no. 2 and as such the same final seniority list needs rectification.

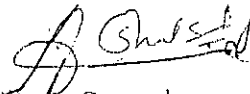
F. That there are numerous judgements of the superior courts wherein it has been held that regularization is the continuation of the previous appointment and cannot be termed as fresh appointment. Therefore, the official is entitled to the seniority from the date of first appointment.

G. That the appellant has not been treated as per law and rules, and has been deprived from the seniority benefits by exercising authority in a fanciful manner.

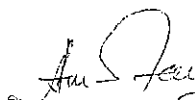
H. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.


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


APPELLANT

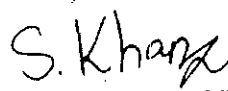

Shah Saood

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR

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

Dated Peshawar, the 3rd March, 2011. 2 557

NOTIFICATION.

NO.SO(E)/ST&IT/KP/2-36/S.Rules-IT/08. The Competent Authority on the recommendations of Departmental Selection Board is pleased to order the appointment of Mr. Shah Saood as Accountant (BPS-16) in the Directorate of Information Technology, Khyber Pakhtunkhwa on ad-hoc basis for a period of one year or till the availability of selectee of Public Service Commission which ever is earlier with immediate effect.

- 3- He will assume the charge within 15 days from the date of issuance of this notification after which his appointment shall be treated as cancelled.
- 4- He will produce a Medical certificate from any Government Hospital.

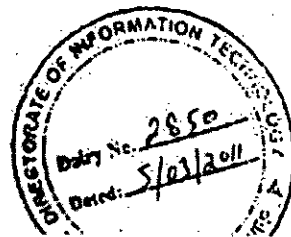
Secretary ST & IT

Endst. No. and date even.

Copy forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PS to Minister for ST&IT Department, Khyber Pakhtunkhwa.
- 3- PS to Secretary ST&IT Department.
- 4- The Director Information Technology, Khyber Pakhtunkhwa Peshawar.
- 5- The Section Officer (General)/ D.S(Admn) ST&IT Department.
- 6- Officer concerned.
- 7- Personal file.

1-
PS



(WAMIQ)
SECTION OFFICER (ESTT)



GOVERNMENT OF NWFP
DIRECTORATE OF INFORMATION TECHNOLOGY

House No: 1/B Chinar Road, University Town, Peshawar
Tel: 091-9216889
info@nwfp.gov.pk; www.nwfp.gov.pk

No. DoIT/NWFP/Appoint-DoIT/Acct/09 150

Dated: 26th November, 2009

To

Mr. Shah Saood S/o Abdul Hassan

Subject: APPOINTMENT AS ACCOUNTANT ON FIXED PAY/CONTRACT BASIS

On the recommendations of the Departmental Selection Committee, the Competent Authority has been pleased to offer you the subject post on fixed pay of Rs. 25,000/- PM in the Project "Establishment of IT Directorate".

Terms and Conditions of your service will be as under:-

- i. Your fixed pay contract appointment will be for the remaining/extended period of the Project. On completion of the project your services shall be stand terminated.
- ii. Your appointment will be purely on contract basis and if your performance is found unsatisfactory, your services shall be terminated on 15 days notice or on payment of 15 days salary in lieu thereof.
- iii. You will work against the subject post for which you are recruited and will not be transferred to any other post in the project or any other project under the same department/government.
- iv. You will produce an undertaking that during the employment, you will be held responsible for the losses (accruing to the project due to you and shall be held answerable therefore).
- v. You will produce a Medical Fitness Certificate from any government Hospital.
- vi. Your appointment will not confer on you any right for regular appointment/absorption against the post of Computer Operator nor your services will count towards seniority/promotion/pension.

If the above terms and conditions are acceptable to you, you are advised to report for duty to the undersigned within 10 days of the issue of this offer, failing which this offer shall stand cancelled.


(Muhammad Imran)
Assistant Director-IT

Copy forwarded to the:-

Director, Directorate of IT.

Assistant Director-IT

Annexure - (D)

(12) (17)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 29TH SEPTEMBER, 2016

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 29th September, 2016.

No. PA/Khyber Pakhtunkhwa/Bills/2016/9355.—The Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology (Regularization of Services) Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 20th September, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 28th September, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA ADHOC EMPLOYEES OF DIRECTORATE OF INFORMATION TECHNOLOGY (REGULARIZATION OF SERVICES) ACT, 2016

(KHYBER PAKHTUNKHWA ACT NO. XIX OF 2016)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 29th September, 2016).

AN
ACT

*to provide for regularization of services of certain employees
appointed on adhoc basis in the Directorate of Information Technology,
Khyber Pakhtunkhwa.*

Preamble:- WHEREAS it is expedient to provide for regularization of certain employees appointed in the Directorate of Information Technology in 2011 on adhoc basis and other ancillary matters hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**-- (1) This Act may be called the Khyber Pakhtunkhwa Adhoc Employees of Directorate of Information Technology (Regularization of Services) Act, 2016.

(2) It shall come into force at once.

2. **Definitions.**-- (1) In this Act unless the context otherwise requires,-

(a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(b) "Department" means Science & Technology and Information Technology Department;

(c) "employees" means employees the Deputy Director (BPS-18), Network Manager (BPS-17) IIS Manager (BPS-17), Accountant (BPS-16) and Computer Operator (BPS-12) appointed on adhoc basis by the Government in the Directorate of Information Technology of Khyber Pakhtunkhwa, in 2011;

(d) "Government" means the Government of Khyber Pakhtunkhwa;

(e) "Law or Rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and

(f) "Post" means the posts of the Deputy Director (BPS-18), Network Manager (BPS-17), IIS Manager (BPS-17), Accountant (BPS-16) and Computer Operator (BPS-12) in the Department and is required to be filled on the recommendation of the Commission.

(2) The expression "adhoc appointment" shall have the same meanings as respectively assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Civil Servants Act No. XVIII of 1973).

3. **Regularization of services of certain employees of the Directorate of Information Technology.**--(1) All employees appointed on adhoc basis by the Government in the Directorate of Information Technology in the year of 2011 and holding posts till the commencement of this Act, shall be deemed to have validly been appointed to those posts on regular basis from the date of the commencement of this Act:

Provided that-

(a) such employees were appointed against those posts which falls within the ambit of the Commission;

- (b) the services of such employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette; and
- (c) such employees possess the qualification and experience prescribed for the posts to which they are appointed on regular basis.

4. **Determination of pay scales.**-- All employees whose services are regularized under this Act or in the process of attaining service at commencement of this Act shall be placed on basic pay scale, given as under:-

- i. Deputy Director (BPS-18)
- ii. Network Manager (BPS-17)
- iii. IIS Manager (BPS-17)
- iv. Accountant (BPS-16)
- v. Computer Operator (BPS-12)

5. **Determination of seniority.**-- (1) Those employees whose service are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior under the services tenure spent on adhoc basis against approved posts to all civil servant ongoing to the same service or cadre as the case may be who are in service on regular basis on the commencement of this Act and shall also rank junior to such other person, if any who, in pursuance the recommendation of the commission or committee, or body, constituted for the purpose, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The inter-se-seniority of the employees, whose services are regularized under this Act with in the same service or cadre, shall be determined on the basis of their continuous officiating in such service or cadre.

6. **Overriding effect.**--Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of in consistency to this Act shall cease to have effect.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(KIFAYATULLAH KHAN AFRIDI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
ST & IT DEPARTMENT

Dated Peshawar, the 7th December, 2016.

5997 6007

NOTIFICATION

No.SOR/ST&IT/KP/2-5/IT Dir/2016 In pursuance of Khyber-Pakhtunkhwa Ad-hoc Employees of Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016), the Competent Authority is pleased to regularize the services of the following Officers/officials of the Directorate of Information Technology, Khyber Pakhtunkhwa, against the posts which they are holding on ad-hoc basis:-

S. No.	Name of Officers/officials	Designation/BPS
i-	Mr. Bilal Jabbar	Deputy Director (BPS-18)
ii-	Mr. Zia Ullah Khan	Network/System Manager (BPS-17)
iii-	Mr. Abdul Basit	IS Manager (BPS-17)
iv-	Mr. Shah Saood	Accountant (BPS-16)
v-	Mr. Muhammad Kashif	Computer Operator (BPS-12)

- 2- Terms and conditions of their regularization are as under:-
- The above employees appointed on ad-hoc basis by the Government in the Directorate of Information Technology in the year 2011 and holding posts till the commencement of this Act, shall be deemed to have validly been appointed to those posts on regular basis from the date of commencement of this Act.
 - The above employees whose services are regularized under this Act or in the process of attaining services at the commencement of this Act, shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who pursuant of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective services or cadre, irrespective of their actual date of appointment.
 - The seniority interse of the employees, whose services are regularized under this Act, within the same services or cadre, shall be determined on the basis of their continuous officiation in such service or cadre.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Endst. No. and date even:-

Copy forwarded to:-

- The Accountant General, Khyber Pakhtunkhwa.
- The Secretary to Speaker, Provincial Assembly, Khyber Pakhtunkhwa.
- The Deputy Speaker, Provincial Assembly, Khyber Pakhtunkhwa.
- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- Chairman, Khyber Pakhtunkhwa Public Service Commission, Fort Road Peshawar.
- PSO to Chief Secretary, Khyber Pakhtunkhwa.
- Manager, Government Printing Press Department, Khyber Pakhtunkhwa for publication in the Official Gazette
- Director Information Technology, Khyber Pakhtunkhwa
- PS to Senior Minister for -IT, Khyber Pakhtunkhwa.
- PS to Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
- PS to Secretary ST&IT, Khyber Pakhtunkhwa.
- PA to Managing Director KP IT Board.
- Officers/officials concerned.

Track No.	5997
Date	29-12-16
Mark to	
Remark	
Status	

Patil

(WAMIQ)
SECTION OFFICER (ESTT)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 5TH MARCH, 2018.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 5th March, 2018.

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

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

(KHYBER PAKHTUNKHWA ACT NO. IV OF 2018)

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

AN
ACT

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

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

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

(2) It shall come into force at once.

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

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

It is hereby enacted as follows:"

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

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

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

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 5th MARCH, 2018 188

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

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



GOVERNMENT OF KHYBER PAKHTUNKHWA

ST & IT DEPARTMENT

Dated Peshawar, the 6th April, 2018

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1394 To 4409

NOTIFICATION

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

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

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

Track No. 8731
Date 11-04-2018
CHIEF SECRETARY
KHYBER PAKHTUNKHWA
Status

Endst. No. and date even:-

Copy forwarded to:-

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

SECTION OFFICER (ESTM)

Officers/officials concerned.

SECTION OFFICER (ESTM)



Establishment Section

4 5

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

NOTIFICATION:-

No.FS/E/100-19(Vol-43)/8828-33 On the recommendations of Khyber Pakhtunkhwa Public Service Commission Peshawar, the competent authority (Secretary Science & Technology and Information Technology Khyber Pakhtunkhwa) has been pleased to appoint Mr. Amir Muhammad S/o Muhammad Rafiq resident of Village & Post Office Ibrahim Khel Shah Kas Jamrud Khyber Agency as Accountant in ST&IT Department Khyber Pakhtunkhwa in BS-16 (Rs.12910-1035-43960) plus usual allowances as admissible under the rules with immediate effect on the following terms and conditions:-

TERMS & CONDITIONS:-

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

SECRETARY (ADMN, INFRA & COORD)

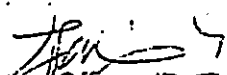
297

11 5

Dated 25/06/2016

Copy to:-

1. Secretary to Govt. of Khyber Pakhtunkhwa ST&IT Department Peshawar.
2. Accountant General Khyber Pakhtunkhwa.
3. Additional Accountant General (PR) Sub Office Peshawar.
4. PS to Secretary AI&C Department FATA Secretariat.
5. Official concerned.
6. Personal File.


Section Officer (Estab)

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DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204 3rd Floor, Deans Trade Center Sadar CANTT
Peshawar



No. Dirtt:/S&T/ KP/1-83/ Seniority List/
Dated August 4, 2020

To



All officials in BPS-16 and below at non developmental side,
Directorate of S&T, Government of Khyber Pakhtunkhwa.

Subject:

FINAL SENIORITY LISTS

In continuation to the tentative seniority lists of this office, issued vide letter of even no dated June 3, 2020, enclosed please find herewith final seniority list of officers and officials for your information.


Director S&T

Copy to:

PS to Secretary ST&IT Department for information please.


Director S&T



DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204 3rd Floor, Deans Trade Center Sadar CANTT
<http://www.dost.kp.gov.pk>



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NOTIFICATION:

No. SOE/ ST&IT/ KP/ 2-36/ KC/ 2018-19. In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and keeping in view of their dates of initial appointment (ad hoc as well as regular dates of appointment), absorption of staff of erstwhile IT Directorate into the Directorate of S&T after KP IT Board Amendment Act 2018 (Khyber Pakhtunkhwa Act No. IV 2018), Khyber Pakhtunkhwa, Ad hoc employees of Directorate of Information Technology (Regularization of Services) Act, 2016 which has been promulgated by the Provincial Assembly Section 4 (Determination of Pay Scales) & 5 (Determination of Seniority), the final Seniority list of Accountants (as stood on 4-8-2020) Directorate of S&T, Khyber Pakhtunkhwa, is hereby notified/circulated for general information.

S. No	Name Of Officer/ Official	Father Name	Qualification	Domicile	Date Of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Amir Muhammad Accountant (B-16)	Muhammad Rafiq	MS Finance	Khyber	20-09-1985	08-6-2016	08-6-2016	Direct appointment
2	Shah Saood Accountant (B-16)	Abdul Hassan	M. Com	Peshawar	02-02-1983	03-03-2011	07-12-2016	Direct Appointment

Copy to:

PS to Secretary ST&IT Department for information please.


DIRECTOR (S&T)

DIRECTOR (S&T)



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

Counting of Ad hoc Service

Ad hoc Service

Ad hoc Appointment

This Department's letter No.SOIV(S&GAD)16-14/64(Policy), dated 20th October, 1969, on the subject noted above, and to say that in view of the complaints of favoritism and irregularities in the making of Ad hoc appointments, a decision was taken by Government to withdraw these powers from the Administrative Departments. An Ad hoc Appointments Committee was constituted with the Chairman Public Service Commission as its head.

2. The position has since been reviewed by the Government. The Administrative Departments have been pressing for restoration of powers of making Ad hoc appointments. It has been urged that powers of making appointments on an emergency basis, would give greater operational freedom to executing agencies and would speed up the implementation of projects and programmes. The grant of these powers to the Administrative Departments will ensure that responsibility for failure to fulfill the prescribed targets rests squarely on the Administrative Departments. In view of the considerations mentioned above, it has been decided to restore the powers of making Ad hoc appointments to the Administrative Departments and other authorities. The Ad hoc Appointments Committee has been abolished with immediate effect.

3. To ensure that there is no repetition of complaints with regard to favoritism and irregularities, it has been decided that the following procedure/instructions shall be observed strictly by appointing authorities:-

- (i) **Requisition to Public Service Commission:-** a requisition must be sent to the Public Service Commission before action is taken to fill up the post on an ad hoc basis.
- (ii) **Advertisement of vacancies:-** The vacancies for direct recruitment should be filled up after proper advertisement only.
- (iii) **Appointment to conform to recruitment rules:-** The appointments should conform to the provisions of the service/ recruitment rules and in particular, the regional quotas prescribed by Government should be strictly adhered to.
- (iv) **Criteria for selection-** (a) The selection should be made on the basis of merit and objective criteria should be used.
 - (b) In the absence of any other important factor, the selection of direct recruits should be based on the marks obtained by the candidate in the examination for the degree/diploma, etc. which is prescribed as the minimum qualifications for the post.
 - (c) In the case of promotions, the selection should be based strictly on the service record.

- (d) The particulars of all candidates applying for the post should be tabulated in appropriate form, and signed by the Chairman of the Selection Board. Where candidates have been eliminated on the basis of a qualifying minimum e.g. examination/grades(it would not be necessary to list all the particulars of the candidates).
- (v) Setting up of Selection Board - The Selection should be made by a Selection Board consisting of three officers and headed by an officer not below the rank of Secretary/additional Secretary of the Administrative Department for class I and by the Regional Head/Divisional Commissioner for Class II. Immediate steps should be taken to constitute Selection Boards at the two levels.
- (vi) Appointment Orders- The appointment order should certify that a requisition for direct recruitment or promotion has been sent to the Public Service Commission.
- (vii) Appointment orders will indicate that it is subject to revocation at the discretion of the Review Board.
- (viii) Appointment orders of Ad hoc appointment will be published in Gazette.
- (ix) Special conditions with regard to Ad hoc Service-Ad hoc appointments will not confer any right on the Government servants in the matter of regular appointment to the same post nor the service will count towards seniority.
- (x) Service in an Ad hoc capacity will count as experience for the purpose of minimum qualification of a post.
- (xi) The Ad hoc appointment will only last till the recommendations of the Commission have been received and Government has approved the selection of a candidate for the vacancy. On this the services of Ad hoc appointees, if not approved by the Commission, shall be terminated.
- (xii) Provision for disposal of representation-
- (a) Class-I - Persons aggrieved by an Ad hoc appointment to a Class I post may submit representations to a Review Board consisting of a Member, Board of Revenue and Additional Chief Secretary, Services and General Administration Department. The representation will be submitted within 15 days of the publication of the Gazette notifying the appointment. The Review Board would have the authority to pass appropriate orders including the revocation of an appointment already made. The revised order will also be published in the Gazette.
- (b) Similarly, representations against orders of Ad hoc appointments to Class-II posts will lie to the Administrative Secretary. As in the case of Class-I, the representation will be submitted within 15 days of the publication of the appointment orders in the official Gazette. The Administrative Secretary would have the authority to pass appropriate

orders, including the revocation of an appointment order. The revised order will also be published in the Gazette.

(Authority: West Pakistan Circular letter No.SOIV(S&GAD)16-14/64 (Policy), dated 1.10.1969)

Ad hoc Appointments

Rule-14 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, provides that when the appointing authority considers it to be in the public interest to fill a post falling within the purview of the Public Service Commission urgently, pending nomination of candidate by the Commission, proceed to fill such post on ad hoc basis for a period not exceeding one year by advertising the same as in Part.III of the Rules *ibid*. In this connection, attention is invited to this Department's letter of even number dated 10-12-1989, wherein factual position with regard to ad hoc appointments was clarified to all concerned and it was stressed to stop making appointments on ad hoc basis. These instructions were reiterated vide this Department circular letter No.SORI(S&GAD)4-17/89(A) dated 5/3/1990.

2. Rule-3 of the NWFP Public Service Commission (Functions) Rules,1983, *inter alia* provides that the Commission shall conduct tests and examination, including Psychological test for initial recruitment to services and posts in connection with the affairs of the Province specified in the Schedule. The nomenclature of the services and posts included in the Schedule are as under:-

- i) Services and Posts in Basic Pay Scale 16 to 20 except the following posts.
 - (a) Chairman and Members of the Commission;
 - (b) Additional District and Session Judges;
 - (c) Comptroller, Governor's House, Peshawar.
 - (d) Assistant Cypher Officer in the Provincial Cypher Centre.
- ii) Post of Assistant Sub-Inspectors of Police.
- iii) Naib Tehsildars.
- iv) Zilladars.
- v) Sub-Engineers.

3. According to the provision of the aforesaid rules, no ad hoc appointment is permissible against any post other than the one included in the Schedule as well as all posts in the Autonomous/Semi-Autonomous Bodies and Corporations which are outside the purview of the NWFP Public Service Commission.

4. It has, however, come to the notice of this Department that ad hoc appointments are being made by the Autonomous/Semi-Autonomous Bodies and by certain Government Departments against posts in B-15 and below (other than those recruitment to which is within the purview of the Commission) and despite the ban imposed by Government on making ad hoc appointments. This is not at all desirable.

5. I am, therefore, to reiterate to strictly abide by the aforesaid instructions and stop making appointments on ad hoc basis. These instructions may kindly be brought to the notice of all concerned under your control with clarification that the defaulters shall render themselves liable to strict disciplinary action under the relevant rules.

(Authority:S&GAD's letter No.SORI(S&GAD)1-206/74, dated 8th August,1992).

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Annexure - (K)



DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.
TF: 204-210 3rd Floor, Deans Trade Center Sialar Cantt Peshawar
Phone #091-9212881, fax 091-9212583 www.dost.kp.gov.pk



2

Reference No. DirIT/S&T/KP/ 3399
Dated July 27, 2020


To

Mr. Shah Saood,
Accountant BPS-16, Directorate of S&T,
Peshawar.

SUBJECT: TENTATIVE SENIORITY LIST.

I am directed to refer to your application No. Nil dated Nil on the subject noted above to state that your seniority list has been prepared in pursuance of Khyber Pakhtunkhwa Adhoc employees of Directorate of Information Technology (Regularization of Services) Act, 2016 (Khyber Pakhtunkhwa Act No. XIX of 2016) and Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act 2018 (Khyber Pakhtunkhwa Act No. IV of 2018).

In view of the above, you have been correctly placed in the tentative seniority list and your application is hereby regretted.


(Engr. Falak Niaz)
Assistant Director

Copy for information to;

1. SO (E), ST&IT Department Govt of Khyber Pakhtunkhwa.
2. PS to Secretary ST&IT Department Govt of Khyber Pakhtunkhwa.
3. PA to Additional Secretary ST&IT Department Govt of Khyber Pakhtunkhwa.
4. PA to Director, Directorate of S&T

(Engr. Falak Niaz)
Assistant Director