

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 881/2022

Diary No. 3490

Dated 9-2-2023

Mr. Tariq Kamal KhanAppellant

Versus

Chief Secretary, Khyber Pakhtunkhwa & Others Respondents

INDEX

S.#	Description of Documents	Annex	Pages
1.	Comments duly signed		2-4
2.	Affidavit		5
3.	Appointment letter of Appellant	A	6
4.	Cabinet Decision 09-05-2019	B	7-8
5.	Recommendation of Ministerial Committee	C	9-19
6.	Adjustment Order	D	20-21
7.	Cabinet Decision 09-05-2019	E	22-23

129

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

SERVICE APPEAL NO.881/2022

Mr. Tariq Kamal Khan**APPELLANT**

VERSUS

Chief Secretary, Khyber Pakhtunkhwa & Others.....**RESPONDENTS**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4.

RESPECTFULLY SHEWETH,

PRELIMINARY OBJECTIONS

1. That the Appellant has got no cause of action to institute the instant Service Appeal.
2. That the Appellant has not come to this Hon'ble Court with clean hands.
3. That the Appeal is not entertainable in the present form.
4. That the Appeal is filed with malafide intention.
5. That the Appellant is not an aggrieved person.
6. That the appellant had accepted the terms and conditions of adjustment in the attached formation of Staff Training Institute (STI), thus he is estopped by his own conduct to file the instant appeal.

ON FACTS:

1. The appellant was appointed as Assistant IT Manager (BS-16) in 2016, on contract basis (fixed pay), in a project titled "Development of Common Application for Government of Khyber Pakhtunkhwa (E-Office)", under the Directorate of Information Technology, Khyber Pakhtunkhwa, having certain terms & conditions, mentioned in the office letter at **Annex-A**.
2. Incorrect, hence denied. However, it is submitted that in light of the Cabinet decision dated 09-05-2019 (**Annex-B**), and recommendations of the Ministerial Committee (**Annex-C**), the position of the post of appellant alongwith 28 other employees of five (05) departments projects (Establishment, Administration, E&SE, ST&IT & Health Departments) had been shifted against newly created posts under the STI—DDO Code PR-8089 and **their services had been regularized on the strength of Staff Training Institute (STI), dated 01-10-2019 (Annex-D)** w.e.f the promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018. However, the Cabinet decision dated 09-05-2019, clearly stipulates that all the positions shall be created/placed at the strength of attached formations of respective departments except the positions of Planning Cell in Planning & Development Department.
3. Incorrect, as laid. The post of Assistant Manager IT(BS-16) was upgraded as well as re-designated as Assistant Director (BS-17) wherein the service rules were advised to be amended accordingly but since the Appellant has not been adjusted in any cadre of the Provincial Civil Secretariat ; therefore, these directions will be implemented only when the

13

Appellant and other such regularized employees are adjusted /absorbed in the attached department(s) in light of the decision of the Provincial Cabinet taken in its meeting held on 09-05-2019 (Annex-E).

4. Incorrect as laid. No entity by the name of "Technical Cell" exist in the E&A Department. However, there exists IT Cadre of the E& A Department whose staff has entered into that cadre/service either through initial recruitment or promotion. The post of the Appellant does not come under IT Cadre of the Establishment & Administration Department; rather services of the Appellant was merely regularized under KPK Regularization of Service Act, 2018 and for which the Provincial Cabinet decided to place /adjust /absorb such regularized employees in the attached department(s). **It is also pertinent to mention here that Staff Training Institute (STI) is an attached formation of Establishment Department which is evident from the SNE (Fresh) attached with Staff Training Institute (STI) letter dated 13-04-2018 which can be seen at (Annex-B), HR from (HR Plan – Creation of new/Additional Posts) as attached Department Staff Training Institute.** Therefore, in compliance of Provincial Cabinet's decision, the surplus employees of various departments were adjusted in various attached formations and the appellant in STI.
5. Incorrect as laid. The Appellant has not been absorbed /adjusted in of Establishment & Administration Department or for that matter in any of the Administrative Departments of the Provincial Government which require express permission/approval of the Provincial Government. On the other hand, the Provincial Cabinet/ Provincial Government in its meeting held on 09-05-2019 had decided to place /adjust /absorb such regularized employees, in the attached formation(s)/department(s). Hence the Appellant and other regularized employees cannot be extended any benefit available to the employees belonging to any of the cadre /service of the Provincial Civil Secretariat.
6. Incorrect. The Appellant is not be entitled to be inducted/absorbed/adjusted in the Provincial Planning Services Cadre which not only require altogether different expertise but also service rules of these cadres of the Provincial Civil Secretariat do not allow any civil servant to be absorbed/adjusted /inducted in that cadre other than through initial appointment and promotion.
7. Incorrect. Although the Appellant has been regularized with the present nomenclature of his post as Assistant Director (BS-17) yet he cannot claim to be placed /adjusted /absorbed in the IT cadre of the E& A Department for the reasons explained above. Neither is he entitled to be given seniority and promotion under the service rules framed for the IT Cadre of the E&A Department, since the Appellant and other such regularized employees have not been adjusted/absorbed in the IT cadre of the E&A Department/ Provincial Civil Secretariat or any other cadre /service.
8. Incorrect. Promotion cannot be claimed as of right.
9. Incorrect, the appellant has no grievance as per law. He has been dealt in accordance with law.
10. Incorrect, no inaction has been made by Respondent Departments.
11. No comments


ON GROUNDS


9


- A. Incorrect. As explained in facts.
- B. Incorrect as laid. The Appellant has not been treated unjustly and no violation has been made by the E&A Department. Rather services of the Appellant have been regularized and the Provincial Cabinet decided in principle to adjust /absorb such regularized employees in the attached Department(s). Therefore, his services were adjusted in Staff Training Institute (STI) which is an Attached formation of Establishment Department. Hence the Appellant cannot claim to be adjusted /absorbed in the IT cadre or for that matter; in any other cadre of the Provincial Civil Secretariat.
- C. Incorrect. As explained in Ground-B.
- D. Incorrect as laid. No injustice has been done to the Appellant as explained in the preceding paras.
- E. Incorrect. No discrimination has been made against the Appellant so far as his income from salary is concerned. However the Appellant cannot claim to be placed /absorbed /adjusted in the Provincial Planning Service (PPS) cadre of the Planning & Development Department which requires different /distinct expertise and whose rules do not allow others to be entered into that service other than through initial recruitment or promotion.
- F. Incorrect. No discrimination has been made against the Appellant.
- G. Incorrect. No violation of law has been made by the respondents.
- H. The Respondents seek permission to raise additional grounds at the time of arguments.

PRAYER:

It is therefore, humbly prayed that service Appeal of the Appellant being devoid of any merit may very graciously be dismissed with cost.


CHIEF SECRETARY,
KHYBER PAKHTUNKHWA
(RESPONDENT NO.01)


SECRETARY,
ESTABLISHMENT DEPARTMENT
(RESPONDENT NO. 02)


SECRETARY,
ADMINISTRATION DEPARTMENT
(RESPONDENT NO. 03)


SECRETARY
P&D DEPARTMENT
(RESPONDENT NO. 04)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 881/2022

Mr. Tariq Kamal KhanAppellant

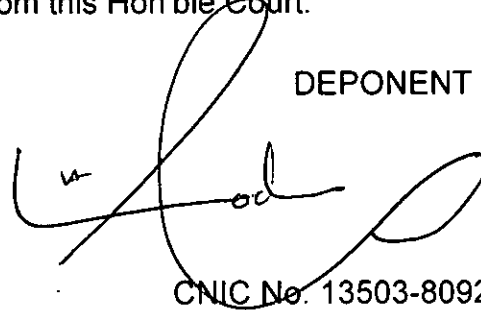
Versus

Chief Secretary, Khyber Pakhtunkhwa & Others Respondents

AFFIDAVIT

I, Majid Hannan Lodhi, Section Officer (Litigation) BPS-17, Judicial Wing, Establishment Department, Govt. of Khyber Pakhtunkhwa do hereby solemnly declare that contents of the para-wise comments are correct to the best of my knowledge and record and nothing has been concealed from this Hon'ble Court.

DEPONENT



CNIC No. 13503-8092069-1

Contact No. 0333-6253335



Government of Khyber Pakhtunkhwa
 Directorate of Information Technology

Annex 'A'
 6

Use No. IT/2015/18 No. Floor: 2nd Floor, Office: 2000, Opp. FC Gate, Islamabad Road, Peshawar Cantt.
 Contact: 011-22111642, Fax: 011-22111750
 HttP://www.khyberpakhtunkhwa.gov.pk

No: Directorate-IT/KP/Adin&HR/Appoint-Apr. & May 2015 (E-Office) 1257
 Dated: May 30, 2016

To

Mr./Miss. Tariq Kamal
 S/D/o Islam Shah

Subject: OFFER OF APPOINTMENT AS ASSISTANT IT MANAGER BPS-16 ON FIXED PAY/CONTRACT BASIS.

On the recommendation of Selection Committee and in exercise of the power conferred under the Provincial Govt. Project Policy 2008 the Competent Authority has been pleased to offer the post of Assistant IT Manager BPS-16 on the basis of fixed pay @ Rs. 35,000/- per month with (5% Annual Increment) in the Project "Development of Common Application for Govt. of Khyber Pakhtunkhwa (E-Office)".

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

- i. Your fixed pay contract appointment will be initially for a period of One Year extendable or till completion of the Project.
- 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 a Medical Fitness Certificate from any government Hospital.
- v. Your appointment will not confer on you any right for regular appointment/absorption against the post of Assistant IT Manager nor your services will count towards seniority/promotion/pension.
- vi. Your posting/duty station may be changed / transferred by the competent authority as per the requirement of the Project.

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.

-Sd/-

DIRECTOR-IT

Copy forwarded to:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Estab.) ST&IT Department.
3. Accountant, Directorate of IT.

~~RECEIVED~~

DIRECTOR-IT

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMIN. DEPT.
(CABINET WING)

No. SOC(E&AD)9-15/2019
Dated Peshawar the 14th May, 2019.

1/Sr. HEAD
10/1/19
15/5/19

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The Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department.

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**SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09.05.2019.**

Dear Sir,
I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09.05.2019 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

**ADDITIONAL ITEM NO. 03
SETTLEMENT OF ANOMALIES ARISING OUT IN THE WAKE OF PROMULGATION OF THE
KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018**

Decision of the Cabinet:

The Cabinet approved recommendations of the Ministerial Committee as under:-

- i) With regard to contingent/fixd pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, without adopting codal formalities under Project Policy, it was agreed that those contingent employees, 35 in number, (31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the Writ Petition No. 6553-P/2018, dated 12.03.2019.
- ii) A Grievances Redressal Committee headed by Establishment Department consisting of representatives from Finance, Law and concerned administrative departments may be constituted. The Grievances Redressal Committee would report to the same ministerial committee.
- iii) All the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/placed at the strength of attached formations of respective administrative departments except the positions of Planning Cells.

Implementing Department: Establishment

I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

ATTESTED

Yours faithfully
(TAL MUHAMMAD)
SECTION OFFICER (CABINET)

ENDST. NO. & DATE EVEN.

- Copy to:-
- 1. P.S to Secretary Administration Department.
 - 2. PA to Deputy Secretary (Cabinet) Administration Department.
- SECTION OFFICER (CABINET)

SO (OM)

9/11
PS 1575

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(CABINET WING)
NO. SOC (E&AD)9-15/2019
Dated Peshawar the 14th MAY 2019

TO

The Secretary Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject: **DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09-05-2019**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09-05-2019 under the Chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

ADDITIONAL ITEM NO. 08

SETTLEMENT OF ANOMALIES AMOUNT ARISING OUT IN THE WAKE OF PROMULGATION OF EH KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES), ACT 2018

Decision of the Cabinet:

The Cabinet approved recommendation of the Ministerial Committee as under:

- i) With regard to contingent/fixd pay/daily wage staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees 35 in number, 31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the writ petition no. 6553-P/2018 dated 12.03.2019.
- ii) A Grievances Redressal Committee headed by Establishment Department consisting of representatives from Finance, Law and concerned administrative departments may be constituted. The Grievance Redressal Committee would report to the same ministerial committee.
- iii) All the position created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 shall be created/placed at the strength of attached formations of respective administrative Departments except the positions of Planning Cells.

Implementing Department: Establishment

I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours Faithfully,
(Taj Muhammad)
Section Officer (Cabinet)

ATTACHED
to be the copy
Advocate

ATTESTED

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Annex - I**RECOMMENDATIONS OF THE MINISTERIAL COMMITTEE**

In pursuance of the directions of Ministerial Committee meeting dated 6.3.2019 the issues of regularized employees of various departments are classified in line with the Anomaly Committee's recommendations. Under the Rules of Business creation/abolition of posts is the domain of Finance Department. At the start of regularization process of the Project Employees, all concerned Administrative Departments were requested to coordinate their cases with the Finance Department for creation of posts on regular side. Moreover, subsequent to promulgation of the Regularization Act, 2018 they were again reminded to expedite the process of creation of posts with the Finance Department. Resultantly, Finance Department issued a schedule of meetings starting from 7.5.2018 to 16.5.2018 with the concerned departments for creation of posts. After that process, Finance Department addressed/asked the Administrative Departments concerned to ensure provision of a certificate to the effect that "all educational qualification and other credentials of the project employees have been verified and found correct" prior to creation of posts on regular side. After completion of the relevant conditions and formalities of Finance Department as well as meetings with the departments concerned, posts have been created on regular side. However, the following departments have raised issues/difficulties:-

1. Health Department

Name of the Project Regularized	Issues	Remarks
	Employees appointed without advertisement	
MNCH (approved on 7.3.2007 and revised from time to time till 7-18)		Since the issue was subjudice before the Peshawar High Court and the Court in its order dated 12.3.2019 has decided the case in favour of the petitioners, hence the issue stands resolved. It is, therefore, proposed that the qualifications, credential and experience as required under Sections 3,4&5 of the ibid Act should be checked and after that Administrative Department may issue notification.
Summary		
Total Sanctioned Strength	=	431
Posts created by Finance Department	=	398
Employees appointed without advertisement	=	197
Breakup of employees		
Superintendent (BS-17)	01	
Computer Operator (BS-16)	02	
Account Assistant (BS-14)	04	
Junior Clerk (BS-11)	04	
Driver (06)	51	

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Naib Qasid (BS-03)	43	
Helper (BS-03)	19	
Cook (BS-03)	15	
Sweeper (BS-03)	18	
Chowkidar (BS-03)	40	

II P&D Department

Name of the Project Regularized	Issues Employees appointed on contingent basis	Remarks
Monitoring & Evaluation (Revised in 2014-15)		With regard to contingent/fixed pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees 31 in number of P&D Department may be given one time relaxation for regularization of their services subject to verification of their qualifications and credentials by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases rather as a special dispensation to the contingent paid employees on the analogy of Peshawar High Court decision dated 12.03.2019.

Summary:

Total Sanctioned Strength	=	166
Positions created by Finance Department	=	132
Employees appointed on contingent basis	=	19

Breakup of employees

Office Assistant (BS-16)	01	
IT Assistant (BS-16)	03	
Driver (BS-6)	04	
Naib Qasid (BS-3)	09	
Chowkidar (BS-3)	01	
Sweeper (BS-3)	01	

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Sustainable Development Unit		
Summary		
Total Sanctioned Strength	=	34
Posts created by Finance Department	=	27
Employees appointed on contingent basis	=	12
Office Assistant(BS-16)	01	With regard to contingent/fixed pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees 31 in number of P&D Departments may be given one time relaxation for regularization of their services subject to verification of their qualifications and credentials by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases rather as a special dispensation to the contingent paid employees on the analogy of Peshawar High Court decision dated 12.03.2019.
Junior Clerk (BS-11)	01	
Driver(BS-6)	02	
Naib Qasid(BS-3)	04	
Chowkidar(BS-3)	04	

III. Home & Tribal Affairs Department

Name of the Project Regularized	Issues	Remarks
Strengthening of Prosecution Directorate, PCMC and Planning Cell at Home Department	Employees appointed on contingent basis	With regard to contingent/fixed pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees 04 in number of Home Departments may be given one time relaxation for regularization of their services subject to verification of their qualifications and credentials by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases rather as a special dispensation to the contingent paid employees on the analogy of Peshawar High Court decision dated 12.03.2019.

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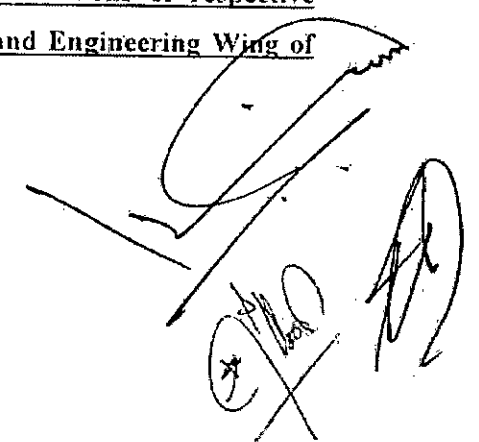
<u>Summary</u>		
Total Sanctioned Strength	=	50
Posts created by Finance Department	=	36
Employees appointed on contingent basis	=	04
<u>Breakup of employees</u>		
Naib Qasid (BS-3)		04
Coordination Unit for Implementation of Law & Order initiatives in Khyber Pakhtunkhwa	Procurement Officer (BS-17) holding the post in "Coordination Unit for Implementation of Law & Order Initiatives" in Police Department does not possess the requisite qualification for the post. The incumbent has M.A English only whereas the required qualification was Master in Social Sciences.	It was observed that MA English is as good as other social sciences and the incumbent might have possessed sufficient experience before the regularization of the said post and would perform his duty quite well now, hence the Committee may decide. However, it is proposed that the officer may be allowed to participate in a training course in the relevant field.
Traffic Control Management System and FM Radio.	One No. of Computer Operator of the said projects does not meet the prescribed qualification/criteria although the posts of the Computer Operators did exist in BS-16 prior to their regularization in the projects.	With regard to Computer Operates having less qualification, the Administrative Department should take up case with Finance Department to create SNE positions in BS-12. However, the incumbents will be given grace period of four years to acquire the prescribed qualification for the post of computer operator (BPS-16) i.e. Graduation with Diploma in IT (DIT). Note:- The grace period shall commence from the issuance of the regularization notification.
Computerization of Arms License	15 NOs of Computer Operators of the said projects do not meet the prescribed qualification/criteria although the posts of the Computer Operators did exist in BS-16 prior to their regularization in the projects.	-do-
Prison Management Information System.	13 NOs of Computer Operators of the said projects do not meet the prescribed qualification/criteria although the posts of the Computer Operators did exist in BS-16 prior to their regularization in the projects.	-do-

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19
520

	04 Nos. of Computer Operator (BS-16)	Computer Operators namely (1) Iftikhar Ahmad (2) Jamal Ali (3) Yasir Khan (4) Naveed Khan have remained willfully absent from duty and are being processed under E&D Rules and the Anomaly Committee was therefore requested to guide in this regard.	issuance of the regularization notification. The Secretary withdrew the case being internal issue of the Administrative Department.
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The Committee also recommended that all the positions created by Finance Department for all of the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/placed at the strength of attached formations of respective Administrative Departments except the positions of Planning Cells which fall under the Provincial Planning Service (PPS) and Engineering Wing of Sports Department. Finance Department will take further appropriate action accordingly.



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18

509

	service rules, the qualification of LHV has been deleted and at time of regularization, only SSC with FW'W training course is required qualification which they do not possess.
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IX. Industries Department.

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendation of the Anomaly Committee
Strengthening of Planning Cell	One No. of Account Officer (BS-16)	Anomaly in the post of Admn & Account Officer (BS-16)	The committee observed that since the incumbent was recruited in BS-16 under the Project Policy and upon regularization the post of Admn & Account Officer has been created in BS-16, hence there is no anomaly.

X. Agriculture Department.

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendation of the Anomaly Committee
Strengthening of Planning Cell and Monitoring	One No. of Assistant (BS-16)	The issue of adjustment of Assistant (BS-16)	The Administrative Department was directed to adjust the Assistant (BS-16) in Directorate/attached formations. Finance Department will make necessary alteration in its notification for shifting of the post on the strength of attached department.
	One No. Assistant Programmer (BS-16)	The issue of adjustment of Assistant Programmer (BS-16)	-do-

X Food Department.

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendation of the Anomaly Committee
"Automation of Food Department"	04 Nos. Computer Operator (BS-16)	Computer Operators of the project i.e. "Automation of Food Department" do not possess relevant qualification i.e. at least 2 nd class Bachelor Degree in Computer Science or at least 2 nd class Bachelor Degree + 01 year Diploma in Information Technology (DIT).	With regard to Computer Operates having less qualification, the Administrative Department should take up case with Finance Department to create SNE positions in BS-12. However, the incumbents will be given grace period of four years to acquire the prescribed qualification for the post of computer operator (BPS-16) i.e. Graduation with Diploma in IT (DIT). Note:- The grace period shall commence from the

		issue of regularization order remains yet to be issued.	regularization notification as provided under Section-5 of the Act but she was holding the post on the date of enforcement of the Act i.e. 02-03-2018 however, her regularization was delayed for obvious reasons and had the Administrative Department carried out scrutiny she would have regularized before her death. Therefore, the Committee recommends her regularization.
<ul style="list-style-type: none"> i. Mst. Tahira Noor D/o Noor Bacha, FWW, DPW-Office Bunir. ii. Mst. Rahela Mehtab D/O Mehtab Shah (Aya/Helper) DPW-Office Charsadda. iii. Mst. Haseena Maroof D/o Maroof Shah Khattak, DPW-Office Nowshera (Aya/Helper) 	<p>Mst. Tahira Noor D/o Noor Bacha, FWW, DPW-Office Bunir, Mst. Rahela Mehtab D/O Mehtab Shah (Aya/Helper) DPW-Office Charsadda & Mst. Haseena Maroof D/o Maroof Shah Khattak, DPW-Office Nowshera (Aya/Helper) resigned on 05/05/2018, 01/06/2018 & 31/07/2018 respectively. Some portion of their salaries is pending.</p>		The Committee observed that there is no anomaly as the resignations tendered have been accepted as clarified by representatives of the Administrative Department however, for clearance of any pending liabilities the Administrative Department may take up case with Finance Department.
Mst. Ancela Khatoon D/o Sher Zaman (Dai/Aya/Helper) DPW office Hangu	Mst. Ancela Khatoon D/o Sher Zaman (Dai/Aya/Helper) DPW office Hangu is undergoing 24 Months Training of FWW (selected on open merit) and regularly getting stipend of Rs. 6000/- PM from 20.03.2018 onward as confirmed by Principal RTI while she has been reported continuously as present vide DPWO Hangu letter reflected in the minutes of the scrutiny committee and also got salary up to June, 2018.		The Committee observed that the issue does not come under the definition of anomaly and the Administrative Department is required to initiate appropriate disciplinary action against the employee at its own level.
Ms. Balqees W/o Imtiaz Ali (Aya/Helper) DPW Office Shangla	Ms. Balqees W/o Imtiaz Ali (Aya/Helper) DPW Office Shangla was absent.		-do-
	24 Family Welfare Workers were recruited under the project "100 FWC in KP" and they were fulfilling the required qualification of having SSC with LHV Diploma under the prevailing service rules of the Directorate General of Population Welfare at the time of their recruitment in the project, but in February, 2017 due to amendments in the		The committee recommended that the concerned Administrative Department may arrange appropriate training course for employees to cover up the training deficiencies of the employees so regularized under ibid Act.

16

507

VHI. Population Welfare Department

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendations of the Anomaly Committee
Establishment of Population & Research Training Institute and Social Mobilization (KPPRTI)	Assistant Director/Project Coordinator (BS-17)	<p>➤ The incumbent appointed for the post of Assistant Director/Project Coordinator for the project "Establishment of Population & Research Training Institute and Social Mobilization (KPPRTI)" 2015-18 it was observed that;</p> <p>a) The qualification i.e. MA in Gender Studies on the basis he was appointed is not included in the approved service rules of the Directorate General.</p> <p>b) The result of the M.Phil Degree was notified by the University of Peshawar on 03.08.2016 while closing date of the advertisement was 24.04.2016 and interview was conducted on 08.06.2016 but 07 marks of one step higher qualification awarded.</p>	<p>The Committee observed that the Administrative Department has raised the issue which was the domain of Project Shortlisting and Selections Committees as provided in the Project Policy. To a query as to whether proper procedure was adopted by both the Committees, representative of the Administrative Department categorically informed the Anomaly Committee that proper procedure was followed by both the Committees. As such and as per clarification of the Administrative Department it was unanimously agreed that this is not an anomaly and Administrative Department may settle the issue at their own level and follow the recommendations of Shortlisting and Selection Committees.</p>
Establishment of 100 Family Welfare Centres FWCs in Khyber Pakhtunkhwa	Helper/Dai/Aya	<p>The issue of training at the time of recruitment i.e. most of the Helper/Dai/Aya recruited before 17.02.2017 under the project were having experience certificate instead of training. The Directorate General amended service rules on 17.02.2017 and the word "trained" was deleted.</p>	<p>The Committee observed that the service rules have been amended to the benefit of the incumbent and the training has been done away with therefore, there seem no anomaly at all. The Administrative Department may issue regularization notification accordingly.</p>
	Mst. Ruby Rehman FWW	<p>It was observed during the scrutiny that the incumbent FWW Mst. Ruby Rehman, was murdered/died on 30.07.2018 and the</p>	<p>The Committee observed that although she died before her</p>

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VII. Sports Department

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendations of the Anomaly Committee
Establishment of Engineering Wing	03 Nos. of Site Engineer (BS-17)	Nomenclature of 03 Civil Engineers was reflected as Sub-Divisional Officer (SDO) in PC-I of the project. Finance Department notified the same posts as Site Engineers. The Civil Engineers working in the Engineering Wing have broader job description, they not only supervise sites but also work at the department like preparations of PC-I, input on ADP, Monitoring of C&W portfolio etc and requested that the same may be amended as per the analogy of Public Works Department.	The committee observed that as Finance Department has re-designated the 03 posts of Sub-Divisional Officers as Site Engineers (BS-17) so there is no anomaly involved.
	i. Site Engineer (BS-17) ii. Architect (BS-17) iii. Sub-Engineer (BS-16) iv. Draftsman (BS-15)	The issue of service structure (issues of promotion and posting transfer) of the incumbents is not clear from the Regularization Act, 2018 that whether the regularized staff will be merged in the Establishment Department for the promotion purpose or otherwise. The service structure for the post of Sub-Divisional Officer, Architect/Designer, Sub-Engineer and Draftsman.	Service structure at this stage is premature and is the internal issue of the department; therefore, the Administrative Department may settle the same through SSRC.
		Fixation of 30% Secretariat/Special Allowance.	The committee observed that the instant issue is not an anomaly.

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V. Local Government Department

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendations of the Anomaly Committee
Establishment of Planning Cell	02 Nos of Assistant (BS-16)	<ul style="list-style-type: none"> > The issue of service structure of employees i.e., Assistants, Computer Operator, Driver, Naib Qasids & Muslim Sweeper. > Placement of employees. 	<ul style="list-style-type: none"> > Service structure is not an anomaly and is the responsibility of the Standing Service Rules Committee (SSRC). > Planning Cells shall form part and parcel of Provincial Planning Service (PPS).
	One No. of Computer Operator (BS-16)		
	03 Nos. of Drivers (BS-03)		
	02 Nos. of Naib Qasids (BS-03)		
	One No. of Sweeper (BS-03)		

VI. ST&IT Department

Name of the Project Regularized	Category/Scale of the Employees having anomaly	Issues	Recommendations of the Anomaly Committee
Common Application for Government Departments (E-Office)	<ul style="list-style-type: none"> i. Project Manager (BS-18) ii. Application Manager (BS-17) iii. E-Office Trainer (BS-16) iv. Web Developer (BS-16) v. Office Assistant (BS-14) vi. Assistant IT Manager (BS-16) vii. Support Engineer (BS-16) viii. Assistant IT-Manager (BS-16) ix. Computer Operator (BS-16) x. Office Peon (BS-04) xi. Driver (BS-07) 	<p>The issue of adjustment of the employees in their respective five departments where they are working i.e. Establishment, Administration, Elementary & Secondary Education, ST&IT and Health Departments.</p>	<p>Since posts have already been created by the Finance Department, therefore, in order to settle the anomaly, all the positions may be shifted/placed / adjusted at the strength of Staff Training Institute (STI).</p>
	Computer Operator (BS-16)		

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IV. Relief, Rehabilitation and Settlement Department

Name of the Project Regularized	Issues	Remarks
	Posts adjustment in PDMA	
Provincial Reconstruction, Rehabilitation & Settlement Authority (PaRRSA) under PDMA		With regard to adjustment/merger of PaRRSA employees the competent authority (Chief Minister) has approved the recommendations of the Committee set up in Finance Department thus the issue has been resolved.
Summary		
Total Sanctioned Strength	= 68	
Posts to be created/adjusted by Finance Department	= 68	
Breakup of employees		
Officers	27	
Accounts Assistant	01	
Computer Operator	11	
Office Assistant	07	
Sub Engineer	04	
Helpline Assistant	01	
Petty Cash Clerk	01	
Receptionist	01	
Naib Qasid	07	
Driver	06	
Sweeper	01	

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

20 Annex 'B'

Dated Peshawar, the NOVEMBER 01, 2019

(7)

NOTIFICATION

No. SOE-V(E&AD)/5-09/2009:

In light of the decision of Provincial Cabinet in its meeting held on 09-05-2019 as well as recommendations of Ministerial Committee, the following employees of the project "Office Automation System Pilots for 05 Departments (Reg Act)" temporarily regularized in Staff Training Institute vide this Department Notification of even No. dated 30-04-2019, are hereby regularized permanently in Staff Training Institute under DDO code PR-8089 w.e.f the date of promulgation of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 i.e 07-03-2018:-

S#	Name	Designation with BPS
1.	Muhammad Bilal Khattak	Deputy Director IT/ Manager IT (BS-18)
2.	Syed Rehman Mashwani	Programmer / Assistant Director IT (BS-17)
3.	Mian Haseeb Uddin	Trainer (BS-16)
4.	Muhammad Hamid	Assistant Manager IT (BS-16)
5.	Khalid Khan	Assistant Manager IT (BS-16)
6.	Tariq Kamal	Assistant Manager IT (BS-16)
7.	Muhammad Usman Khan	Assistant Manager IT (BS-16)
8.	Muhammad Younas	Assistant Manager IT (BS-16)
9.	Syed Muhammad Abdullah	Network Engineer (BS-16)
10.	Muhammad Adil	Network Engineer (BS-16)
11.	Muhammad Asim Ali	Assistant Programmer (BS-16)
12.	Falzan Abbas	Assistant (BS-16)
13.	Noman	Computer Operator (BS-16)
14.	Mushtaq Hussain	Computer Operator (BS-16)
15.	Rehmat Hadl	Computer Operator (BS-16)
16.	Jamal Ahmad	Computer Operator (BS-16)
17.	Fawad Nazir	Computer Operator (BS-16)
18.	Shakir Ullah	Computer Operator (BS-16)
19.	Ijaz Hussain	Computer Operator (BS-16)
20.	Muhammad Junaid Khan	Computer Operator (BS-16)
21.	Sajjad Hussain	Computer Operator (BS-16)
22.	Aman Gul	Computer Operator (BS-16)
23.	Muhammad Ramzan	Computer Operator (BS-16)
24.	Faran Kamal	Computer Operator (BS-16)
25.	Usman Khan	Computer Operator (BS-16)
26.	Muhammad Asad Khan	Computer Operator (BS-16)

P.T.O

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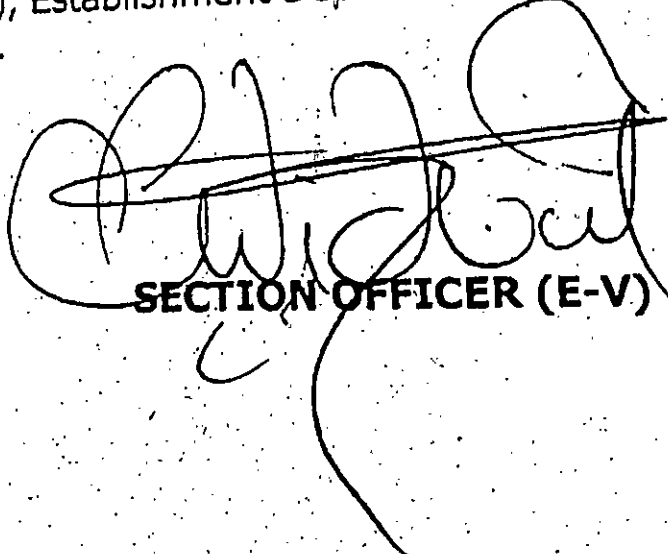
27.	Fawad Ahmad	Computer Operator (BS-16)
28.	Abdul Wali Khan	Driver (BS-06)
29.	Muhammad Taifullah	Naib Qasid (BS-03)

**SECRETARY ESTABLISHMENT
GOVT. OF KHYBER PAKHTUNKHWA**

Endstt: No. & Date Even.

Copy forwarded to the following for information:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director, Staff Training Institute, Administration Department.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. Section Officer (Budget & Dev), Administration Department.
6. Section Officer (O&M), Establishment Department.
7. PS to Secretary, Finance Department.
8. PS to Secretary, Establishment Department.
9. PS to Secretary, Administration Department.
10. PS to Secretary, ST&IT Department.
11. PA to Deputy Secretary (Estt), Establishment Department.
12. Officers / Officials concerned.


SECTION OFFICER (E-V)

~~RECEIVED~~

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMIN. DEPT.

(CABINET WING)

No. SOC(E&AD)9-15/2019

Dated Peshawar the 14th May, 2019.

2019/5/15

15/5/19

15/5/19

22

The Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department.

D-11

**SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09.05.2019.**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09.05.2019 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

**ADDITIONAL ITEM NO. 08
SETTLEMENT OF ANOMALIES ARISING OUT IN THE WAKE OF PROMULGATION OF THE
KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018**

Decision of the Cabinet:

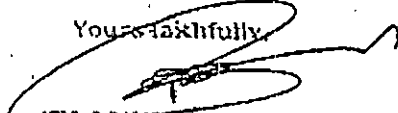
The Cabinet approved recommendations of the Ministerial Committee as under-

- i) With regard to contingent/fixd pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, without adopting codal formalities under Project Policy, it was agreed that those contingent employees, 35 in number, (31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the Writ Petition No. 6553-Pr2018, dated 12.03.2019.
- ii) A Grievances Redressal Committee headed by Establishment Department consisting of representatives from Finance, Law and concerned administrative departments may be constituted. The Grievances Redressal Committee would report to the same ministerial committee.
- iii) All the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/placed at the strength of attached formations of respective administrative departments except the positions of Planning Cells.

Implementing Department: Establishment

2 I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1955 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.


ATTESTED

Yours faithfully,

(TAJ MUHAMMAD)
SECTION OFFICER (CABINET)

ENDST. NO. & DATE EVEN.

Copy to:-

- 1. P.S to Secretary Administration Department.
- 2. PA to Deputy Secretary (Cabinet) Administration Department.


SECTION OFFICER (CABINET)

SO (OM)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(CABINET WING)

NO. SOC (E&AD)9-15/2019

Dated Peshawar the 14th MAY 2019

TO

The Secretary Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject: **DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09-05-2019**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09-05-2019 under the Chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

ADDITIONAL ITEM NO. 08

SETTLEMENT OF ANOMALIES AMOUNT ARISING OUT IN THE WAKE OF PROMULGATION OF EH KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES), ACT 2018

Decision of the Cabinet:

The Cabinet approved recommendation of the Ministerial Committee as under:

- i) With regard to contingent/fixed pay/daily wage staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees (35 in number, 31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the writ petition no. 6553-P/2018 dated 12.03.2019.
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- iii) All the position created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2018 shall be created/placed at the strength of attached formations of respective administrative Departments except the positions of Planning Cells.

Implementing Department: Establishment

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours Faithfully,
(Taj Muhammad)
Section Officer (Cabinet)

ATTESTED
to be true copy
Advocate

ATTESTED