

30.03.2018

None for the appellant present. Notices be issued to the appellant and his counsel. Adjourned. To come up for preliminary hearing on 20.04.2018 before S.B.


(Ahmad Hassan)
Member

20.04.2018

None for the appellant present. Notices be issued to the appellant and his counsel. Adjourned. To come up for preliminary hearing on 08.05.2018 before S.B.


(Ahmad Hassan)
Member

08.05.2018

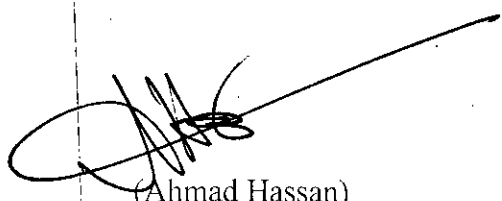
The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 05.07.2018.


Reader

05.07.2018

Counsel for the appellant present Counsel for the appellant requested for withdrawal of the instant appeal. In this respect his signature also obtained in the margin of the order sheet. Request accepted and the appeal in hand is therefore, dismissed as withdrawn . File be consigned to the record room.

ANNOUNCED:
05.07.2018

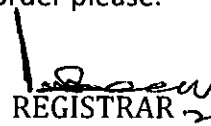


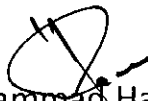

(Ahmad Hassan)
Member

Six, I wish to withdraw the instant appeal
counsel for appellant Farid Advocate 5/7/018

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 277/2018

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|------------|--|--|
| 1 | 2 | 3 |
| 1 | 28/02/2018 | <p>The appeal of Mr. Imran Ali presented today by Mr. Tariq Kamal Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 28/2/18</p> |
| 2- | 01/03/18.  | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| 12.03.2018 | | <p>None present on behalf of the appellant. Adjourned. To come up for preliminary hearing on 30.03.2018 before S.B</p> <p style="text-align: center;"> (Muhammad Hamid Mughal) Member</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No 277 /2018

Imran Ali SRO (Sugarcane Agronomy) SCRI, Mardan

.....Appellant

VERSUS

Secretary Agriculture Government of Khyber
Pakhtunkwa, and others

.....Respondents

I N D E X

| S.No | Description of Documents | Annex | Pages |
|------|--|-------|-------|
| 1. | Appeal | | 1-3 |
| 2. | Affidavit | | 4 |
| 3. | Copy of the Judgment dated 17.07.2012 | A | 5-9 |
| 4. | Copy of Notification dated 16.08.2016 | B | 10-11 |
| 5. | Copy of Departmental Appeal | C | 12-13 |
| 6. | Wakalat Nama | | 14 |

Appellant

Through

Tariq Kamal
Tariq Kamal 27/2/18
Advocate, High Court
Peshawar
Cell#0301-5932818

Dated:- 26.02.2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 282

Dated 28/2/2018

Service Appeal No. 277 /2018

Imran Ali SRO (Sugarcane Agronomy) SCRI, Mardan

.....Appellants

VERSUS

1. Secretary Agriculture Government of Khyber Pakhtunkhwa.
2. Chief Secretary Govt of Khyber Pakhtunkhwa.
3. Director General Agriculture Research IDS Building Agriculture University Peshawar.

.....Respondents

APPEAL U/S 4 OF KP SERVICES
TRIBUNAL ACT, 1974 TO THE
EFFECT THAT PROMOTION OF THE
APPELLANT BE CONSIDERED FROM
DATED 06.02.2006 WHEN THE
OFFICER JUNIOR TO THE
APPELLANT WAS PROMOTED.

Filed to-day
Registrar
28/2/18.

PRAYER IN APPEAL:-

ON ACCEPTANCE OF THE INSTANT
APPEAL THE PROMOTION OF
APPELLANT MAY PLEASE BE

CONSIDERED FROM DATED
06.02.2006 WITH ALL ITS BENEFITS
ACCORDING TO RULES.

Respectfully Sheweth:-

Brief Facts:-

1. That an anomalous and defective procedure for determination of seniority and promotion was in practice in Agriculture Research System due to which the officer Junior to the appellant namely Dr. Zaheer Ullah was promoted on dated 06.02.2006.
2. That this issue of defective determination of seniority and promotion has been decided by the Hon'ble Services Tribunal vide its judgment dated 17.07.2012. **(Copy of the Judgment is attached as Annexure "A")**.
3. That the appellant has been promoted to BS-18 vide notification dated 16.08.2016. **(Copy of the Notification is attached as Annexure "B")**.
4. That the appellant submitted an appeal before the competent authority for considering the promotion of the appellant since 06.02.2006 according to rules as a junior officer to the appellant was promoted on the questioned date but to no avail, hence the instant appeal. **(Copy of appeal dated 03.11.2017 is attached as Annexure "C")**.

GROUNDS:-

- A. That the promotion of the junior officer to the appellant was a result of defective procedure adopted by the department, which has been declared as null and void by the Hon'ble Tribunal.
- B. That according to law on the subject and judgments of the Superior Courts the promotion with all benefits of Senior Officer must be considered from the date when his immediate Junior was promoted earlier to him, same is the case of the appellant.
- C. That any other grounds in respect of the instant Appeal will be raised at the time of arguments with prior permission of the Hon'ble Tribunal.

It is, therefore, most humbly prayed that On acceptance of the instant appeal the promotion of Appellant may please be considered from dated 06.02.2006 with all its benefits according to rules.

Tariq Kamal
Appellant

Through

Tariq Kamal Advocate
Tariq Kamal 27/2/018
Advocate, High Court
Peshawar

Dated:- 26.02.2018

VERIFICATION:-

It is to certify that no appeal etc has been submitted on the subject earlier to the instant one.

DEPONENT

Tariq Kamal Advocate
27/2/018

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2018

Imran Ali SRO (Sugarcane Agronomy) SCRI, Mardan

.....**Appellant**

VERSUS

Secretary Agriculture Government of Khyber
Pakhtunkwa, and others

.....**Respondents**

A F F I D A V I T

I, Imran Ali SRO (Sugarcane Agronomy) SCRI, Mardan, do hereby solemnly affirm and declare on Oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

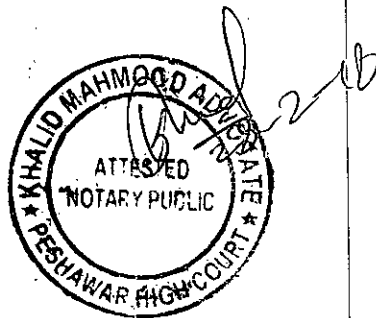
Identified by:-

Imran Ali

DEPONENT

CNIC#

Tariq Advocate
Tariq Kamal 27/2/018
Advocate, High Court
Peshawar



BEFORE THE PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1146/2011

Date of Institution 10.6.2011
Date of Decision 17.7.2012

Imran Ali Research Officer, ART, Tarnab.

(Appellant)

VERSUS

1. Director General, Agriculture Research, IDS Building, Agricultural University Khyber Pakhtunkhwa, Peshawar
2. Government of Khyber Pakhtunkhwa through Secretary, Food, Agriculture, Livestock and Cooperation Department, Peshawar.
3. Vice Chancellor, Khyber Pakhtunkhwa Agriculture University, Peshawar.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 19/4, AGAINST THE ORDER/LETTER DATED 13.5.2011 OF RESPONDENT NO. 1 WHEREBY REPRESENTATION OF THE APPEAL HAS BEEN REJECTED.

MR. AKHTAR ILYAS,
Advocate

For Appellant

MR. ARSHAD ALAM,
Addl. Government Pleas

For respondents

SYED MANZOOR ALI SHAH,
MR. FAREEDULAH KHAN,

MEMBER
MEMBER

JUDGEMENT

SYED MANZOOR ALI SHAH, MEMBER:- This appeal has been filed by Mr. Imran Ali, Research Officer, Agriculture Research Institute, Tarnab Peshawar, under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 19/4, against the order dated 13.5.2011, whereby his representation has been rejected.

2. Brief facts of the case are that initially services of the employees of the Agriculture Research were governed by the general rules applicable to the civil servants in the Khyber Pakhtunkhwa. These rules were replaced by the Khyber Pakhtunkhwa Agriculture Department (Recruitment and Appointment) Rules, 1981. Vide notification dated 2.2.2008, some amendments were made in 1981 rules, introducing certain changes in the method of recruitment for various post.

Tasim Advocate
ATTORNEY 27/2/018

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in the Agriculture Research Wing. These rules do carry Schedule-II wherein subject groups are provided. These subject groups are practically followed by recruiting the officials having qualification of the same subject nor they provide for a separate cadre but separate seniority is awarded to the officers of each separate subject groups. These groups are optional and any officer having Bachelors Degree or above in any Agricultural related subjects can enter into any group. The officers in functional groups consisting of smaller number of officers/officials are getting rapid promotion than the officers/officers who happened to fall in larger functional groups. To remove the anomaly the Director General Agriculture Research office (respondent No. 1) addressed a letter dated 27.11.2010 to respondent No. 2 wherein he requested for abolition of Schedule II from the rules of 1981. Feeling aggrieved, the appellant filed Writ Petition No. 42/2011, vide order dated 15.2.2011, the writ was disposed of and it was treated as a representation before the departmental authority, and sent to Secretary, Food, Agriculture, Livestock and Cooperation Department, Peshawar for decision strictly in accordance with law within a month's time. The representation was rejected vide order dated 13.5.2011, hence the present appeal.

3. The appeal was admitted to regular hearing on 6.7.2011 and notices were issued to the respondents. Respondents No. 1 and 2 have filed their joint written reply and contested the appeal.

4. Arguments heard and record perused.

The learned counsel for the appellant argued that the functional groups (subject groups) formed vide schedule-II of the 1981 Rules are meant only for efficient working of specialized and well-trained scientists in their respective subjects and they do not constitute separate cadres that may justify seniority and promotion in each functional group. Such a practice adopted by the respondent department due to misinterpretation and misuse of rules. The functional groups are optional and are not subject related. He further argued that these functional groups and the separate promotion within the groups have given irrational results. The officers in smaller functional groups get rapid promotion while in the larger groups the process of promotion is very slow. He stated that functional groups do not constitute separate cadres notwithstanding, the matter of seniority in the respondent department is regulated by Section 8 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, which provide that the interse seniority of the officers shall be maintained at a

ATTESTED

Tarid Advocate
27/2/18

position of lower grade seniority based on their first entry into the service. This controversy has already been set at rest not only by the Establishment & Administration Department in the case of M/S Dilrosh and Fabeem Jan but also by the Hon'ble High Court vide judgment dated 26.5.2004. Subsequent amendments in Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 also support the appellant's plea. The learned counsel for the appellant contended that Rules of 1981 are also discriminative in nature and are required to be brought at par with those of other Wings of the respondent department by abolishing/deleting the clauses of initial recruitment, as envisaged by para (b) in column 6 against the post of Senior Research Officer (BFS-18). He further contended that the incumbent posts are mostly administrative and the higher qualification of Ph.D is seldom a need for running the affairs connected with these offices, rather it is the experience which should be more relevant for the efficient working against these posts, hence the initial recruitment on the basis of Ph.D degree against the administrative posts would serve no useful purpose. He requested that the appeal may be accepted and the respondents may be directed to treat the subject groups as envisaged by schedule-II to the 1981 rules as a single cadre and they be restrained from issuance of separate seniority lists for each functional group and abolish the subject/functional groups. If the functional groups remained intact, then the respondents be directed to award seniority to the officers on the basis of their initial induction in service in accordance with notification of provincial government dated 19.11.2009 and judgment in Writ Petition No. 81/2002.

The learned AGP on the other hand argued that Rules of 1981 were framed by the provincial government to improve research system in the agriculture sector. Schedule II is meant for the purpose to accommodate the suitable candidates having specialized degrees in their relevant subject groups. The candidates having irrelevant degree cannot be appointed against the post of non specialized vacancies. He further argued that no anomalies/irregularities have been done in the department. Every officer can easily work on their subject functional group after recruitment/appointment according to his subject functional group in the relevant group having the knowledge of all the instruments in their laboratory. He stated that the seniority of the officers is maintained in the department from the date of induction into service according to 1981 Rules (Schedule-II) which clearly mentioned that the interse seniority of civil servants in a certain cadre in which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular

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Tarek Advocate

27/2/08

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appointment/promotion of the civil servants in the lower posts. Certain cadre means functional group; every functional group maintained seniority of the Research Officer from their date of appointment under the rules. The question of pick & choose ^{does} not arise because highly qualified and Ph.D candidates are appointed after competitive examinations through Public Service Commission after advertisement of the posts in newspapers. He requested that the appeal may be dismissed.

7. The Tribunal observes that groups constituted are meant for efficient working and are not separate cadres, the groups are not subject related and does not have specific criteria/requirements and optional. The matter of seniority of civil servants is regulated under Section 8 of Khyber Pakhtunkhwa Civil Servants Act 1973, and Section 17 (amended) of the Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules 1989, according to which the inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post. Vide judgment dated 20.5.2004, the Hon'ble Peshawar High Court accepted Writ Petition No. 81/2002, No. 437/2002 and 279/2007 set aside the impugned orders with direction to respondent department to prepare a fresh joint list of Senior Research Officers irrespective of their functional group and seniority within the group and to undertake fresh process for filling of posts in question strictly in accordance with the Khyber Pakhtunkhwa Agriculture Department (Recruitment and Appointment) Rules, 1981 with reference to Schedule-1 for the appointment of Director/Coordinator Agriculture Research. The decision of S&GAD in the case of M/S Dilrosh and Tasleem Jan also supports appellant's case. The Tribunal in view of the above accepts the appeal to this extent whereas in case of prescribing specific qualifications for BPS-18 (Ph.D in this case) is the prerogative of the government as it deems fit for initial recruitment. Parties are left to bear their own costs. File be consigned to the record. right due

This judgment will also dispose of other connected appeals No. 974/2011 Muhammad Hussain, No. 1147/2011 Marizoor Akbar, No. 1148/2011 Noora Jan, No. 1149/2011 Muhammad Iqbal, No. 1150/2011 Jan Muhammad, No. 1151/2011, Muhammad Rafiq, No. 1152/2011 Abdul Majeed, No. 1153/2011 Zubir Shah, No. 1154/2011 Abdur Rauf, No. 1155/2011 Süleman Ali, No. 1156/2011 Imtiaz Ahmad, No. 1157/2011 Abdul Qayum, No. 1158/2011 Tehseenullah Khan, No. 1159/2011 Sahib Zada Rashid Ahmad, No. 1160/2011

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Tarid Advocate

27/2/018

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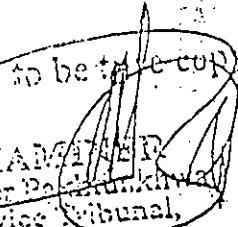
Muhammad Ibrar, No. 1161/2011, Dr. Bashir Ahmad, No. 1162/2011 Akram Khan, No. 1163/2011 Zahoor-ul-Haq, No. 1164/2011 Mir Abbas Khattak, No. 1165/2011 Mahabat Khan, No. 1166/2011 Muhammad Javed, No. 1167/2011 Sadur Rehman, No. 1168/2011 Tariq Jan, No. 1169/2011 Muhammad Aqeel, No. 1170/2011 Ayub Jan, No. 1171/2011 Zameer Hussain, No. 1172/2011 Shah Sawar, No. 1173/2011 Azim Khan, No. 1174/2011 Inayat Hussain, No. 1175/2011 Nazir Ahmad, No. 1176/2011 Humayun Khan, No. 1177/2011 Sharafat Gul, No. 1178/2011 Muhammad Anwar, No. 1179/2011 Habibullah, No. 1180/2011 Tahir Sajjad, No. 1181/2011 Ghulam Rasool in the same manner.

ANNOUNCED
17.7.2012.


(FAREEDULLAH KHAN)
MEMBER


(SYED MANZOOR ALI SHAH)
MEMBER

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 17-7-2012
Number of 2000
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Urgent _____
Fee _____
Date of Copy _____
Date of Copy 12-7-2012
Date of Delivery 12-7-2012

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Tarid
Advocate
37/2/018



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the August 16, 2016.

NOTIFICATION

NO. SOE (AD) V-7/2015/RW.-

On recommendations of the Provincial Selection

Board (PSB), the competent authority is pleased to promote the following BS-17 Officer of Agriculture Research to BS-18 on regular basis with immediate effect:-

| Sr.No. | Name of Officer | Sr.No. | Name of officer |
|--------|-------------------------|--------|---------------------------|
| 1. | Mr. Abdur Rauf | 2. | Dr. Mir zoor Akbar |
| 3. | Dr. Imtiaz Ahmad | 4. | Dr. Sadur Rehman |
| 5. | Mr. Abdul Majeed | 6. | Mr. Muhammad Subhan |
| 7. | Mr. Muhammad Sulman | 8. | Dr. Amjad Khan |
| 9. | Mr. Imran Ali | 10. | Dr. Azim Khan |
| 11. | Dr. Tariq Jan | 12. | Dr. Bashir Ahmad |
| 13. | Mr. Ahmad Said | 14. | Mr. Harayun Khan |
| 15. | Mr. Nazir Ahmad | 16. | Dr. Muhammad Javed Khan |
| 17. | Mr. Inayat Hussain Shah | 18. | Mr. Muhammad Shah Sawar |
| 19. | Dr. Ehsan Ullah | 20. | Mr. Muhammad Anwar |
| 21. | Mr. Nayyar Iqbal | 22. | Syed Mehmood Shah Madni |
| 23. | Dr. Barkat Ali Khan | 24. | Mr. Noora Jan |
| 25. | Mr. Abdur Raqib | 26. | Mr. Muhabat Khan |
| 27. | Mr. Shirin Khan | 28. | Mr. Muhammad Ilyas |
| 29. | Mr. Muhammad Aqeel | 30. | Mr. Muhammad Akram |
| 31. | Mr. Zubair Shah | 32. | Mr. Muhammad Rafiq |
| 33. | Mr. Muhammad Sajjad | 34. | Dr. Muhammad Iqbal |
| 35. | Dr. Khalilur Rehman | 36. | Mr. Niaz Muhammad |
| 37. | Mr. Javed Iqbal | 38. | Mr. Muhammad Ayaz |
| 39. | Mr. Zafar Ali Khan | 40. | Mr. Ziaullah |
| 41. | Mr. Fazli Wahab | 42. | Mr. Ahmad Zada |
| 43. | Mr. Abdul Qayyum | 44. | Mr. Mirza Hassan |
| 45. | Mr. Ayub Jan | 46. | Mr. Tariq Ahmad Jan |
| 47. | Mr. Muhammad Khan | 48. | Dr. Shahzada Arshad Salim |
| 49. | Mr. Hafizur Rehman | 50. | Mr. Falak Naz |
| 51. | Mr. Mahmoodur Rehman | 52. | Mr. Tajir Hussain |
| 53. | Mr. Muhammad Ilyas | 54. | Mr. Nisar Nocom |
| 55. | Mr. Roshan Ali | 56. | Mr. Muhammad Tahir |
| 57. | Mr. Fazal Maula | 58. | Mr. Aminullah |
| 59. | Dr. Rafiq Gul | 60. | Mr. Tahir Sajjad |
| 61. | Mr. Sartaj Ali | 62. | Dr. Ahmad Abbas |
| 63. | Mr. Miftahuddin | 64. | Mr. Faz Akhtar |
| 65. | Mr. Noor Habib | 66. | Mr. Irfan Ullah Khan |
| 67. | Mrs. Sharifa Masroor | 68. | Mr. Muhammad Younus |

ATTESTED

Tasir Advocate
27/8/2018



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the August 16, 2016

| Sr. No. | Name of Officer | Sr. No. | Name of officer |
|---------|---------------------|---------|----------------------|
| 69. | Mrs. Rozina Naz | 70. | Mr. Biland Iqbal |
| 71. | Mr. Sajjad Anwar | 72. | Mr. Nasiruddin |
| 73. | Mr. Akhtar Ali | 74. | Mr. Amjad Ali |
| 75. | Mr. Mushtaq Ahmad | 76. | Miss Amna Sadozai |
| 77. | Miss Isma Khurshid | 78. | Miss Zishan Gul |
| 79. | Mr. Muhammad Arif | 80. | Mr. Zahid Iqbal |
| 81. | Mr. Iqrar Hussain | 82. | Mrs. Tayyeba Samreen |
| 83. | Mr. Abdul Qadoos | 84. | Mr. Zahid Salim |
| 85. | Mr. Islam Zada | 86. | Mrs. Bibi Haleema |
| 87. | Mr. Javed Rehman | 88. | Dr. Ghazal Miraj |
| 89. | Mr. Muhammad Khalid | 90. | Dr. Muhammad Asim |
| 91. | Mr. Shahid Ali | 92. | Mr. Mehboob Ahmad |

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

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK AND COOP. DEPTT.

Endst. of even No. & Date.

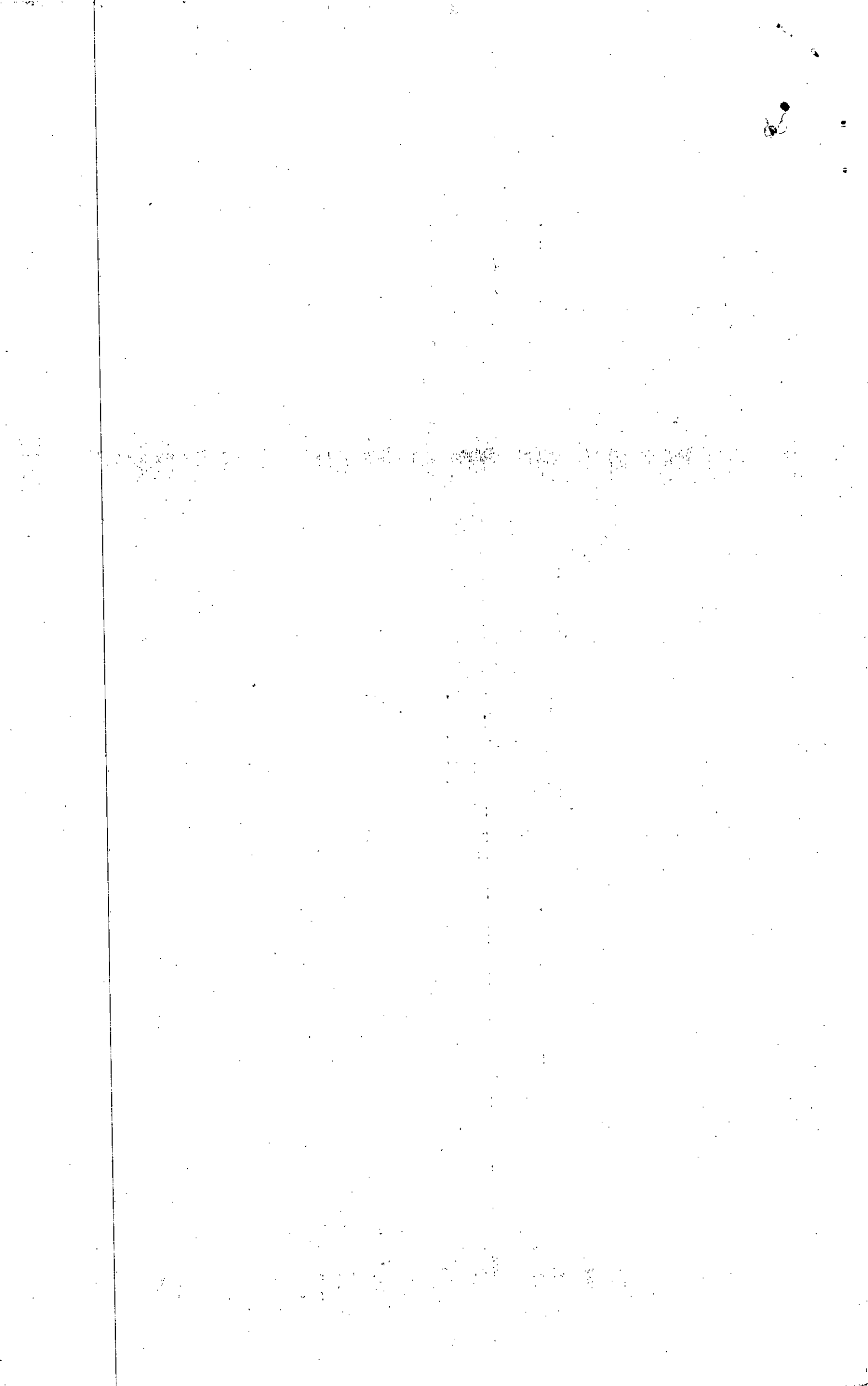
Copy forwarded for information and necessary action to the:-

1. Director General, Agriculture Research, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Officers concerned.
4. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Secretary Agriculture, Khyber Pakhtunkhwa.
7. Personal file of the officer's concerned.
8. Master file.

(Dr. Mir Ahmad Khan)
SECTION OFFICER- ESTT.

ATTESTED

Tarbil
Advocate
27/2/018



12

To

The Honorable Chief Minister
Khyber Pakhtunkhwa

Subject:

**REPRESENTATION/ APPEAL FOR CONSIDERATION OF
PROMOTION OF APPELLANT FROM THE DATE 06/02/2006,
WITH ALL THE BENEFITS.**

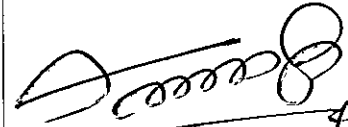
Respected Sir,

The appellant submits as under.

1. That in Agricultural Research System seniority and promotion of the officers were used to be determined and made in functional groups, without adhering to the service rules.
2. That due to the anomalous and defective procedure for the determination of seniority and promotions the officers junior to the appellant namely Dr Zaheer Ullah has been promoted to BS-18 on 06/02/2006.
3. That this procedure has been nullified by the Honorable Services Tribunal, vide its Judgment dated 17/07/2017.
4. That now the appellant has also been promoted to BS-18 vides notification dated 16/08/2016 with immediate effect.
5. That according to civil servant Act 1973 and KP appointment Promotion and transfer rules 1989 the appellant's promotion with all benefits is to be considered from the date which is 06/02/2006, when his immediate junior (Dr Zaheer Ullah) was promoted.

Therefore it is humbly requested that promotion of the appellant with all its benefits may please be considered from dated 06/02/2006 according to rules.

APPELLANT



(IMRAN ALI)
Senior Research Officer
SCRI, Mardan

3/11/2017

NC

Tarid Attested
Advocate
27/2/2018

NOTICE (1) – The Post Office is not responsible for loss or damage in the case of Inland registered articles, unless they are also insured.

(2) – The special conditions and restrictions as to insurance which will be found in the current edition of the Post Office Guide are binding upon every sender of an insured postal article by virtue of rules prescribed under the Pakistan Post Office Act, 1898

