


09<sup>th</sup> Dec. 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Ali Gohar, Deputy Director for the respondents present.

Learned counsel for the appellant states that due to rush of work he could not prepare the brief and seeks adjournment of the matter to 02.02.2023. On the request of learned counsel for the appellant, the matter is adjourned to his desired 02.02.2023 for arguments before the D.B as last chance, failing which the matter will be decided on the basis of available record without the arguments.


  
(Fareeha Paul)  
Member (E)


  
(Kalim Arshad Khan)  
Chairman

2<sup>nd</sup> Feb, 2023

Clerk of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Lawyers are on strike, therefore, the case is adjourned. Office is directed to notify the next date on the notice board as well as on the website of the Tribunal. To come up for arguments on 08.05.2023 before D.B.

  
(Muhammad Akbar Khan)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar

31.08.2022

Clerk of learned counsel for the appellant present.  
Mr. Bilal Shah, Stenographer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 10.11.2022 before the D.B.



(Salah-ud-Din)  
Member (Judicial)

10.11.2022

Junior to counsel for the appellant present.

Naseer Ud Din Shah learned Assistant Advocate General for the respondents for respondents present.

Former requested for adjournment on the ground that his senior counsel is busy before Hon'ble Peshawar High Court Peshawar. Adjourned. To come up for arguments on 09.12.2022 before D.B.



(Fareeha Paul)  
Member (E)




(Rozina Rehman)  
Member (J)

**SCANNED**  
**KPST**  
**Peshawar**

13.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Syed Bilawal Shah, Steno for respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Request is accorded. To come up for arguments before the D.B on 29.04.2022.


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

  
Chairman

29.04.2022

Counsel for the appellant present. Syed Naseer Ud Din Shah, Assistant Advocate General alongwith Syed Bilawal Shah, Steno for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 20.06.2022.


  
(Mian Muhammad)  
Member(E)


  
(Salah Ud Din)  
Member(J)

20<sup>th</sup> June, 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.


Learned counsel for the appellant seeks adjournment to further prepare the brief. Last chance is given, failing which the case will be decided on the basis of available record without the arguments. To come up for arguments on 31.08.2022 before the D.B.

  
(Fareeha Paul)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

04.03.2021

Due to COVID-19, the case is adjourned for the same on 10.06.2021 before D.B

  
READER

10.06.2021

Counsel for appellant present.

Muhammad Rasheed learned Deputy District Attorney for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 03.09.2021 before D.B.



(Rozina Rehman)  
Member (J)

  
Chairman

03.09.2021

Due to summer vacations, the case is adjourned to 13.01.2022 for the same as before.

  
READER

\_\_\_\_\_.2020

Due to COVID19, the case is adjourned to

12/18/2020 for the same as before.

  
Reader

12.08.2020


Due to summer vacations case to come up for the same on  
15.10.2020 before D.B.

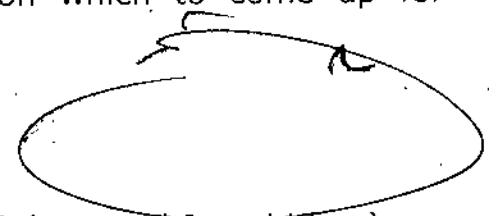
  
Reader

15.10.2020

Miss. Rabia Muzaffar, Advocate for appellant is present. Mr. Muhammad Jan, Deputy District Attorney alongwith representative of the department Syed Bilawal Shah, Junior Scale Stenographer, are also present.

Learned counsel submitted that her senior is busy before the Hon'ble Peshawar High Court, Peshawar and requested for adjournment. Adjourned to 11.12.2020 on which to come up for arguments before D.B.

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

  
(Muhammad Jamal Khan)  
Member (Judicial)

11.12.2020

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Syed Bilawal Shah, Junior Scale Stenographer, for the respondents are also present.

Due to COVID-19, the case is adjourned to 05.03.2021  
before D.B.

  
READER

13.12.2019

Appellant in person present. Addl: AG alongwith Naveed Hashim, Conservation Officer for respondents present. Appellant seeks adjournment due to general strike of the bar. Adjourned. Case to come up for arguments on 12.02.2020 before D.B.

  
Member

  
Member

12.02.2020

Junior to counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Mr. Naveed Hasham Conservation Officer for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 20.03.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

20.03.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Khalid Gohar, D.D for the respondents present. Adjourned to 20.05.2020 for arguments before D.B.

  
(Mian Muhammad)  
Member

  
(M. Amin Khan Kundi)  
Member

09.08.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come for arguments on 07.10.2019 before D.B.

  
Member

  
Member

01.10.2019

Junior counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Naveed Hashim, Conservation Officer for the respondents present. Junior counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Adjourned to 05.11.2019 for arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

05.11.2019

Miss. Rabia Muzafar, Advocate present on behalf of learned counsel for the appellant present and seeks adjournment. Mr. Ziaullah, DDA alongwith Mr. Naveed Hashim, Conservation Officer for respondents present. Learned DDA stated that similar nature of appeal has already been rejected by this Tribunal ~~and the same is not to be entertained~~. Adjourn. To come up for arguments on 13.12.2019 before D.B. Appellant be put on notice for appearance for the date fixed.

  
Member

  
Member

492/18

12.04.2019

Appellant in person and Addl. AG alongwith Naveed Hashim Soil Conservation Officer for the respondents present.

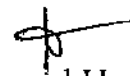
Representative of respondents states that the requisite reply/comments have been prepared but are yet to be vetted. He, therefore, requests for adjournment.

Adjourned to 25.04.2019 before S.B.

  
Chairman

25.04.2019

Counsel for the appellant present. Addl: <sup>A.G.</sup> for respondents present. Written reply not submitted. Requested for adjournment. Adjourned but as a last chance. Case to come up for written reply/comments on 19.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

19.06.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Naveed Hashim, Soil Conservation Officer for the respondents present. Representative of the department submitted joint written reply on behalf of respondents No. 1 to 4. Case to come up for rejoinder and arguments on 09.08.2019 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member



02.10.2018

Counsel for the appellant present. Security and process fee not deposited. Appellant is directed to deposit the security and process fee within three days, thereafter, notice be issued to the respondents for written reply/comments for 16.11.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

16.11.2018

The learned Chairman has not yet assumed the charge. Therefore, the case is adjourned. To come up on, 04.01.2019. Written reply not received.

  
READER


04.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 19.03.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

19.03.2019

Counsel for the appellant and Mr. Kabirullah Khattak learned Addl; AG alongwith Mr. Naveed Hashim Soil Conservative officer for the respondents present. Written reply not submitted. Representative of the respondents department seeks time to file written reply/comments. Granted. To come up for written reply/comments on 12.04.2019 before S.B.

  
Member

8/8/2018

Counsel for the appellant Shaukatullah present. Preliminary arguments heard. It was contended that appellant was serving in Agriculture Department as Director, Soil Conservation BPS-19. It was further contended that as per notification dated 4/11/2011, the civil servants who has crossed age of 58 years, were exempted from NIPA training/course. It was further contended that one Zulfiqar Ahmad of the same department has been promoted from BPS-19 to BPS-20 as per tentative seniority list dated 16/5/2017. It was further contended that the said Zulfiqar Ahmad is junior from the appellant and promoted to BPS-20, but the appellant was ignored. Against which he filed departmental appeal, which was rejected. Hence the present appeal. It was further contended that the appellant has been retired from service, therefore, entitled for proforma promotion.

Points urged at bar need consideration. The appeal is admitted. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments on 2/10/2018 before SB.

  
(Muhammad Amin Khan Kundi)  
MEMBER

Appellant Deposited  
Security & Process Fee

SCANNED  
KPST  
Peshawar

11.07.2018

Clerk of the counsel for appellant present. Preliminary arguments could not be heard due to killing of a lawyer Barrister Haroon Bilour in a suicide attack during the election campaign. To come up for preliminary hearing on 12.07.2018 before S.B.

  
Chairman

13.07.2018





Neither petitioner nor his counsel present. To come up for arguments on restoration application/ further proceedings on 08.08.2018 before S.B.

  
Chairman

**Form-A**  
**FORM OF ORDERSHEET**

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

Case No. 492/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06/04/2018	<p>The appeal of Mr. Shaukat Ullah Khan presented today by Mr. Fazal Shah-Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 6/4/18</p>
2-	09/04/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/04/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	23.04.2018	<p>Counsel for the appellant present and requested for adjournment. Granted. To come up for preliminary hearing on 11.05.2018 before the S.B.</p> <p style="text-align: right;"> Chairman</p>
	11.05.2018	<p>The Tribunal is non-functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on <u>11.07.2018</u> before S.B.</p> <p style="text-align: right;"> Reader</p>

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. 492 /2018

Shaukat Ullah Khan.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

**I N D E X**

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit <i>condonation Application</i>		1-5
2.	Copy of Seniority List	A	6
3.	Copy of letter dated 11-03-2016 & Notification dated 05-12-2017	B	7-9
4.	Copy of Appeal & letter dated 16-01-2018	C	10-11
5.	Copy of WP & Order dated 21-03-2018	D	12-21
6.	Copy of letter dated 04-11-2011	E	22-25
7.	Copy of Notification dated 19-12-2017 & Seniority List dated 16-05-2017	F & G	26-29
8.	Copy of Notification dated 08-01-2018	H	29/A-
9.	Copy of order and judgment	I	30-41
9.	Wakalat Nama		42

Dated:- 04-04-2018.

Through

*Signature*  
Appellant

*Signature*  
Fazal Shah Mohmand  
Advocate, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841  
Email:- fazalshahmohmand@gmail.com

(1)

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2018

Shaukat Ullah Khan Ex Director, Soil Conservation (Head Quarters),  
Agriculture, Livestock and Co-Operative Department, Govt. of KPK  
Peshawar. ....Appellant

**V E R S U S**

1. Govt. of KPK through, Secretary Agriculture, Livestock and Co-Operative Department, Civil Secretariat Peshawar.
2. Chief Secretary, Govt. of KPK Civil Secretariat Peshawar.
3. Director General, Soil Conservation, Govt. of KPK Peshawar.
4. Secretary, Establishment Department, Govt. of KPK Civil Secretariat Peshawar. ....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974  
AGAINST THE LETTER/ORDER DATED 16-01-2018 WHERE  
BY DEPARTMENTAL APPEAL OF THE APPELLANT FILED  
FOR EXEMPTION FROM SENIOR MANAGEMENT COURSE  
HAS BEEN REGRETTEED.**

**PRAYER:-**

On acceptance of this appeal the impugned letter/order dated 16-01-2018 may kindly be set aside and the appellant may kindly be ordered to be granted proforma promotion to (BPS-20), from due date as per rules/policy with all back benefits.

**Respectfully Submitted:-**

1. That the appellant is highly qualified, has qualified his M.Sc. (Hons) in Soil Science Specialization in the year 1992, was appointed as Soil Conservation Assistant (BPS-17) on 07-12-1982, was promoted to (BPS-18) on 19-03-2009 and was promoted to (BPS-19) on 08-09-2011 and since then he performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers.
2. That the appellant was at the top of Seniority List of BPS-19 officers of 15-01-2018. (**Copy of Seniority List is enclosed as Annexure A**).
3. That vide Circular/letter dated 11-03-2016 all kinds of exemptions from mandatory training was withdrawn with exception to extended to already to professional and technical

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cadres and vide Notification dated 05-12-2017, the Senior Management Course was made mandatory for promotion against technical posts in (BPS-20). **(Copy of letter dated 11-03-2016 & Notification dated 05-12-2107 is enclosed as Annexure B).**

4. That the appellant is perfectly fit and eligible and coming up to the criteria specified by law, rules and promotion policy for promotion to (BPS-20) but despite this he is not promoted to (BPS-20) in consequent to Notification dated 05-12-2017.
5. That the appellant vide appeal dated 12-12-2107 made request for exemption from Senior Management Course for promotion to (BPS-20), which was regretted vide letter dated 16-01-2018. That in the meanwhile the appellant on attaining the age of superannuation got retired from service on 14-02-2018 **(Copy of Appeal & letter dated 16-01-2018 is enclosed as Annexure C).**
6. That the appellant filed Writ petition No 1064-P/2018 before the Peshawar High Court which was withdrawn with permission to approach proper forum vide order dated 21-03-2018. **(Copy of Writ Petition & Order dated 21-03-2018 is enclosed as Annexure D).**
7. That the impugned letter/order dated 16-01-2018 is against the law, facts and principles of justice on grounds inter alia as follows:-

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

- A. That the impugned order is illegal and void abinitio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C. That the appellant was never selected for the Senior Management Course for no fault on his part and as such he could not be punished for the fault of others, as the mentioned condition of Course was made mandatory in December 2017 and he got retired from service on 14-02-2018, i.e about two months before his retirement and during this period he was never selected for the same.
- D. That even the appellant having being more than 58 years of age is exempted from training/Course as per letter dated 04-11-2011. **(Copy of letter dated 04-11-2011 is enclosed as Annexure E).**

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- E. That even the mentioned Notification is not applicable with retrospective effect and thus not applicable in case of the appellant who had become entitled for promotion before the same.
- F. That even keeping in view the length of his service after the Notification it was not possible to undergo the said course.
- G. That even after 05-12-2018 the respondents vide Notification dated 19-12-2017 have promoted Zulfiqar Ahmad to BPS-20 of the same department and that too without undergoing the mentioned Course and the appellant as such could not be deprived of his due rights on the same ground. It is also important to mention here that the appellant was promoted to BPS-19 on 08-09-2011 while the said Zulfiqar Ahmad was promoted to BPS-19 on 27-02-2013. **(Copy of Notification dated 19-12-2017 & seniority list dated 16-05-2017 is enclosed as Annexure F & G).**
- H. That one Deputy Director/District Officer BPS-18 namely Zahoor Ahmad has been promoted to BPS-19 as Director on proposed Service Rules while the petitioner is discriminated and is kept deprived of the benefits of the same rules. **(Copy of Notification dated 08-01-2018 is enclosed as Annexure H).**
- I. That the appellant is having the requisite length of service, PERs, besides other threshold required for promotion to BPS-20.
- J. That those having less service of the same department have been promoted to BPS-20 while the appellant is treated with different yard stick in violation of the Constitution and law of the land.
- K. That as per the instructions and promotion policy of the Provincial Govt. and Fundamental Rules, the appellant is entitled to Proforma Promotion.
- L. That even the like employees have been granted promotion by the Hon'ble Peshawar High Court. **(Copy of order and judgment is enclosed as Annexure I).**
- M. That the fundamental rights of the appellant guaranteed in the Constitution are badly violated and he is not treated



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as per law and rules governing the matter, thus would suffer irreparable loss.

- N. That the appellant has about 36 years of service with unblemished service record.
- O. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.


**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.**

**Any other relief not specifically asked for and deemed appropriate in the circumstances of the case may also be granted in favor of the appellant.**

Dated:- 04-04-2018.

Through

  
Appellant

  
Fazal Shah Mohmand  
Advocate, Peshawar

## **AFFIDAVIT**

I, Shaukat Ullah Khan Ex Director, Soil Conservation (Head Quarters), Agriculture, Livestock and Co-Operative Department, Govt. of KPK Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

  
Fazal Shah Mohmand  
Advocate Peshawar

  
DEPONENT

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**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2018

Shaukat Ullah Khan.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

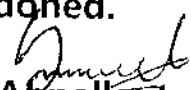

**Application for the condonation of delay if any.**

**Respectfully submitted:-**

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral part of this application.
3. That the applicant approached honorable High Court who allowed the applicant to approach proper forum and the appeal is as such within time.
4. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.


**It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.**

**Dated:- 04-04-2018.**

  
**Appellant**  
 Through  
  
**Fazal Shah Mohmand**  
**Advocate, Peshawar**

**A F F I D A V I T**

I, Shaukat Ullah Khan Ex Director, Soil Conservation (Head Quarters), Agriculture, Livestock and Co-Operative Department, Govt. of KPK Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

**Identified by**  
  
**Fazal Shah Mohmand**  
**Advocate Peshawar**

  
**DEPONENT**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

B

Sr. No.	Name of Officer with academic Qualification
1	2
1.	Mr. Shaukat Ullah Khan M.Sc, (Hons) Agri.
2.	Mr. Zahoor Ahmad Khan M.Sc, (Hons) Agri.

Certified that the

16/11/11

18/11/11

18/11/11

Signature Deptt.

AH-estad  
elg



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SOR-III (E&AD) 1-14/2014(B)  
Dated Peshawar the December 12, 2017

Handwritten marks: a scribble and the number 8 inside a circle.

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Agriculture Livestock & Cooperative Department

Subject: - MINUTES OF THE SSRC MEETING HELD ON 02-11-2017 UNDER THE CHAIRMANSHIP OF SECRETARY AGRICULTURE

Dear Sir,

I am directed to refer to your letter No.SOE(AD)II(2)429/2017 dated November 13, 2017 on the subject noted above and to say that Para 3 (b) of the Notification dated 05-12-2017 issued by the Establishment Department is quite clear to be followed while considering cases for promotion to BS-20 accordingly (copy enclosed).

Yours faithfully

Encl: As above

(Shafi-Ul-Ahmad)  
SECTION OFFICER (R-III)  
Phone No.9211793

Handwritten notes: "No. C 15876", "12/12/17", and a signature.

Vertical stamp: "Distry No. 574", "Date 13-12-17", "1-12-17-17"

Secretary Agriculture  
Diary No. 15876  
Dated 12-12-17

Attestal  
Handwritten signature

ENDST. NO. & DATE EVEN.

Copy forwarded to:

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. All heads of Authorities / Autonomous / Semi-Autonomous bodies in Khyber Pakhtunkhwa.
4. All Special Secretaries / Additional Secretaries / Deputy Secretaries/DD(F) / Section Officers in Establishment & Administration Department.
5. The Secretary, Khyber Pakhtunkhwa Public Service Commission.
6. The Deputy Secretary (CP-IV), Establishment Division, Cabinet Secretariat, Govt of Pakistan, Islamabad w/r to his Office Memorandum No.F10/1/2012-CP-II dated 30.12.2015.
7. PS to Chief Secretary Khyber Pakhtunkhwa.
8. PS to Secretary Establishment.

(SAIFUZZAMAN)  
SECTION OFFICER (REG VI)

11/3/16



GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT,  
REGULATION WING

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Dated: 05.12.2017

NOTIFICATION

No.SO(Policy)/E&AD/L-16/2017. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)I-3/2008 dated 28.1.2009, the following amendments shall be made, namely:-

AMENDMENTS

1. The following words (in italic form) shall be added after the word and dot "PER." appearing in the 3<sup>rd</sup> line of sub-para (a) of para IV:  
*"The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."*
2. After sub-para (h) of para IV the following sub-para (i) shall be inserted:  
"the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:
  - (i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.
  - (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
  - (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
  - (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy".
3. Para II (b) shall be substituted as follow:  
"(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory."

Attended  
[Signature]

To. 10  
The Secretary  
Government of Khyber Pakhtunkhwa  
Agriculture, Livestock and Cooperative Department  
Peshawar. 15/12

**THROUGH PROPER CHANNEL**

**Subject: EXEMPTION FROM SENIOR MANAGEMENT COURSE.**

Sir,

Kindly refer to the subject captioned above, it is submitted for your kind information in sympathetic consideration that I am retiring from Government service on 15-02-2018. My promotion is due to BS-20 but the Government of Khyber Pakhtunkhwa has made it mandatory that promotion to BS-20 must have a Senior Management Course.


As it is evident from the above facts that my age and remaining length of service do not permit to conduct the Senior Management Course at this stage.

It is very kindly requested that I may please be exempted from Senior Management Course at this stage.


Thanks.

Dated: - 12-12-2017.

Yours Obediently,

  
**Shaukatullah Khan**  
**Director Soil Conservation**  
**Khyber Pakhtunkhwa**  
**Peshawar.**

Copy in advance is forwarded to Honorable Secretary Agriculture, Livestock and Cooperative Department Khyber Pakhtunkhwa Peshawar, for favor of kind information and early necessary action, please.

AA/STC  




GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

NO.SOE(AD)22-13/80  
Dated Peshawar, the January 16, 2018



To

Mr. Shaukat Ullah,  
Director, Soil Conservation,  
Directorate General, Soil Conservation,  
Khyber Pakhtunkhwa, Peshawar

SUBJECT:- EXEMPTION FROM SENIOR MANAGEMENT COURSE

Reference to your application dated 12.12.2017 on the subject and to inform state that your appeal was considered and regretted by the competent authority as the post of Director General, Soil Conservation (BS-20) is managerial and administrative in nature Under the Promotion Policy amended on 05.12.2017, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory.

SECTION OFFICER-ESTT:

Endst. of even No. & Date

Copy to:

1. P.S to Secretary Agriculture department.
2. PA to DS (Admn), Agriculture Department.

SECTION OFFICER-ESTT:

Attested  
[Signature]





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**IN THE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No 10647/2018

Shaukat Ullah Khan Ex Director Soil Conservation (Head Quarter),  
Agriculture, Livestock & Cooperative Department, Govt. of KPK  
Peshawar.

.....Petitioner

**VERSUS**

1. Govt. of KPK through Secretary, Agriculture, Livestock & Cooperative Department, Civil Secretariat Peshawar.
2. Chief Secretary, Govt. of KPK Civil Secretariat Peshawar.
3. Director General, Soil Conservation, Khyber Pakhtunkhwa Peshawar.
4. Secretary, Establishment Department, Govt. of KPK Civil Secretariat Peshawar.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC OF  
PAKISTAN 1973.**

**Prayer In Writ Petition:-**

On acceptance of this writ petition, an appropriate writ may please be issued declaring that the petitioner is perfectly fit and eligible and coming up to the criteria specified in law and rules for promotion to BPS-20 declaring letter dated 16-01-2018 as illegal unlawful and without lawful authority, with direction to the respondents to grant proforma promotion to the petitioner to BPS-20, with all back benefits.

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Deputy Registrar

22 FEB 2018

**ATTESTED**  
EXAMINER  
Peshawar High Court

27 MAR 2018

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**Respectfully Submitted:-**

1. That the petitioner is highly qualified has qualified his M.Sc. (Honors) in Soil Science Specialization in the year 1982, and was appointed as Soil Conservation Assistant (BPS-17) on 07-12-1982, was promoted to BPS-18 on 19-03-2009 and was promoted to BPS-19 on 08-09-2011.
2. That since appointment, the petitioner performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers with no complaint during his entire service career of 36 years.
3. That the petitioner is at the top of the Seniority of BPS-19 officers of 15-01-2018 **(Copy of Seniority List is enclosed as Annexure A).**
4. That vide circular/letter dated 11-03-2016 all kinds of exemptions from mandatory training was withdrawn with exception to extended to already to professional and technical cadres and vide Notification dated 05-12-2017 the Senior Management Course was made mandatory for promotion against Technical posts in BPS-20. **(Copy of letter dated 11-03-2016 & Notification dated 05-12-2017 is enclosed as Annexure B).**

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5. That the petitioner is perfectly and eligible for promotion to BPS-20 as per Section 9 of the Civil Servant Act 1973 besides promotion policy 2009 and coming up to the criteria specified in law and rules but despite this he is not promoted to BPS-20 in consequent to the mentioned Notification dated 05-12-2017 wherein Senior Management Course has been made mandatory for promotion against Technical posts in BPS-20.
6. That petitioner vide application dated 12-12-2017 requested respondents for exemption from Senior Management Course for promotion to BPS-20 which was regretted vide letter dated 16-01-2018. **(Copy of application dated 12-12-2017 & letter dated 16-01-2018 is enclosed as Annexure C).**
7. That thereafter the petitioner submitted appeal for processing his case for promotion from BPS-19 to BPS-20 on 01-02-2018 which is still pending, case of the petitioner is not processed for promotion to BS-20 and he got retired from service after attaining the age of superannuation on 14-02-2018. **(Copy of appeal dated 01-02-2018 is enclosed as Annexure D).**
8. That this action of the respondents of not promoting the petitioner as Director General (BPS-20), is against the

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(4) (15)

law, facts and principles of justice on grounds inter alia as follows:

**GROUND:**

- A. That the omissions and commissions of the respondents are illegal, unconstitutional, and unlawful, without lawful authority and of no legal effect, therefore need the interference of this honorable Court.
- B. That the petitioner has served for about 36 years with spotless service career, is most senior, besides having excellent ACRs during this period and as such is perfectly fit and eligible to be promoted to BPS-20.
- C. That the petitioner could not be punished for the fault of others, as the condition of mentioned course was made mandatory in December 2017 and he got retired from service on 14-02-2018, i.e about two months before his retirement and during the same period he was never selected for the same.
- D. That even keeping in view the remaining length of service and age of the petitioner, it is not possible to undergo the said course being at the verge of retirement besides short span of remaining service.

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E. That even otherwise the condition of Senior Management Course is not applicable in case of the petitioner as he became entitled to promotion before 05-12-2017 and as such he could not be deprived from promotion on the basis of mentioned course.

F. That even after 05-12-2017 the respondents vide Notification dated 19-12-2017 have promoted Zulfiqar Ahmad to BPS-20 of the same department and that too without undergoing the mentioned course and the petitioner too as such could not be deprived of his due rights on the same ground. **It is also important to mention here that the petitioner was promoted to BPS-19 on 08-09-2011 while the said Zulfiqar Ahmad was promoted to BPS-19 on 27-02-2013. (Copy of Notification dated 19-12-2017 and Seniority list dated 16-05-2017 is enclosed as Annexure E & F).**

G. That one Deputy Director/District Officer (BPS-18) namely Zahoor Ahmad has been promoted to BPS-19 as Director on proposed service rules while the petitioner is discriminated and is kept deprived of the benefits of the same rules. **(Copy of Notification dated 08-01-2018 is enclosed as Annexure G).**

H. That those having less service of the same department have been promoted to BPS-20 while the petitioner is treated differently in violation of the constitution and law of the land.

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I. That even as per the instructions and promotion policy of the provincial Govt. and Fundamental Rules, the petitioner is entitled to proforma promotion.

J. That the fundamental rights of the petitioner guaranteed in the Constitution are badly violated and he is not treated as per law and rules governing the matter, thus would suffer irreparable loss.

K. That the petitioner seeks the permission of this honorable Court for further/additional grounds at the time of arguments.

**It is therefore prayed that Writ petition, of the petitioner may kindly be accepted, as prayed for.**

**Any other relief not specifically asked for and deemed appropriate in the circumstances of the case, may also be granted in favor of the petitioner.**

**INTERIM RELIEF**

**By way of interim relief respondents may kindly be directed to promote the petitioner to BPS-20, till the final disposal of the instant Writ Petition.**

**Petitioner**

**Dated:-16-02-2018**

**Through**

**Fazal Shah Mohmand**

**Advocate Peshawar**

22.02.18  
2018

OFFICE OF THE PETITIONER  
Fazal Shah Mohmand  
Advocate Peshawar

LIST OF BOOKS

1. Constitution 1973.
2. Other books as per need

Certificate

Certified that as per instructions of my clients, no Writ petition on the same subject and between the same parties has been filed previously or concurrently before this honorable Court.

*Advocate*  
ADVOCATE

CERTIFIED TO BE TRUE COPY

Er. *[Signature]*  
Peshawar High Court, Peshawar  
Authorised Under Rule 57 of  
The Qanun-e-Shahadat Order 1984

27 MAR 2018

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Deputy Registrar

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**IN THE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No 10647/2018

Shaukat Ullah Khan.....Petitioner

**VERSUS**

Govt. of KPK and Others.....Respondents

**A F F I D A V I T**

I, Shaukat Ullah Khan Ex Director Soil Conservation (Head Quarter), Agriculture, Livestock & Cooperative Department, Govt. of KPK Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Identified by

*[Signature]*

**Fazal Shah Mohmand  
Advocate Peshawar**

*[Signature]*

**DEPONENT**

Nic: 11201-0344345-3

No: 16284

Certified that the above was verified on solemnly affirmation before me on this 12th day of Feb 2018 at Peshawar who was identified by Shaukat Ullah Khan who is personally known to me: Fazal Shah Mohmand

*[Signature]* 12/02/2018

**DEPUTY DEPUTY  
22 FEB 2018**

*[Signature]*



~~IN THE PESHAWAR HIGH COURT PESHAWAR~~

Writ Petition No 10647 /2018

Shaukat Ullah Khan.....Petitioner

**V E R S U S**

Govt. of KPK and Others.....Respondents

**ADDRESSES OF THE PARTIES**

**PETITIONER:-**

Shaukat Ullah Khan Ex Director Soil Conservation (Head Quarter),  
Agriculture, Livestock & Cooperative Department, Govt. of KPK  
Peshawar

**RESPONDENTS:-**

1. Govt. of KPK through Secretary, Agriculture, Livestock & Cooperative Department, Civil Secretariat Peshawar.
2. Chief Secretary, Govt. of KPK Civil Secretariat Peshawar.
3. Director General, Soil Conservation, Khyber Pakhtunkhwa Peshawar.
4. Secretary, Establishment Department, Govt. of KPK Civil Secretariat Peshawar

**Petitioner**

**Dated:-16-02-2018**

**Through**

**Fazal Shah Mohmand**

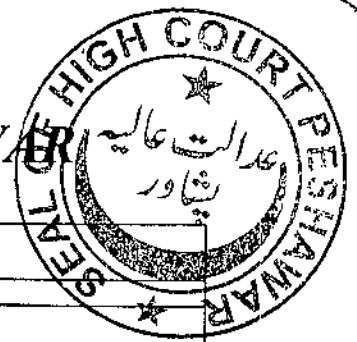
**Advocate Peshawar**

**FILED TODAY**  
**Deputy Registrar**

**22 FEB 2018**



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# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET

Date of Order or Proceedings	3
1	2
21.03.2018	<p><u>W.P No.1064-P-2018 with I.R.</u></p> <p><b>Present:</b></p> <p><i>Mr. Fazal Shah Mohmand, Advocate for petitioner.</i></p> <p>****</p> <p><b>ROOH-UL-AMIN KHAN, J:-</b> Requests for withdrawal of instant petition with permission to approach proper forum. Request is acceded to. The instant writ petition is dismissed as withdrawn, however, petitioner is at liberty to avail the proper remedy before the appropriate forum.</p> <p><b>Announced.</b> 21.03.2018.</p> <p><i>Rooh-ul-Amin Khan J</i> <i>Karamullah Khan J</i></p> <p><i>Fazal Shah Mohmand</i> JUDGE</p> <p><i>[Signature]</i> JUDGE</p> <p>CERTIFIED TO BE TRUE COPY</p> <p><i>[Signature]</i> Peshawar High Court, Peshawar Authorized Under Article 27 of The Qanun-e-Shahadat Order 1984</p> <p>27 MAR 2018</p> <p>NO. 15584</p> <p>Date of Presentation of Petition 24/3/18</p> <p>No of Pages 09-P</p>

(DB) Hon'ble Mr. Justice Rooh-ul-Amin Khan & Hon'ble Mr. Justice Karamullah Khan

\*Jaz\*

Urgent Fee *12*

Total *RS 361*

Date of Preparation *27/3/18*

Date of Delivery of Copy *27/3/18*

Received By *Hidayat*

Promotion

58 year aged employees exempted from **E**  
from training / Course -

(22)

The Secretary to Government of Khyber Pakhtunkhwa,  
Establishment Department.

Subject- EXEMPTION FROM NIPA TRAINING.

For: SA,

Your attention is invited to the Letter No. SOE-III/(E&A)3-  
5431133A/C dated 04-11-2011, (Copy attached) for needy referenc, in  
which policy on vogue for exemption from mandatory training is explained.

In para (2) of the attached letter it has been given that  
mandatory period of serving in a training institution was valid upto  
27-12-2005 where as in para (3) of the attached letter, it has been  
mentioned that Mr. Bashah Gul Wazir served in Provincial Service Academy  
upto 27-12-2005 and therefore, was exempted for attending mandatory  
training course.

In this connection it is submitted that I served in Academy  
upto 27-12-2005. My service tenure in Provincial Services Academy is  
from 06-03-2000 to 16-09-2002. In my opinion the criteria given in the  
attached letter for exemption from mandatory training do fit in my case also.

It is therefore once again requested to look in my case with  
open eyes and order my exemption from the mandatory training of NIPA.

Yours faithfully,

(MUSA WAZIR)  
ADDITIONAL SECRETARY  
SPORTS, TOURISM, ARCHAE SOLO BY,  
MUSEUMS & YOUTH AFFAIRS  
DEPARTMENT.

CR  
e/s

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(ESTABLISHMENT/MS)

No. SOE-III(E&AD)3-2(B)/2010/SMC  
Dated Peshawar the 02<sup>nd</sup> November, 2011

*operative  
20-3-09*

The Additional Secretary,  
Sports, Tourism, Archaeology, Museums &  
Youth Affairs Department,  
Government of Khyber Pakhtunkhwa.

SUBJECT: EXEMPTION FROM NIPA TRAINING.

Dear Sir,

I am directed to refer to your application dated 10-10-2011 and this Department's letter No. SOE-III(E&AD)3-2(B)/2010/SMC, dated 02<sup>nd</sup> November, 2010 (copy enclosed) on the above cited subject and to state that the policy in-vogue of exemption from undergoing mandatory training course is reproduced as under:-

The officers who have been granted exemption from mandatory training having attained the age of 50 years (now 58 years) or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

The above policy indicates that exemption from mandatory training after completing mandatory period of serving in a Training Institution was valid upto 27-12-2005. However, exemption from mandatory training is presently allowed on attaining the age of 58 years.

As far as the case of Mr. Badshah Gul Wazir is concerned, he served in Provincial Services Academy before 27-12-2005 and therefore, was exempted from attending mandatory training course.

In view of the above your request for exemption from Senior Management Course is regretted, being not covered under the policy. Further, you are requested to complete PERs for the last six years at the earliest.

CR  
[Signature]

Yours faithfully,  
[Signature]  
(Irfan Jaz) *Wazir*  
Section Officer (III)

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment & Administration Department,  
(Establishment Wing), Civil Secretariat,  
Peshawar.

*[Handwritten initials]*

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*[Handwritten initials]*

Subject: EXEMPTION FROM NIPA TRAINING.

Dear Sir,

Kindly refer to your Department letter No SOE-III(E&AD) 315/2010/SYC dated 2-11-2010 on the subject noted above and I state that I had more than twelve years of service when I went on deputation at PSA. The promotion to BPS-18 usually needed round about 30 years of service before 2005 in provincial service (EB). However according to Establishment and Administration Department letter/notification No.SOR.VI(E&AD)1-16/2004, dated 18.4.2005 all the officers who had attained the age of fifty six (now fifty eight) years and all those who had completed the mandatory period for serving in training institution before 4<sup>th</sup> January 2005 shall remain exempted. It is submitted that I have applied for exemption on the plea that my service on deputation at training institute is in the period before the 4<sup>th</sup> January 2005.

2. The undersigned has applied for exemption from attending Senior Management/National Management Training Course on analogy of that Mr. Badshah Gul Wazir who had been posted as Deputy Director, PSA, while he was in BPS-18. It is worth to mention that he promoted from BPS-18 to BPS-19 and afterwards to BPS-20 in the same year. Since, I have also served as Assistant Director in PSA for all three years, therefore, I also request to be declared as exempted from the required training, which is prerequisite for my promotion from BPS-19 to BPS-20.

3. In view of the foregoing circumstances, it is once again requested that I may very kindly be exempted from the NIPA course in connection with my promotion from BPS-19 to BPS-20 on the same analogy as that of Mr. Badshah Gul Wazir.

Thanks.

Yours faithfully,

*[Handwritten signature]*

(Musa Wazir)

Additional Secretary,

Sports, Tourism, Archaeology, Museum & Youth Affairs Department.

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(ESTABLISHMENT WORKS)

No. SOE-III (E&AD) 3-2 BY2010/S/MC  
Dated Peshawar the 02<sup>nd</sup> November, 2010

The Additional Commissioner,  
Kohat Division, Kohat.

SUBJECT: EXEMPTION FROM NIPA TRAINING.

Dear Sir,

I am directed to refer to your letter No. 458-59/AC/K-1, dated 11-08-2010 on the above cited subject and to state that 2 years service in BS-19 in NIPA, Staff College, NDC, Civil Service Academy is required for exemption from mandatory trainings for promotion to BS-20. The Service in BS-17 as Assistant Director in PSA, therefore, does not entitle you for exemption from the mandatory training course.

Yours faithfully,

*AB*  
o/c (Trum No. : )  
Section Officer (S-III)  
22-11-10

CR  
E/S

*[Handwritten signature]*  
21/11/10



**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT**

Dated Peshawar, the December 19, 2017

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**NOTIFICATION**

**No.SO(E-I)E&AD/9-118/2017** The competent authority on the recommendations of the Provincial Selection Board is pleased to promote Mr. Zulfiqar Ahmad, District Director, Agriculture (BS-19), Abbottabad to (BS-20) on regular basis, with immediate effect.

2. The officer on promotion shall remain on probation for a period of one year or till his retirement, whichever is earlier, in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. Consequent upon the above, the following postings/transfers are ordered:-

S.#	NAME OF OFFICERS	FROM	TO
1.	Mr. Zulfiqar Ahmad (BS-20)	District Director, Agriculture, Abbottabad.	Principal, Agriculture Training Institute, Peshawar, vice Sr. No. 2.
2.	Mr. Muhammaad Naseem (BS-20)	Principal, Agriculture Training Institute, Peshawar.	Director General, Agriculture Extension, Khyber Pakhtunkhwa, Peshawar, against the vacant post.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst. No. and date even

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department.
4. Commissioners, Peshawar & Hazara Divisions.
5. Accountant General, Khyber Pakhtunkhwa/DAO, Abbottabad.
6. Deputy Commissioner, Peshawar & Abbottabad.
7. Director General, Agriculture Extension, Khyber Pakhtunkhwa.
8. Director, Information, Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment E&AD.
11. Officers concerned.
12. Manager, Govt. Printing Press Peshawar.

**(ISHTIAQ AHMAD)  
SECTION OFFICER (ESTT. I)**

*[Handwritten signatures and notes]*

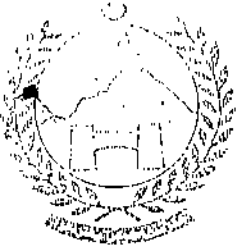
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27/12/17

AHmad







GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the January 8, 2018

29/A

**NOTIFICATION**

NO. SOE (AD) V-7/2017/SC.- Upon the recommendations of the Provincial Selection Board (PSB), the competent authority is pleased to promote Mr. Zahoor Ahmad, from Deputy Director/District Officer (BS-18) to the post of Director (BS-19) in the Soil Conservation Wing, Agriculture Department on regular basis with immediate effect.

2. He will be on probation for a period of one year in terms of Rule-15 of APT Rule, 1989. His posting order will follow subsequently.

SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA  
AGRICULTURE, L/STOCK AND COOP. DEPTT:

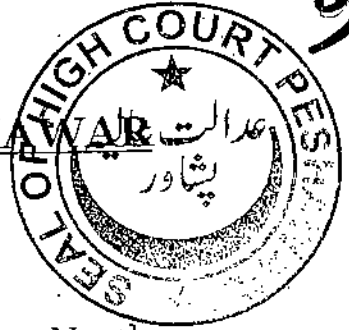
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- Copy forwarded for information and necessary action to the:-
1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
  2. DGI, Soil Conservation, Khyber Pakhtunkhwa, Peshawar with request to furnish adjustment proposal in respect of the above named officer for approval.
  3. PSO to Chief Minister, Khyber Pakhtunkhwa.
  4. PSO to Chief Secretary, Khyber Pakhtunkhwa.
  5. Web Administrator, Agriculture Department with the request to upload the instant notification on the official website of the department.
  6. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
  7. PS to Secretary Agriculture, Khyber Pakhtunkhwa.
  8. PA to DS (Admn), Agriculture Department.
  9. Officer concerned.
  10. Personal file.

(DR. MIR AHMAD KHAN)  
SECTION OFFICER-ESTT:

Attested  
eul

IN THE PESHAWAR HIGH COURT PESHAWAR



W.P No. 1819 /2017

Engr. Syed Muhammad Mujahid Saeed Chief Engineer North  
(OPS) Irrigation Department Warsak Road Peshawar.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department, Peshawar.
3. The Secretary Government of Khyber Pakhtunkhwa, Law, Parliamentary Affair & Human Rights Department.
4. The Provincial Selection Board through its Chairman, The Chief Secretary Government of Khyber Pakhtunkhwa.
5. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Peshawar.

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN, 1973

**Respectively Sheweth:**

1. That the petitioner was initially appointed as an Assistant Engineer (BPS-17) in Irrigation Department on 04/11/1985 after qualifying the competitive examination conducted by Provincial Public Service Commission. After completing the qualifying service and other requirement's he was promoted to Executive Engineer (BPS-18) on 18/7/1994 and subsequently to Superintending Engineer (BPS -19) on 29/3/2008.

WP1819-2017-Eng-S-Mujahid-VS-Govt-Full

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Duty Registrar  
22 APR 2017

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2. That two posts of Chief Engineers i.e. Chief Engineer South & Chief Engineer North became vacant on retirement of the two incumbents namely Engineer Kamal Jehangir Khan (BPS-20) and Engineer Riaz Ahmed Khan (BPS-20) respectively on 28.09.2015 and 12.11.2015. (Copies of the retirement Notifications are annexure "A" & "B" respectively).
3. That consequently the petitioner was appointed as Chief Engineer (North) Irrigation Department Peshawar in his Own Pay Scale on 20.04.2016 and is serving as such till date. (Copy of the Order dated 20.04.2016 is annexure "C").
4. That it is worth mentioning that the petitioner was posted as Director General Small Dams in his Own Pay & Scale on 05.08.2015 and served as such till his present posting. (Copy of the Notification dated 05.08.2015 is annexure "D").
5. That on 13.02.2015 the respondent No. 2 issued a notification wherein it was directed for making necessary amendments in the service rules by declaring Senior Management Course (SMC) mandatory for all those posts in BPS-20 which require managerial and administrative skills. (Copy of the Notification dated 13.02.2015 is annexure "E").
6. That his case for promotion from Superintending Engineer (BPS-19) to Chief Engineer (BPS-20) was presented before the Provincial Selection Board in its meeting held on January 30, 2017 but his promotion was not considered on the only ground that he has not qualified "Senior Management Course" (SMC). (Copies of the Working Papers & Minutes of the Meeting are annexure "F" & "G" respectively).
7. That it is worth mentioning that a note for respondent No. 1 was written by respondent No. 4, being the Administrative Head of the petitioner's department wherein in view of the Service Recruitment Rules of Irrigation Department the petitioner was

TODAY  
Registrar  
APR 2017

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proposed to be exempted from (SMC). (Copy of the Note is annexure "H").

8. That consequently promotion against one vacant post of Chief Engineer (BPS-20) was notified in respect of Engineer Syed Zahid Abbas and the other post was left vacant. (Copy of the promotion Notification dated 27.03.2017 is annexure "I").
9. That the petitioner filed a representation to competent authority against the denial of promotion. (Copy of the same is annexure "J").
10. That feeling aggrieved the petitioner approaches this Honorable Court inter alia on the following grounds:

#### GROUNDS

- A. That the decision of the Provincial Selection Board turning down the promotion case of the petitioner is against the law and the facts as well as the Promotion Policy of the Provincial Government. (Copy of the Promotion Policy as annexure "K").
- B. That according to the Service Rules circulated vide Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department Peshawar Notification No. SO (E)/Irr/23-5/73, dated 17-02-2011, promotion from Superintending Engineer (BPS-19) to Chief Engineer/Director General (BPS-20) is made **"by selection, on merit from amongst the Senior Superintending Engineers and Directors with at least seventeen years' service in BPS-17 and above, possessing Degree in B.E/B.Sc Engineering (Civil) from a recognized University"** wherein there is no requirement of qualifying SMC.

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2 APR 2017

EXAMINER  
Law High Court

27 MAR 2018

It is worth mentioning that the qualifying service for promotion from Superintending Engineer (BPS-19) to Chief Engineer (BPS-20) is 17 years of continuous service whereas the petitioner has completed 32 years of continuous service which is twice the length of qualifying service. (Copy of the Service Rules of Irrigation Department is annexure "L").

(A)

(33)

C. That according to the Promotion Policy undertaking of Senior Management Course, is also not required for promotion to the position of Chief Engineer (BPS-20) being purely technical post which is dealt under the promotion policy narrating, **“this condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts, for promotion within their own line of specialization as envisaged in the existing Promotion Policy”**.

D. That during the course of time, on the directions of Establishment department, a Note was moved to the Chief Secretary KP for approval requesting therein that condition of qualifying SMC for promotion to the post of Chief Engineer/ Director General may be exempted as it is not covered by the service rules mentioned above. An advice of the law department, on the matter, was thus asked for by the Chief Secretary KP. The Law Department as per Para 3 of letter No. SO(OP-I/LD/5-6/2012-VOL-III/3538-39 dated February 02, 2017 communicated to the Secretary Establishment department that **“The said Service Rules are framed under Rule-3(2) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 which were framed under Section-26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, whereas, Promotion Policy is instructions of Government, which cannot override the existing service Rules which is a valid piece of subordinate legislation having a perfect legal trail. Hence in nutshell, SMC training is not necessary for Engineering Cadre of Irrigation Department, as enshrined in the aforesaid policy of the government”**. (Copy of the advice of law department is annexure “M”).

TODAY  
Registrar  
APR 2017

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E. That even the competent authority on 07.03.2017 addressed the respondent No. 1 for withdrawal of the requirement of (SMC) for promotion of officers to BPS-20 but the same has yet to be acted upon. (Copy of the letter from Chief Minister Secretariat is annexure "N").

F. That in a similar case, the Service Rules of Public Health Engineering Department, qualifying SMC is not mandatory for promotion from the rank of Superintending Engineer to (BS-19) to Chief Engineer (BS-20) therefore, recently Superintending Engineer Mr. Bahramand Khan was promoted to the rank of Chief Engineer (BS-20) and notified vide letter No. SO (E-I) E&AD/9-363/2016 dated November 2, 2016 without undergoing Senior Management Course (SMC) as not required (Copy of the service rules of PHED & the promotion Order are annexure "O" & "P" respectively), hence the petitioner is being discriminated against.

G. That the petitioner even opted to avail an opportunity to undertake the Senior Management Course but has not been offered the same. (Copy of the request made through proper channel is annexure "Q").

H. That the requirement of undertaking the (SMC) is not applicable to the petitioner not only according to prevailing rules and policy but also in view of the judgments of August Supreme Court of Pakistan rendered in the cases reported as 2013 SCMR 1752 & 2015 SCMR 456 & recently in a Suo Moto case No. 16 of 2016 wherein it was held that the officials from cadre posts could not be appointed as Administrative Heads of the department, hence the decision of the PSB is liable to be set aside. (Copy of the Order dated 04.10.2014 is annexure "R").

I. That the petitioner has an unblemished service record of 32 long years and is legitimately expecting promotion to BPS-20.

J. That by denying the petitioner of his due right to be promoted, the authorities have put the petitioner and his family in mental torture

ED TODAY  
uty Registrar  
2 APR 2017

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and disgrace in the society due to his no fault, which is a source of humiliation and discouragement.

K. That the act of authorities involved is illegal, unjustified, prejudiced, biased, malafide, discriminatory, against fundamental human rights, unlawful, without lawful authority, tant amounting to deprivation of justice to a competent servant and violation of the basic principles of promotion.

L. That the petitioner seeks the permission of this Honorable Court to rely on additional grounds at the time of hearing of this petition.

It is therefore, humbly prayed that on acceptance of this writ petition an appropriate writ may please be issued directing Provincial Selection Board to consider promotion case of the petitioner w.e.f 23/03/2016 the day the post of Chief Engineer became vacant in light of the Service Rules of Irrigation Department and Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 wherein Senior Management Course training is not necessary for Promotion from Superintending Engineer (BS-19) to Chief Engineer (BS-20) Engineering Cadre of Irrigation Department.

Any other remedy deemed proper but not specifically prayed for in this writ petition, in the circumstances of the case may be allowed as well.

FILED TODAY

Deputy Registrar

22 APR 2017

Through

Petitioner

*Naveed Akhtar*

Naveed Akhtar

Advocate Supreme Court

Date: 20/4/2017

*[Signature]*

7

36

**CERTIFICATE:**

Certified on instructions of my client that petitioner has not previously moved this Honorable Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.

*M. Asad*  
ADVOCATE

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need.

*M. Asad*  
ADVOCATE

FILED TODAY  
Deputy Registrar  
22 APR 2017

*[Signature]*



8

37

**IN THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR**

W.P. No. 1819 /2017

Engineer Syed Muhammad Mujahid Saeed, Chief  
Engineer (North) (OPS) Irrigation Department,  
Peshawar..... **Petitioner**

**VERSUS**

Government of Khyber Pakhtukhwa through Chief  
Secretary Civil Secretariat Peshawar and others  
..... **Respondents**

**AFFIDAVIT**

I, Engineer Syed Muhammad Mujahid Saeed S/o Syed  
Wajid Hussain, Chief Engineer (North) (OPS) Irrigation  
Department, Peshawar do hereby solemnly affirm and  
declare on oath that the contents of the  
accompanying **Writ petition** are true and correct to the  
best of my knowledge and belief and nothing has been  
concealed from this Hon'ble Court.

Identified by:-

*[Signature]*  
**DEPONENT**

**CNIC No. 17301-1530861-7**

*[Signature]*  
**Naveed Akhtar**  
Advocate  
Supreme Court of Pakistan

..... 2174 .....
Certified that the above was verified on solemnly affirmation before me on this <u>11th</u> day of <u>APR</u> 17 <u>Eng. Syed M. Mujahid</u> s/o <u>Syed Wajid Hussain</u> <u>Peshawar</u> who was identified by <u>Naveed Akhtar</u> Who is personally known to me
<i>[Signature]</i> 11/4/2017 Peshawar High Court, Peshawar.

FILED TO BE TRUE COPY

FILED TODAY

Deputy Registrar

22 APR 2017

38



PESHAWAR HIGH COURT, PESHAWAR  
FORM OF ORDER SHEET

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
19.12.2017	<p><b><u>WP No. 1819-P of 2017 with CM No. 2121 of 2017.</u></b></p> <p><b>Present:</b> Mr. Naveed Akhtar, advocate. for the petitioner.</p> <p>Syed Sikandar Hayat Shah, AAG, for the respondents along with Mr. Taimoor Khattak, Deputy Secretary (Judicial) , Establishment Department, Government of KPK.</p> <p>*****</p> <p><b><u>OAISER RASHID KHAN, J:-</u></b> Through the petition in hand, the petitioner has prayed for as under;</p> <p><i>"It , therefore, humbly prayed that on acceptance of this writ petition an appropriate writ may please be issued directing the Provincial Selection Board to consider promotion case of the petitioner w.e.f 23/03/2016 the day the post of Chief Engineer became vacant in light of the Service Rules of Irrigation Department and Khyber Pakhtunkhwa, Civil Servants ( Appointment, Promotion &amp; Transfer) Rules 1989 wherein Senior Management Course training is not necessary for Promotion from Superintending Engineer (BS-19) to Chief Engineer (BS-20) Engineering Cadre of Irrigation Department."</i></p> <p>2. As per the brief facts gathered from the petition , the petitioner was initially appointed as an Assistant Engineer (BPS-17) on 04.11.1985 through the Provincial Public Service Commission and thereafter promoted as Executive Engineer (BPS-18) on 18.07.1994 followed by further promotion as Superintending Engineer (BPS-19) on 29.03.2008; that since two posts of Chief Engineers i.e. Chief Engineer North and Chief Engineer South in the Irrigation Department fell vacant on the</p>

L

EXAMINER  
Peshawar High Court  
27 MAR 2018

retirement of two incumbents, therefore, the petitioner was assigned the duty of Chief Engineer (North) Irrigation Department in his own pay scale on 20.04.2016 where he is serving till date. The petitioner has expressed his grievance against the notification dated 13.02.2015, issued by the respondent No.2 whereby it was directed for making necessary amendments in the service rules so as to make the Senior Management Course (SMC) mandatory for all the posts in BPS-20 for acquiring best administrative and managerial skills and when the case of the petitioner for promotion as Chief Engineer (BPS-20) was placed before the Provincial Selection Board in its meeting held on 30.1.2017, he was not considered only on the ground that the petitioner did not have the Senior Management Course to his credit though the Administrative Head of the petitioner's department has granted exemption from the said course and that is how he is before this court with the instant petition.

Comments sought from the respondents have accordingly been submitted.

3. Arguments heard and the available record perused.

4. All that the learned counsel for the petitioner vehemently argued is that the petitioner has been unnecessarily burdened with the condition of Senior Management Course though neither the Promotion Policy 2009 nor the Service Rules 2011 of the petitioner's

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and where the instance of one Engineer Syed Zahid Abbas with his date of birth as 1959 is before us who has been granted exemption from the course and where another officer namely Mr. Bahramand Khan who too, has been promoted to BPS-20 by exempting him from such course, then we wonder as to why in the absence of any amendment in the Rules, the petitioner has not been considered for the post of BPS-20 and has thus been discriminated against.

4. Accordingly, we dispose of this petition in terms of directing the respondents to place the case of the petitioner for his promotion to the post of BPS-20 in the upcoming meeting of the Provincial Selection Board, which, as per the learned counsel for the petitioner, is scheduled for 27.12.2017 and the PSB is in turn directed to consider the case of the petitioner on its own merits and seniority without considering the course of SMC as mandatory at the moment when the necessary amendments in the rules have not brought about.

*Qaiser Rashid Khan J*  
*Muhammad Ayub Khan J*

*[Signature]*  
 JUDGE

*[Signature]*  
 JUDGE

CERTIFIED TO BE TRUE COPY

Especially for  
 Peshawar High Court, Peshawar  
 Authorised Under Article 87 of  
 The Constitution of Pakistan Order 1984

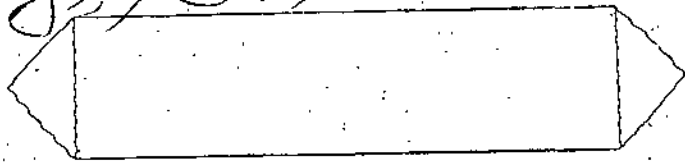
27 MAR 2018

Younas

Mr. Justice Qaiser Rashid Khan & Mr. Justice Muhammad Ayub Khan (DB)

*Qaiser*  
*27/2/17*

بعدالت سندس لے قبول ہوگا



2018ء پنجاب شریعت اللہ تعالیٰ

شرکت اللہ تعالیٰ بنام گورنمنٹ

موردہ  
مقدمہ  
دعوی  
جرم

### باعث تحریر آنکد

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام لسنٹر کیلئے سہیل شاہ سعید الدین مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری تکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے، اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

سید سعید الدین

شرکت اللہ تعالیٰ  
Siddique

Handwritten signatures and notes on the left side of the page.

المرقوم 4 ماہ 2018ء

العواہ العواہ

مقام کے لئے منظور ہے۔

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

**Service Appeal No. 492/2018**

Shaukat Ullah Khan .....Appellant

**Versus**

Government of Khyber Pakhtunkhwa through Secretary Agriculture and  
Others .....Respondents

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

**Service Appeal No. 492/2018**

Shaukat Ullah Khan .....Appellant

**Versus**

Government of Khyber Pakhtunkhwa through Secretary Agriculture and  
Others .....Respondents

**WRITTEN REPLY ON BEHALF OF RESPONDENT NO.1, 2, 3 & 4.**

Respectfully Sheweth,

Respondent humbly submit as under:-

**PRELIMINARY OBJECTIONS**

1. That the appeal is badly time barred.
2. That the appeal is not maintainable and incompetent in its present form.
3. That the appellant is estopped due to his own conduct.
4. That the appellant has got no cause of action and locus standi.
5. That the appellant has not come to the Tribunal with clean hands.
6. That the appeal is bad for misjoinder/non-joinder of necessary parties.
7. That the appellant has concealed the material facts from Honorable Tribunal.
8. That the Honorable Service Tribunal has no jurisdiction to entertain the instant appeal.
9. That the appeal is hit by Rule 23 of Khyber Pakhtunkhwa Service Tribunal Rules.

**BRIEF FACTS**

1. Agreed.
2. Agreed.
3. Agreed.

a. Not Agreed. His case for promotion to BS-20 was not materialized due to non framing/ notifying of Service Rules for promotion to the post of Director General (BS-20) Soil and Water Conservation. Mr. Shaukat Ullah Khan (appellant) was enjoying the status of Director/ Director General Soil and Water Conservation (highest authority of the Soil and Water Conservation Wing) (Annex -A), But he was unable to pursue the case of framing of Service Rules due to his inefficiency; Furthermore, he has also given a written statement to the Administrative

Department that he is unable to perform the duties of Director General (BS-20) Soil and Water Conservation on 01/03/2017 (Annex-B).

4. The Senior Management Course (SMC) was mandatory at that time for promotion to the post of Director General (BS-20) Soil and Water Conservation that is why his appeal for condonation of Senior Management Course (SMC) was rejected by the Worthy Chief Secretary Government of Khyber Pakhtunkhwa (Annex-C). Once again it is stated that his promotion case to the post of Director General (BS-20) Soil Conservation was not materialized due to non framing of Service Rules for the same post.
5. Needs No Reply
6. The decision taken vide No. SOE (AD) 22-13/80, dated Peshawar, the January 16, 2018 is not against the law. Moreover, it is stated that the appellant has never submitted any promotion case for his promotion to the post of Director General (BS-20) due to non-framing of Service Rules for the said post. It is further informed that due to his lack of interest and intentional delay in framing of the Service Rules for Soil and Water Conservation Wing of Agriculture Department, many other officers/ officials also got suffered/ retired without enjoying their due right of promotion to the higher pay scales.
- 7.

**GROUNDS:**

- A. The decision taken vide No. SOE (AD) 22-13/80, dated Peshawar, the January 16, 2018 is not against the law. Moreover, it is stated that the appellant has never submitted any promotion case for his promotion to the post of Director General (BS-20) due to non-framing of Service Rules for the said post. It is further informed that due to his lack of interest and intentional delay in framing of the Service Rules for Soil and Water Conservation Wing of Agriculture Department, many other officers/ officials also got suffered/ retired without enjoying their due right of promotion to the higher pay scales.
- B. The appellant has been treated according to the prevailing law and rules .
- C. The Senior Management Course (SMC) was mandatory at that time for promotion to the post of Director General (BS-20) Soil and Water Conservation that is why his appeal for condonation of Senior Management Course (SMC) was rejected by the Worthy Chief Secretary Government of Khyber Pakhtunkhwa. Once again it is stated that his promotion case to the post of Director General (BS-20) Soil Conservation was not materialized due to non framing of Service Rules for the same post.
- D. Needs no reply.
- E. As replied in Para A.
- F. The department has performed as per rules.
- G. Not agreed the appellant has been treated according to the law.
- H. Not agreed. His case for promotion to BS-20 was not materialized due to non framing/ notifying of Service Rules for promotion to the post of Director General (BS-20) Soil and Water Conservation.

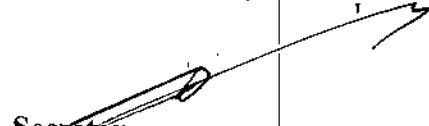


- I. As replied in Para H.
- J. Not agreed the appellant has been treated according to the law.
- K. Not agreed, he is not entitled for Proforma promotion.
- L. Need no reply.
- M. Not agreed the appellant has been treated according to the law.
- N. Need no reply.
- O. Need no reply.

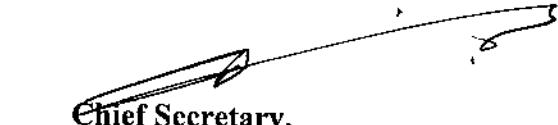
**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of this Para-wise comments, the appeal being devoid of legal footings and merit graciously be dismissed with cost.

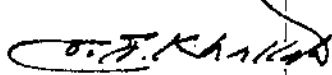
**(Respondent No.1)**

  
**Secretary,**  
 Agriculture livestock and cooperative  
 department,  
 Government of Khyber Pakhtunkhwa,  
 Peshawar.

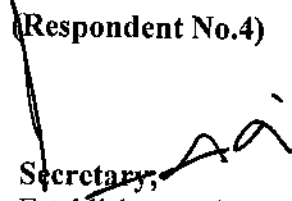
**(Respondent No.2)**

  
**Chief Secretary,**  
 Government of Khyber Pakhtunkhwa,  
 Peshawar.

**(Respondent No.3)**

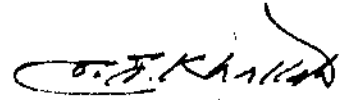
  
**Director General**  
 Soil and Water Conservation,  
 Khyber Pakhtunkhwa, Peshawar.

**(Respondent No.4)**

  
**Secretary,**  
 Establishment department,  
 Government of Khyber Pakhtunkhwa,  
 Peshawar.

**Affidavit**

I do hereby declare and affirm on oath that contents of the above written reply are true and correct to the best of knowledge and belief and nothing has been kept concealed from this honorable tribunal.

  
**Director General**  
 Soil and Water Conservation  
 Khyber Pakhtunkhwa,  
 Peshawar.



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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the May 23, 2014

**NOTIFICATION**

**NO. SOE (AD)20-184/94:-** Consequent upon the creation of the post of Director General (BS-20), Soil Conservation, Khyber Pakhtunkhwa, Peshawar, Mr. Shaukat Ullah Director (BS-19), Soil Conservation, Khyber Pakhtunkhwa being the senior most officer is hereby authorized to look after the charge of post of Director General (BS-20), Soil Conservation, Khyber Pakhtunkhwa (in his own pay and scale) with immediate effect in the interest of public service, till further orders.

Sd/-XXX  
SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. All HAD's of Agriculture Department.
2. The Director General, Soil Conservation, Khyber Pakhtunkhwa.
3. The Accountant General, Khyber Pakhtunkhwa.
4. P.S to Minister for Agriculture, Khyber Pakhtunkhwa.
5. PS to Secretary Agriculture Department
6. PA to Deputy Secretary (Admn) Agriculture.

  
(DAULAT KHAN)  
SECTION OFFICER-ESTT:



5

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the May 24, 2013

**NOTIFICATION**

**NO. SOE(AD)/3(3)1/2013/SC:-**

The competent authority is pleased to order the posting/transfer of the following officers of Soil Conservation Wing, Agriculture Department in the interest of public service with immediate effect:-

S.No	Name of Officer	From	To
1.	Mr. Jehanzeb Khan (BS-19)	Director Soil Conservation, Khyber Pakhtunkhwa.	Additional Director Soil Conservation, Khyber Pakhtunkhwa.
2.	Mr. Shaukat Ullah (BS-19)	Additional Director Soil Conservation, Khyber Pakhtunkhwa	Director Soil Conservation, Khyber Pakhtunkhwa vice No.1

**Sd/-XX**  
SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy forwarded for information and necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PS to Chief Secretary, Khyber Pakhtunkhwa.
4. Officers concerned.
5. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
6. PS to Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
7. Master file.

(MUHAMMAD SHERAZ)  
SECTION OFFICER-ESTT:

244



GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

NO.SOE(AD)22-13/80  
Dated Peshawar, the May 5, 2017

To

The Director General,  
Soil Conservation,  
Khyber Pakhtunkhwa, Peshawar

**SUBJECT:-** RENOUNCEMENT FROM THE POST OF DIRECTOR GENERAL, SOIL  
CONSERVATION, KHYBER PAKHTUNKHWA PESHAWAR

I am directed to refer to your letter No.656 dated 01/03/2017 on the subject noted above and to state to please provide justification/proofs that you have real health problem and is not willing to shoulder the existing responsibility.

*(Signature)*  
ARHTAR ALI SHAH  
SECTION OFFICER-ESTT  
*all*

Endst. of even No. & Date:

Copy to:

1. P.S to Secretary Agriculture department.
2. PA to DS (Admn), Agriculture Department.

SECTION OFFICER-ESTT

**DIRECTORATE GENERAL SOIL CONSERVATION KHYBER PAKHTUNKHWA**



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Agriculture Training Institute Campus, opposite Islamia College, Janawal Road Peshawar, Pakistan.  
Phone 091-9224331 Fax 091-3842412 <http://www.dgsc.gov.pk> Email: [director@dgsc.gov.pk](mailto:director@dgsc.gov.pk)

Conserving soil and water resources in Khyber Pakhtunkhwa.

No. 656 /DGSC/KP  
dated 21/03 2017

To

The Secretary,  
Government of Khyber Pakhtunkhwa,  
Agriculture, Livestock and Cooperatives Department, Peshawar.

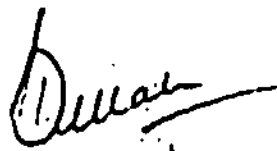
**SUBJECT** RENOUNCEMENT FROM THE POST OF DIRECTOR GENERAL  
SOIL CONSERVATION KHYBER PAKHTUNKHWA.

**Memo:** Reference is made to the subject cited above.

It is submitted that the undersigned holding the post of Director Soil Conservation Khyber Pakhtunkhwa since 27/01/2014, was entrusted with the look after charge of the post of Director General Soil Conservation Khyber Pakhtunkhwa on 27/05/2014 being the senior most officer of the department. Till date I have tried to perform my duties to the best of my abilities and with dedication and enthusiasm.

It is however, that recently, due to my health concern and high blood pressure issues, I cannot continue my duties as required for the said post of Director General. It is therefore humbly proposed that the responsibility may be entrusted onto a senior officer of the department, and allow the undersigned to work on the post of Director Soil Conservation, please.

An early action is requested please.

  
Director General  
Soil Conservation  
Khyber Pakhtunkhwa

*Examine & put yr*

GOVERNMENT OF KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

NO.SOE(AD)22-13/SO  
Dated Peshawar, the January 16, 2018

11

To  
Mr. Shaikat Ullah,  
Director, Soil Conservation,  
Directorate General, Soil Conservation,  
Khyber Pakhtunkhwa, Peshawar

SUBJECT:- EXEMPTION FROM SENIOR MANAGEMENT COURSE

Reference to your application dated 12.12.2017 on the subject and to inform state that your appeal was considered and regretted by the competent authority as the post of Director General, Soil Conservation (BS-20) is managerial and administrative in nature. Under the Promotion Policy amended on 05.12.2017, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory.

SECTION OFFICER-ESTT:

Encl. of even No. & Dats.

Copy to:

- 1. P.S to Secretary Agriculture department.
- 2. PA to DS (Admn). Agriculture Department.

SECTION OFFICER-ESTT:

Attested  
RJD

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No 492/2018

Shaukat Ullah Khan .....Appellant.

**V E R S U S**

Govt. & Others.....Respondents

**REPLICATION ON BEHALF OF THE APPELLANT.**

**REPLY TO PRELIMINARY OBJECTIONS.**

All the objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action and locus standi to bring the present appeal, which is well within time and in instant appeal all necessary parties have been impleaded. The appellant has come to this honorable tribunal with clean hands and the appellant is not estopped by his conduct to file instant appeal which appeal is maintainable and liable to be accepted.

**REPLY TO FACTS/GROUNDS:**

Comments of the respondents are full of contradictions, rather amounts to admissions and are based on malafide. Respondents have failed to show that the version of the appellant is incorrect. Even respondents have failed to show and substantiate their version referring to any law and rules. In the circumstances the appellant has been deprived of her rights without any omission or commission on his part and he has been deprived of his rights guaranteed by the Constitution and law of the land. The appellant has been denied promotion for no legal reason. The appellant could not be made to suffer due for a decision/law when the appellant was already eligible and entitled for promotion. Even the appellant was entitled for exemption from mandatory training.

The appellant was never selected for the said training nor the appellant ever refused in this regard. The said course/training was made mandatory just few months before his retirement and that too with

prospective effect when rights had already accrued to appellant. the appellant is having the requisite length of service with adverse entries during his entire service career. The appellant has been discriminated as in the same department juniors to him have been promoted denying such right to the appellant.


In the circumstances the appellant has not been treated according to law and rules being his fundamental right. The impugned order is in total disregard of the law and rules and as such alien to law which cannot be maintained, the appellant as such entitled to be granted proforma promotion to (BPS-20) from due date.

**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.**

**Dated:-01-10-2019.**

  
**Appellant**

**Through**

  
**Fazal Shah Mohmand**  
**Advocate Peshawar**

## **AFFIDAVIT**

I, Shaukat Ullah Khan Ex Director Soil Conservation (Head Quarters) Agriculture, Livestock and Co-Operative Department Govt. of Khyber Pakhtunkhwa Peshawar, (the appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

**Identified by**

  
**Fazal Shah Mohmand**  
**Advocate Peshawar.**



  
**DEPONENT**