

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Service Appeal No. 16284/2020

Date of Institution ... 24.12.2020

Date of Decision ... 20.10.2021

Mukhtiar Ahmad, Chowkidar (Class-IV), Directorate of Science and Technology Government of Khyber Pakhtunkhwa Peshawar.

... (Appellant)

VERSUS

The Secretary ST & IT, Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and two others.

... (Respondents)

SYED NOMAN ALI BUKHARI,
Advocate

For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate

For respondents.

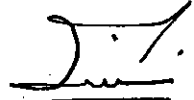
MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

CHAIRMAN
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts as alleged by the appellant in his appeal are that he was appointed as Chowkidar in Department of Directorate of Science and Technology vide appointment order dated 28 November 2011 and is the senior most eligible official for promotion to the post of Junior Clerk under 33% promotion quota of Class-IV having qualified Secondary School Certificate Examination; that there are total number of five posts of Junior Clerks out of which three posts are vacant while two posts have been filled; that keeping in view the ratio of 33% promotion quota for Class-IV and 67% quota allocated




for initial recruitment, two posts are to be filled through promotion while three posts are to be filled by way of initial recruitment; that presently three posts are laying vacant out of which one has been filled through promotion while two posts are to be filled through initial recruitment, however the respondents have ignored the prevalent method of recruitment and have wrongly and illegally advertised all the three vacant posts for its filling through initial recruitment; that the appellant being aggrieved, filed departmental appeal on 08.09.2020 but the same was not responded within the statutory period of ninety days, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their joint reply/comments, wherein they refuted the stance taken by the appellant in his appeal.

3. Learned counsel for the appellant has contended that in view of the quota reserved for promotion as well as initial recruitment, only two posts are available for filling through initial recruitment, however the respondents are blatantly violating the prevalent ratio prescribed for promotion as well as initial recruitment and have advertised all the three posts for filling through initial recruitment; that the PUC moved on the departmental appeal of the appellant clearly supports the stance of the appellant but the respondents are not considering him for promotion with malafide intention and ulterior motive; that it is astonishing that the respondents are considering the promotion quota of 1.65% as 01 post, while the quota of 3.35% for initial recruitment is being considered as 04 posts, which logic of the respondents is not understandable; that the appellant is senior most eligible and qualified Class-IV employee and is entitled to be promoted as Junior Clerk under 33% quota reserved for promotion, therefore, the appeal in hand may be allowed as prayed for.

4. On the other hand, learned Additional Advocate General for the respondents has contended that presently there are three vacant posts of Junior Clerks out of which 2.35% posts are to be filled by initial recruitment while 0.65% posts falls in the promotion quota which is less than one post, therefore, all the three vacant posts have rightly been advertised for its filling through initial recruitment; that the remaining quota reserved for promotion is 0.65% and as Khyber



Pakhtunkhwa Appointment-Promotion-Transfer (APT) Rules, 1989 are silent upon such situation, therefore, 0.65% quota cannot be considered as 01 post for promotion; that appeal of the appellant is wrong and baseless, therefore, the same may be dismissed with cost.

5. Arguments heard and record perused.

6. A perusal of the record would show that there were total five posts of Junior Clerks in the Directorate of Science and Technology Government of Khyber Pakhtunkhwa Peshawar. Keeping in view the ratio of 33 % quota for promotion and 67% quota for initial recruitment, two posts are required to be filled through promotion while three posts are to be filled through initial recruitment. Presently, three posts of Junior Clerks are lying vacant in the department. Copy of the PUC moved upon the departmental appeal of the appellant would show that out of the existing three vacant posts of Junior Clerk, one was vacated due to promotion of Junior Clerk who was promoted as Junior Clerk on the strength of promotion quota. It would mean that previously the department had filled two posts of Junior Clerks through promotion, however the respondents have now taken a different stance and have considered all the three vacant posts of Junior Clerks as reserved for filling through initial recruitment. Keeping in view the relevant quota, one post of Junior Clerk is required to be filled through promotion while two posts are to be filled through initial recruitment.

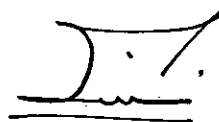
7. In light of the above discussion, respondents are directed to fill one vacant post of Junior Clerk through promotion while two posts of Junior Clerk may be filled through initial recruitment. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

20.10.2021



(AHMAD SULTAN TAREEN)
CHAIRMAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
20.10.2021

Syed Noman Ali Bukhari, Advocate, for the appellant present. Engineer Falak Niaz alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, respondents are directed to fill one vacant post of Junior Clerk through promotion while two posts of Junior Clerk may be filled through initial recruitment. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.10.2021



Chairman



(Salah-ud-Din)
Member (Judicial)

17.06.2021

Appellant in person present.

Mr. Javed Ullah, learned Assistant Advocate General
for respondents present.

Due to general strike of the Bar, case is adjourned to
24.08.2021 for arguments before the D.B.

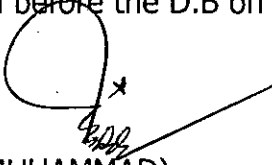

(Rozina Rehman)
Member(J)

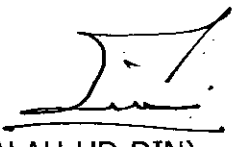

Chairman

24.08.2021

Clerk of counsel for the appellant present. Mr. Muhammad
Rasheed, DDA for the respondents present.

Clerk of learned counsel for the appellant requested for
adjournment on the ground that the learned counsel for the
appellant is unable to appear due to some domestic engagement.
Adjourned. To come up for submission of rejoinder as well as
argument on before the D.B on 20.10.2021.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

18.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondent submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 19.03.2021 on which date file to come up for written reply/comments before S.B.

(Muhammad Jamal Khan)
Member

19.03.2021

Appellant in person present. Addl: AG alongwith Mr. Falak Niaz, AD for respondents present.

Representative of the respondents has submitted written reply which is placed on file.

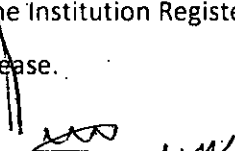

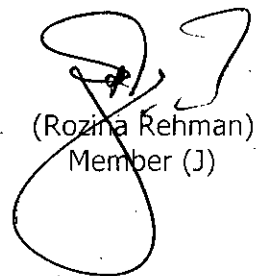
Adjourned to 17.06.2021 for rejoinder and arguments before D4.B.

(Mian Muhammad)
Member (E)

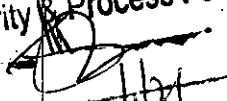
FORM OF ORDER SHEET

Court of _____

Case No.- 16284 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/12/2020	<p>The appeal of Mr.Mukhtiar Ahhmad presented today by Syed Noman Ali Bukhari 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</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/01/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	18.01.2021	<p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on <u>18.02.2021</u> before S.B.</p> <p>Annexed with the memo of appeal is an application for interim relief. Notice of the said application be also issued to respondents for the date fixed.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

Appellant Deposited
Security & Process Fee


18/1/21

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____ /2020

Mr. Mukhtiar Ahmad


V/S

Science & technology Deptt.


.....

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5.	Copy of Rules	-C-	11-15
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Appellant
Mukhtiar Ahmad

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 16284 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16911

Dated 24/12/2020

Mr. Mukhtiar Ahmad, Chowkidar (Class-IV),
Directorate of Science and Technology
Govt of KP Peshawar.



APPELLANT




VERSUS

1. The Secretary ST &IT, Deptt, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director, S &T Directorate of Science and Technology, Peshawar.
3. The Assistant Director Directorate of Science and Technology, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF JUNIOR CLERK UNDER 33% QUOTA FIXED BY THE GOVERNMENT AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT.

Filed to-day

Registrar
24/12/2020

PRAYER:

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF JUNIOR CLERK UNDER 33% QUOTA FIXED BY THE GOVERNMENT FROM HIS DUE DATE/AVAILABILITY OF POST WITH ALL BACK CONSEQUENTIAL BENEFITS AND THE RESPONDENT MAY FURTHER BE

DIRECTED TO WITHDRAW THE ADVERTISED POST OF JUNIOR CLERK WHICH CAME UNDER 33% OF PROMOTION QUOTA OF CLASS-IV. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

1. That the appellant joined the respondent department on 28.11.2018. The appellant more than 9 years service with good record through out at his credit. **Copy of appointment order is attached as annexure-A.**
2. That the appellant is senior most, qualified and eligible for the post of Junior clerk under 33% promotion quota of class-iv as passed F.A with more than 9 years experience. **Copies of Seniority list is attached as annexure-B.**
3. That there are total 5 number of junior clerks post exist wherein 3 post are vacant and 2 filled and after calculation of promotion quota, 1.6 came under 33% promotion quota and 3.3 in direct recruitment quota. So according to the rules 2 post are laying in promotion quota. The appellant is under expectancy upon the one post appellant would be promoted but the deptt: advertised the promotion quota seat with other 2 seats of junior clerk under wrong calculation of quota.
4. That the Government of KPK has fixed 33% quota for Class-IV with SSC qualification for the promotion to the Junior Clerk post. But despite of that fixed quota and having eligibility, the appellant was not consider for promotion to the post of Junior Clerk. **Copy of rules is attached as annexure-C**
5. That the appellant being aggrieved filed Departmental Appeal for his claim on 08.09.2020 and waited for 90 days, but no fruit full result has been received by the appellant so far, hence the appellant constrained to file present appeal on following grounds amongst the others: **Copy of Departmental Appeal is attached as Annexure-D.**

GROUND:

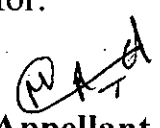
- A) That not considering appellant for the promotion to the post of Junior Clerk under 33% quota is against the norms of justice and material on record.
- B) That the stance of the appellant regards considering under 33% promotion Quota is confirmed from letter dated 17.09.2020 wherein clearly written that under 1.6 ratio 2 promotion can be made. **Copy of the letter is attached as annexure-E.**
- C) That on 26.10.2020 the Assistant Director send letter to Section Officer ST &IT department wherein held that the fraction figure .65 is not covered under the rules then how .35 covered under the rules and seat shown in initial quota under .35%. the vacancy not shown under promotion quota .65%. which was wrongly determined by the deptt with malafide intention, to only deprived appellant from promotion. According the rules always fraction figure moves upward and shall be considered for higher not lower. So the under .65 the one seat shall be available for promotion quota. **Copy of letter is attached as annexure-F**
- D) That the appellant is senior most eligible and qualified Class-IV employee and he is entitled to be promoted as Junior Clerk under 33% reserved quota.
- E) That the appellant has been kept deprived from his legal right of promotion which is not tenable under the norms of justice and fair play.
- F) That the apex Court has already clearly held in case of Anita Turab (PLD-2013 Supreme Court Page No. 195) that matter of tenure, appointment, posting, transfer and promotion, of service could not be dealt with in an arbitrary manner but could only be sustained if it was in-accordance with law. Whenever there was statutory provision or rules or regulation of government the matter of appointment of Civil Servants that must be followed honestly and scrupulously and discretionary must be exercised and structured, transparent and reasonable manner, thus the verdict of the Honorable Supreme Court fully favours the appellant's case.
- G) That the Honorable Apex Court is also given the verdict that every civil servants is the legal right to be dealt with in-accordance with the law and rules under the which is

(4)

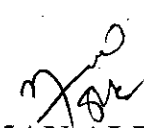
legal service rights are protected. Thus the appellant has legal and genuine claim.

- H) That it is, well settled principle of justice that no one should be suffered from the arbitrary acts of public functionaries and the public functionaries are required to act in accordance with rules and law with fair means. But in case of appellant such principle has been violated.
- I) That the appellant has not been treated according to law, rules.
- J) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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


Appellant
Mukhtiar Ahmad

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.



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

Appeal No. _____/2020

Mr. Mukhtiar Ahmad

V/S

Science & technology Deptt.

.....

**SUBJECT: APPLICATION FOR RESTRAINING
THE RESPONDENTS FROM
FINALIZING THE RECRUITMENT
PROCESS AGAINST THE POST OF
JUNIOR CLERK TILL THE DISPOSAL
OF MAIN APPEAL.**

.....

RESPECTFULLY SHEWETH:


1. That the above titled appeal filed for consideration of promotion to the post of Junior Clerk under 33% Quota and which not date is fix yet so far.
2. That there are total 5 number of junior clerks post exist wherein 3 post are vacant and 2 filled and after calculation of promotion quota, 1.6 came under 33% promotion quota and 3.3 in direct recruitment quota. So according to the rules 2 post are laying in promotion quota. The appellant is under expectancy upon the one post appellant would be promoted but the deptt: advertised the promotion quota seat with other 2 seats of junior clerk under wrong calculation of quota.
3. That now the Now the Deptt going to conduct test for initial recruitment against the post of Junior clerk on the disputed post. If the initial recruitment was made against the said post then the appellant's case will be suffered a lot and will be become infructuous.
4. That the appellant has a good prima facie case and all the ingredients are in favour of appellant.
5. That if the respondents are not restrained from finalizing the recruitment process till the Disposal of the above mention appeal. then the appellant will suffer from irrespective loss.

It is, therefore, most humbly prayed that the respondents may be restrained from finalizing the recruitment process on the disputed

post till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.


Appellant
Mukhtiar Ahmad

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct.


Deponent



DIRECTORATE OF SCIENCE AND TECHNOLOGY
Govt of Khyber Pakhtunkhwa, Peshawar.

TF: 250 3rd Floor, Deans Trade Center Sadar CANTT

091-9212881, 9212583, 9212676, 9212413, 9212254

<http://www.dost.gov.pk>



1887

Dated November 28, 2011

ORDER.

No. Dirtt:/S&T/KP/1-70/SNE/2011 Under Rule 10 sub-rule (2) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with amendment made vide Notification No. SOR-VI(E&A)11-13/2005 dated 10.08.2005 Mr. Mukhtiar Ahmad S/O Farid Khan bearing Employment Exchange registration No. 3663/NF/11 resident of Dalazak Road Gulozi Peshawar, is hereby appointed as Chowkidar (BPS-01) (4800-150-9300) against an existing vacancy in Directorate of Science & Technology with immediate effect on the following terms and conditions:-

- I. He will get pay at the minimum of BPS-01 including usual allowances and as admissible under the Rules. He will be entitled to annual increment as per policy of the Provincial Government.
- II. He shall be governed by the NWFP Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there- under.
- III. He shall, for all intents and purposes be treated as Civil Servants except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled for Contributory Provident Fund (C.P.F) in the prescribed manner.
- IV. In case he wishes to resign at any time 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
- V. He shall produce a Medical Certificate of fitness from Medical Superintendent, Service Hospital, Peshawar, before joining duties, as required under the rules.
- VI. He has to join duties at his own expenses.

If he accepts the post on these conditions, he should report for duties to the undersigned within 14 days of the receipt of this order.

-sd-
Director S&T

Endst of even No. & date.

Copy forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary, ST & IT Department.
3. Section officer (G), ST&IT Department.
4. Manager Employment Exchange, Peshawar.
5. Official concerned
6. Personal file.

25
Deputy Director (S&T)

He
ACCEPTED

08

To

The Deputy Director,
Directorate of Science and Technology,
Khyber Pakhtunkhwa.

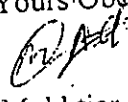
Subject:

ARRIVAL REPORT

Dear Sir,

In pursuance of Directorate of Science and Technology, Khyber Pakhtunkhwa, order No. DirTT/S&T/KP/1-70/SNE/2011 dated 28th November, 2011, I Mukhtiar Ahmad S/O Farid Khan of District Peshawar submit my arrival report for duty as a Chowkidar in the Directorate of Science and Technology, Khyber Pakhtunkhwa. today i.e 29-11-2011.

Yours Obediently,


(Mukhtiar Ahmad)
S/O Farid Khan
District Peshawar



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



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

To

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

Subject: **TENTATIVE SENIORITY LISTS**

Attached herewith is the tentative seniority lists for your information.

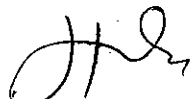
If you have any objection on this seniority list, it may be communicated to this
office within one month time after its receipt please.


Director S&T 31/5/20

Copy to:

PS to Secretary ST&IT Department for information please.

Director S&T


ATTACHED



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



NOTIFICATION: 3171
No. SOE/ ST&IT/ KP/ 2-36/ KC/ 2018-19

In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and keeping in view of their dates of initial appointment (ad hoc as well as regular dates of appointment), absorption of staff of erstwhile IT Directorate into the Directorate of S&T after KP IT Board Amendment Act 2018, Khyber Pakhtunkhwa, Ad hoc employees of Directorate of Information Technology (Regularization of Services) Act, 2016 which has been promulgated by the Provincial Assembly Section 4 (Determination of Pay Scales) & 5 (Determination of Seniority), the tentative joint Seniority list of Naib Qasids, Chowkidars and sweepers (as stood on 4-1-2020), Directorate of S&T, Khyber Pakhtunkhwa, is hereby notified/circulated for general information.

S. No	Name Of Officer/ Official	Father Name	Qualification	Domicile	Date Of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Adul Rahim Naib Qasid BS-04	Dost Ali Khan.	Middle	Bannu	20-4-1983	02-12-2003	02-12-2003	Direct appointment
2.	Tahir Gul Sweeper BS-04	Ajab Gul	--	Mardan	1983	28-2-2004	28-2-2004	Direct appointment
3.	Mohammad Ishaq Chwkdar BS-04	Shujat Khan	Middle	Charsadda	1-1-1985	28-2-2004	28-2-2004	Direct appointment
4.	Sabit Khan Naib Qasid BS-03	Raza Khan	Middle	Peshawar	1980	28-11-2011	28-11-2011	Direct appointment
5.	Mukhtiar Ahmad Chwkdar BS-03	Farid Khan	FA	Peshawar	4-3-1987	28-11-2011	28-11-2011	Direct appointment
6.	Mohammad Arsalan N/Q BS-03	Abdul rahim	BA	Peshawar	1-12-1993	4-4-2013	4-4-2013	Direct appointment
7.	Waris Khan N/Q BS-04	Khan Pasand	SSC	Peshawar	15-05-1977	10-02-2004	16-1-2007	Direct appointment
8.	Abdul Naveed Naib Qasid BS-04	Abdul Wahid	--	Peshawar	15-12-1979	10-02-2004	16-1-2007	Direct appointment
9.	Falak Niaz Chowkidar BS-04	Nawaz Khan	SSC	Peshawar	08-06-1972	28-11-2004	16-1-2007	Direct appointment
10.	Fazal Wahid Naib Qasid BS-03	Gul Zameer	Middle	Peshawar	17-11-1979	26-01-2018	26-01-2018	Direct appointment
11.	Shahrayer Chowkidar BS-03	Raza Khan	Middle	Peshwar	5-02-1995	26-1-2018	26-01-2018	Direct appointment

DIRECTOR (S&T)

Copy to:
PS to Secretary ST&IT Department for information please.

DIRECTOR (S&T)

(Better Copy = C11)

GOVERNMENT OF THE KHYBER PAKHTUNKHWA SCIENCE AND TECHNOLOGY
AND INFORMATION TECHNOLOGY DEPARTMENT

Dated: 31-01-2020

NOTIFICATION

No.SOE/ST&IT/KP/2-36/2018-19/VOL:VI: In pursuance of the provisions contained in sub-rule (2) of rule (3) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and supersession of all previous notification issued in this behalf, the science and technology and information technology department consultant with the establishment department and the finance department, hereby lays down the method of recruitment, qualification and other conditions specified in columns No. 3 to 5 of the appendix to this notification which will be applicable to the posts specified in column No. 02 of the said appendix borne, in the Khyber Pakhtunkhwa Director General, Directorate of Science and technology.

APPENDIX

S.No	Nomenclature of the posts	Minimum qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	2	3	4	5
1	Director General (BPS-20)			By promotion, on the basis of seniority cum fitness, from amongst the Directors and Additional Directors of information technology of director of science and technology holding the posts in BPS-19 or ten years service in BS-18 and above or seventeen years service in BPS-17 and above, and have successfully completed Senior Management Course.
2	Director / Additional Director IT (BPS-19)			By promotion, on the basis of seniority cum fitness, from amongst the Deputy Directors having seven years service in BPS-18 or twelve years service in BPS-17 and above.
3	Deputy Director (BPS-19)			By promotion, on the basis of seniority cum fitness, from amongst the Assistant Directors, Internet and information managers and network mangers having at least years service.



**GOVERNMENT OF THE KHYBER PAKHTUNKHWA SCIENCE AND TECHNOLOGY AND
INFORMATION TECHNOLOGY DEPARTMENT**

Date: 07.01.2020

NOTIFICATION

No.SOE/ST&IT/KP/2-36/2018-1/770 In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Service (Appointment, Promotion And Transfer) Rules, 1989 and supersessions of all posts in this behalf, the Science and Technology and Information Technology Department in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in Columns No. 3 to 5 of the Appendix to this Notification which will be applicable to the posts specified in Column No. 02 of the said Appendix to be in the Khyber Pakhtunkhwa Director General, Directorate of Science and Technology.

INDEX

S. No	Nomenclature of the posts.	Minimum qualification for appointment of candidates.	Age limit.	Method of recruitment.
1	2	3	4	5
1	Director General (BPS-20).			By promotion, on the basis of seniority cum fitness, from amongst the Directors and Additional Directors of Information Technology of Directorate of Science and Technology holding the posts in BPS-19 with at least three years service in BS-19 or ten years service in BS-18 and above or seventeen years service in BPS-17 and above, and have successfully completed Senior Management Course.
2	Director/ Additional Director IT (BPS-19).			By promotion, on the basis of seniority cum fitness, from amongst the Deputy Directors having seven years service in BPS-18 or twelve years service in BPS-17 and above.
3	Deputy Director (BPS-18).			By promotion, on the basis of Seniority-cum-fitness, from amongst Assistant Directors, Internet and Information Managers and Network Managers having at least five years service.

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ATTESTED

4	Assistant Director/Internet and Information Service Manager/Network Manager (BPS-17).	At least Second Class Master's Degree in the field of Physical Science, Biological Sciences, Earth Sciences, Applied Sciences, Computer Science, Information Technology, Agriculture, Forestry, Medicine and Engineering or equivalent qualification from a recognized Universities or Institutions.	24-32 years.	By initial recruitment.
5	Budget and Account Officer (BPS-17).	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Accountants BPS-16 with at least five years service as such.
6	Superintendent (BPS-17).	---	---	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior scale Stenographers, with at least five years service as such.</p> <p>NOTE: Joint seniority of Assistants and Senior Scale Stenographers shall be maintained for the purpose of promotion to the post of Superintendent: provided that when the date of continuous appointment of an Assistant and Senior Scale Stenographer is the same, the Assistant shall be deemed senior to the Senior Scale Stenographer.</p>
7	Assistant Research Officer (BPS-16).	At least Second Class Master's Degree (or BS four years) in Biological Sciences or Bachelor of Engineering in any discipline or equivalent qualification from a recognized University.	24-32 years.	By initial recruitment.

Am

(Better Copy = C13)

8	Senior Scale Stenographers (BPS-16)	i. At least second class bachelor's degree from a recognized university. ii. A speed of seventy (70) words per minute in the short hand in English and thirty five (35) words per minute in typing, and iii. Having knowledge of computer in using MS Office.	24-32 Years	By initial recruitment
9	Assistant (BPS-16)	AT least Second class Bachelor's Degree from a recognized university.	24-32 Years	a. Seventy Five percent by promotion, on basis of seniority cum fitness, from amongst the senior clerks with at least five years service as a senior and junior clerks, and b. Twenty five percent by initial recruitment.
10	Accountant (BPS-16)	At least Second Class bachelor's degree (Finance or Commerce) from a recognized university and having basic knowledge of computer.	24-32 Years	By initial recruitment
11	Computer Operator (BPS-16)	i. At least second class bachelor's degree in Computer Science / Information Technology (BCS/BIT four years) from a recognized university. ii. At least second class bachelor's degree from a recognized university with one year Diploma in information technology from recognized board of technical education.	24-32 Years	By initial recruitment
12	Senior Clerk (BPs-14)	-----	----	By promotion, on basis of seniority cum fitness, from amongst the junior clerks with at least two years service.
13	Junior Clerk (BPS-11)	At least second class second school	18-30 Years	a. Thirty three percent by promotion, on the basis of

8	Senior Scale Stenographers (BPS-16).	<p>(i) At least Second Class Bachelor's Degree from a recognized University.</p> <p>(ii) a speed of seventy (70) words per minute in the short hand in English and thirty five (35) words per minute in typing, and</p> <p>(iii) having knowledge of computer in using MS Office.</p>	24-32 years.	By initial recruitment.
9	Assistant (BPS-16).	At least Second Class Bachelor's Degree from a recognized University.	24-32 years.	<p>a) Seventy five percent by promotion, on basis of seniority-cum-fitness, from amongst the Senior Clerks with at least five years service as a Senior and Junior Clerks; and</p> <p>b) twenty five percent by initial recruitment.</p>
10	Accountant (BPS-16).	At least Second Class Bachelor's Degree (Finance or Commerce) from a recognized University and having basic knowledge of computer.	24-32 Years.	By initial recruitment.
11	Computer Operator (BPS-16).	<p>(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years) from a recognized University or</p> <p>(ii) At least Second class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.</p>	20-32 years.	By initial recruitment.
12	Senior Clerk (BPS-14).	---	---	By promotion, on basis of seniority-cum-fitness, from amongst the Junior Clerks with at least two years service.
13	Junior Clerk (BPS-11).	(i) At least Second Class Secondary School	18-30 years.	a). Thirty-three percent by promotion, on the basis of

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(Better Copy = C14)

		Certificate from a recognized board, and ii. Typing speed of thirty words per minutes on computer		Seniority cum fitness, from amongst the daftries, qasids, naib qasids, chowkidars and sweepers having secondary school certificate from a recognized board with at least two years service as such, and b. Sixty seven percent by initial recruitment. Note: For the purpose of promotion, there shall be maintained a common seniority list of daftries, qasids, naib qasids, showkidars and sweepers with reference to the dates of their passing the secondary school certificate.
14	Driver (BPS-6)	Literate having LTV driving license issued by competent authority. Preference will be given to those who have sufficient exponents in driving, repair and maintenance of vehicle.	18-40 Years	By initial recruitment
15	Daftari (BPS-4)	At least Middle pass.	18-40 Years	By promotion, on the basis of seniority cum fitness, from amongst of the posts of Qasids and Naib Qasids
16	Qasid (BPS-4)	---	---	By promotion, on the basis of seniority cum fitness, from amongst naib qasid, chowkidars and sweepers with at least three years service.
17	Naib Qasid (BPS-3)	Literate	18-40 Years	a. Fifty percent by initial recruitment, and b. Fifty percent by transfer from chowkidars and sweepers.
18	Chowkidar (BPS-3)	Preferably literate	18-40 Years	By initial recruitment
19	Sweeper (BPS-3)	Preferably literate	18-40 Years	By initial recruitment

		(ii) typing speed of thirty words per minutes on computer		<p>seniority cum fitness, from amongst the Daftries, Qasids, Naib Qasids, Chowkidars and Sweepers having Secondary School Certificate from a recognized Board with at least two years service as such; and</p> <p>b). sixty seven percent by initial recruitment.</p> <p>Note: For the purpose of promotion, there shall be maintained a common seniority list of Daftries, Qasids, Naib Qasids, Chowkidars and Sweepers with reference to the dates of their passing the Secondary School Certificate.</p>
14	Driver (BPS-6).	Literate holding ITT driving license issued by competent authority. reference will be given to those who have sufficient experience in driving, repair and maintenance of vehicle.	18-40 years.	By initial recruitment.
15	Daftari (BPS-4).	At least Middle class.	18-40 years.	By promotion, on the basis of seniority cum fitness, from amongst holders of the posts of Qasids and Naib Qasids.
16	Qasid (BPS-4).	---	---	By promotion, on the basis of seniority cum fitness, from amongst Naib Qasids, Chowkidars and Sweepers with at least three years service.
17	Naib Qasid (BPS-3).	Literate.	18-40 years.	a) Fifty percent by initial recruitment; and b) fifty percent by transfer from Chowkidars and Sweepers.
18	Chowkidar (BPS-3).	Preferably literate.	18-40 years.	By initial recruitment.
19	Sweeper (BPS-3).	Preferably literate.	18-40 years.	By initial recruitment.

Copy forwarded to the;

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Chairman Khyber Pakhtunkhwa Public Service Commission, Peshawar.
5. Directorate of Science & Technology Government of Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Adviser to Chief Minister on ST&IT Department Government of Khyber Pakhtunkhwa.
8. Chief Planning Officer, ST&IT Department Government of Khyber Pakhtunkhwa.
9. Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette.
10. All Section Officers, ST&IT Department Government of Khyber Pakhtunkhwa.
11. All Planning Officers, ST&IT Department Government of Khyber Pakhtunkhwa.
12. PS to Secretary ST&IT Department Government of Khyber Pakhtunkhwa.
13. PA to Additional Secretary, ST&IT Department Government of Khyber Pakhtunkhwa.
14. PA to Deputy Secretary, ST&IT Department Government of Khyber Pakhtunkhwa.

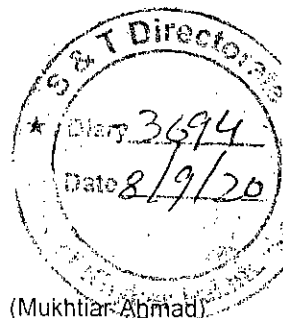
 31/07/2020

Section Officer (Establishment)
Science & Technology and Information Technology
Department Government of Khyber Pakhtunkhwa

D 16
Dated: September 8, 2020

To

Director S&T,
Directorate of Science & Technology,
Peshawar.



Subject: PROMOTION TO THE POST OF JUNIOR CLERK BPS-11

Dear Sir,

Kindly refer to the subject matter it is to bring in your kind notice that I (Mukhtiar Ahmad) working as Chokidar BPS-3 under the supervision of your good self.

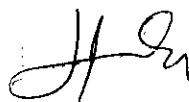
With following particulars of mine and being fit and qualified servant for promotion to the next post of Junior Clerk BPS-11 as per existing Service Rules of Directorate of S&T i.e:

Employee	Total service on Existing post	Detail of Next post		Service Rules
Mukhtiar Ahmad	From: 29-11-2011	Junior Clerk BPS-11		a) Thirty Three percent (33%) By promotion on the basis of seniority cum fitness from amongst the Daftri/ Qasids and Naib Qasids, Chokidars, & Sweepers having SSC certificate from a recognized Board with at least two years service as such and b) Sixty Seven Percent 67% By initial recruitment.
		Total	05	
		Vacant	03	
		Existing Filled by Initial @67%	01	
		Remaining for Initial @67%	02	
		Existing Filled by promotion @33%	01	
		Remaining @33% under promotion quota	01	
Chowkidar BPS-03	08 years 09 months 10 days			

It is humbly requested that out of total 05 posts of Junior Clerk BPS-11 only 01 post has been filled (@33% by promotion). However, the rest of 01 position is still available for promotion. Hence it is requested that 01 post already advertised may be reserved for promotion.

Submitted for your kind recommendations and prompt action in this act of kindness is need to be taken please.


MUKHTIAR AHMAD


ATTESTED

DIRECTORATE OF SCIENCE & TECHNOLOGY,
GOVERNMENT OF KHYBER PAKHTUNKHWA

PUC at Page No 17

Subject: Promotion to The posts of Junior cler
Puc is a letter received from Mr
Mubtaw Ahmad Chaudhri and subject notes
above submitted please.

12

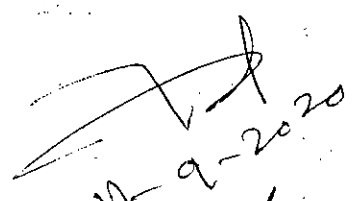
~~Supdt~~ The case of applicant was discussed with Section Officer R-
Department in front Engr Falak Niaz Assistant Director. The
Section Officer RV was of the view that the applicant can be considered
for promotion as at present there are total 05 number of junior clerks
wherein 03 posts are vacant and 02 filled, and after calculation of 33%
of promotion quota, 1.6 comes for promotion and 02 promotion can
be made. It was further discussed that this Directorate has already
made two promotions on the posts of junior clerks, however one of the
promoted junior clerks has further been promoted to the post of Senior
Clerk. The Section Officer RV Estt Deptt stated that consequent upon
further promotion on the post of senior clerk, the promotion quota
once again needs to be filled.

In light of the above para, if agreed one of the already
advertised posts of junior clerk may be decreased and allot it for
promotion quota. Submitted please.

13

~~Asstt Director~~

in the light of above para ~~may~~ ^{it} be also
clarified/comments under rules ^{which} ~~will~~
past may be reserved to promotion quota
already considered/addendum ^{has}
in the advertise posts please


19-9-2020

14

~~Supdt~~

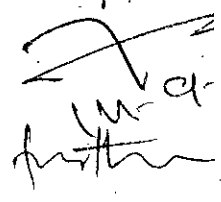
It is proposed that

seek guidance from Admstt at the
Deptt for clarification.

ATTN

15

Para 1-4/N are submitted for further
necessary instruction please


19-9-2020



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



F (18)
No. Dirtt:/S&T/ KP/ 3912
Dated December 01, 2020

To

The Section Officer (E),
ST&IT Department.

Subject: **PROMOTION TO THE POST OF JUNIOR CLERK BPS-11.**

I am directed to refer to your office letter No. SO(Estt)/ ST&IT/ KPK/ 2-36/2018-20/ Vol- VI/ 5737 dated 12-11-2020 on the subject noted above and to state that Mr. Mukhtiyar Ahmad, Chowkidar of this Directorate submitted an application on 8th September 2020 with the request for his promotion "That out of 05 posts of Junior Clerks BPS-11, only 01 post has been filled (@33% by promotion), however the rest of 01 position is still available for promotion. Hence it is requested that 01 post already advertised may be reserved for promotion".

The plea of Mr. Mukhtiar Ahmad chowkidar regarding one post to reserve for promotion is not covered in rules.

Detail of sanctioned posts Junior Clerks are as under:

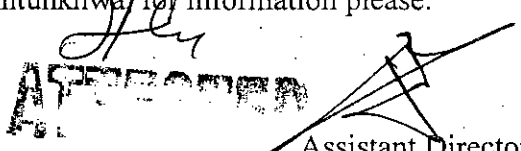
S. No	Total number of sanction posts of Junior Clerks	Filled posts of Junior Clerks		No. of vacant posts	Remarks
		Filled by promotion as per exiting service rules 33% (5 X 0.33= 1.65 posts)	Filled by Initial recruitment as per existing service rules 67% (5 X 0.67= 3.35 posts)		
01	05	01	01	03	

Therefore, in view of the above scenario Mr. Mukhtiyar Ahmad, Chowkidar cannot be accommodated in fraction figure i.e. in 1.65 quota posts already one post is filled by promotion while for remaining 0.65 post rules are silent which cannot be covered under Appointment, Promotion and Transfer rules 1989 please.


Assistant Director

Copy to:

1. PS to Secretary ST&IT Department Government of Khyber Pakhtunkhwa.
2. PA to Director S&T Government of Khyber Pakhtunkhwa/ for information please.


Assistant Director

Assistant Director

VAKALATNAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar

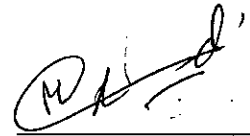
----- Mulshyar Ahmad ----- Appellant (s)
Petitioner (s)
Plaintiff (s)

VERSUS

----- Govt of KP ----- Respondent (s)
Defendants (s)


I/WE Mulshyar Ahmad
do hereby appoint and constitute the Syed Noman Ali Bukhari Advocate High Court for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20



(CLIENT)

ACCEPTED



SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT

APPEAL NO. 16284 / 2020

MUKHTIAR AHMAD CHOWKIDAR (CLASS-IV)

Directorate of Science & Technology Peshawar **APPELLANT**

VS

Govt. of KP:

Secretary ST&IT Department,
Govt. of Khyber Pakhtunkhwa Civil Secretariat Peshawar.

Respondent No.1

Director S&T,
Directorate of Science & Technology Peshawar.

Respondent No.2

The Assistant Director,
Directorate of Science & Technology Peshawar.

Respondent No.3

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5.	Copy of Seniority Lists of Class-IV staff of Directorate of S&T	E	13
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7.	Copy of Advertisement for filling of Vacant Posts dated: 20-08-2020	G	19
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APPEAL NO. 16284 / 2020

MUKHTIAR AHMAD CHOWKIDAR (CLASS-IV)

Directorate of Science & Technology Peshawar Appellant

VS

Secretary ST&IT Department,
Govt. of Khyber Pakhtunkhwa Civil Secretariat Peshawar.

Respondent No.1

Director S&T,
Directorate of Science & Technology Peshawar.

Respondent No.2

The Assistant Director,
Directorate of Science & Technology Peshawar.

Respondent No.3

SUBJECT: JOINT PARA WISE COMMENTS IN APPEAL NO. 16284 / 2020

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. The appellant has not come to the learned Tribunal with clean hands.
2. The appellant has no locus standi to file this service appeal.
3. The case is not maintainable to file.
4. The petitioner has no valid reason to initiate such litigation against the Govt. Department.
5. The instant appeal is based on equivocal and ambiguous statements.
6. The petitioner has been mis-led & misguided to rise against the Government.
7. No violation has been made against the right of the Appellant.

FACTS:

1. **Incorrect:** The appellant was not appointed 28-11-2018, he was appointed as Chowkidar on 28-11-2011 in the Directorate of Science & Technology Government of Khyber Pakhtunkhwa.
2. **Correct:** The is working at Directorate of Science Technology as Chowkidar since 28-11-2011. Seniority List duly issued on 04-01-2020 mentioning the Appellant's position along with his qualification. **Copy of Seniority List of Class-IV staff is Annexed as F/E.**
3. **Incorrect:** There are total 05 posts of Junior Clerks, out of which 03 are lying vacant in the Directorate of S&T. As per existing Service Rules of the Directorate of S&T, posts of Junior Clerks are filled observing following quota:

Total Posts = 5 {Filled: 2, Vacant = 3}	
Promotion Quota @ 33% = 1.65	Quota for Initial recruitment @ 67% = 3.35 posts
Posts already filled by Promotion (on 23-1-2018) 01 post	Posts already filled by Initial recruitment (on 28-11-2008) 01 post
Posts to be filled by promotion 0.65 post which is Less than 01 post for filling against the promotion quota	Posts to be filled by Initial recruitment 2.35
03 posts have already been advertised under Initial Quota on 20-08-2020.	

As the remaining quota for promotion, which is less than ONE, therefore the remaining 03 posts have been advertised in newspaper on 20-08-2020 for filling under the initial quota **Copy of Service Rules of Directorate of S&T is Annexed as F/F.**

4. **Incorrect:** The appellant could not be considered due to remaining quota reserved for promotion is 0.65 and Khyber Pakhtunkhwa APT Rules 1989 are silent upon the promotion quota where the percentage of quota is less than 01 i.e. fraction figure mentioned in Para-3.

5. The Appellant had submitted his application on 08-09-2020 for promotion to the Post of Junior Clerk BPS-11, after the Advertisement for Junior Clerk in newspaper on 20-08-2020. A large number of candidates have submitted their Application Forms. At existing situation, it creates hardships if the Advertisement is cancelled for mere a single candidate for promotion, which will be led to further proceedings **Copy of the Advertisement for vacant posts dated 20-8-2020 is Annexed as F/G.**

GROUND:

- A) **Incorrect:** Explained in para-3 of the facts.


- B) **Incorrect:** There is no such letter issued to the appellant on 17-09-2020, however, the Appellant has obtained un-officially, a copy of the File note sheet/ official record of a pre-mature case **Copy of Note Sheet is Annexed as F/H.**

- C) **Incorrect:** On 26-10-2020 the matter was sent to Administrative Department / higher authorities to obtain guidance and clarity as the APT rules 1989 are silent on 0.65 promotion quota (fraction figure) **Copy of Letter to Administrative Department is Annexed as F/I.**

- D) Due to the fact that APT rules 1989 are silent on 0.65 promotion quota (fraction figure), therefore the situation is not in favor of the petitioner.
- E) Incorrect: The petitioner has not been deprived of his legal right of promotion.
- F) The verdict of August Supreme Court is being observed in letter and spirit, but the actual situation as mentioned before is totally different.
- G) As mentioned above in para-F.
- H) No principle has been violated by the respondent, it is mandatory for every public body to obey and take every step under rules & regulations.
- I) **Incorrect:** The Appellant has not been deprived of his any right.
- J) No Comment.

PRAYER:

In view of above paras, it is therefore, prayed that instant service appeal may be dismissed being void of merit please.



1. **SECRETARY**
ST&IT Department Peshawar.



2. **DIRECTOR**
Directorate of S&T



3. **ASSISTANT DIRECTOR**
Directorate of S&T on behalf of



Government of Khyber Pakhtunkhwa
Directorate of Science & Technology



TF/204-210, 3rd Floor, Deans Trade Center, Opp. FC Gate, Islamiya Road, Peshawar, Cantt.

Contact: 091-9211789-92, Fax: 091-9211790.

<http://www.khyberpakhtunkhwa.gov.pk>

No. Dirtt: ST/KP/Litigation/Muhtiar Ahmad/Appeal No. 16284/2020/

Appeal No. 16284/2020

MUKHTIAR AHMAD CHOWKIDAR (CLASS-IV)

VS

GOVT. OF KP:

AFFIDAVIT

I Engr. Falak Niaz, Assistant Director BPS-17 Directorate of S&T Khyber Pakhtunkhwa being authorized officer to file the joint Para-wise comments pertaining to Appeal No. 16284/2020 titled as Mukhtiar Ahmad VS Government of Khyber Pakhtunkhwa, hereby solemnly declare on oath that the subject comments to be submitted before the honorable court are true and facts based to the best of my knowledge. Furthermore, nothing has been concealed from the honorable court.

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



Government of Khyber Pakhtunkhwa
Directorate of Science & Technology

TF/204-210, 3rd Floor, Deans Trade Center, Opp. FC Gate, Islamiya Road, Peshawar-Cantt.

Contact: 091-9212881, 9211789 Fax: 091-9212583

<http://khyberpakhtunkhwa.gov.pk>



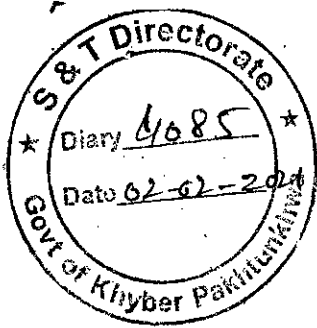
No. Dirt: ST/KP/Litigation/Muhtiar Ahmad/Appeal No. 16284/2020/

AUTHORITY LETTER

Mr. Engr. Falak Niaz, Assistant Director BPS-17 Directorate of S&T Khyber Pakhtunkhwa is hereby authorized to file the joint Para-wise comments pertaining to Appeal No. 16284/2020 titled as Mukhtiar Ahmad VS Government of Khyber Pakhtunkhwa, with this direction to attend the court dates for hearing and allied proceedings punctually, on behalf of the respondents No.1 & 2.

1. **SECRETARY**
ST&IT Department Peshawar.

2. **DIRECTOR**
Directorate of S&T



GS&PD.KP.SS-17772-RST-20,000 Forms-09.05.18/PMC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Appeal No. 16284 of 20 20

I - Jakhria Ahmad Appellant/Petitioner

Versus

The Secy S & T Deptt Govt KP Peshawar Respondent

Respondent No. 2

Recd

Notice to:

The Director S & T Directorate
of Science and Technology Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration. in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 18/2/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

*21/2/21
D/S*

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 21st

Day of Jan 20 21

Discuss p31.

*Put up draft counters 03/01/21
3/2/21*

[Signature]
Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 16284 /2020

Mr. Mukhtiar Ahmad

V/S

Science & technology Deptt.

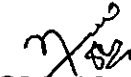
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Appellant
Mukhtiar Ahmad

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.

Appellant Deposited
Process Fee

18/11/21

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2020

Mr. Mukhtiar Ahmad, Chowkidar (Class-IV),
Directorate of Science and Technology
Govt of KP Peshawar.

APPELLANT

VERSUS

1. The Secretary ST &IT, Deptt, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director, S &T Directorate of Science and Technology, Peshawar.
3. The Assistant Director Directorate of Science and Technology, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF JUNIOR CLERK UNDER 33% QUOTA FIXED BY THE GOVERNMENT AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT.

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF JUNIOR CLERK UNDER 33% QUOTA FIXED BY THE GOVERNMENT FROM HIS DUE DATE/AVAILABILITY OF POST WITH ALL BACK CONSEQUENTIAL BENEFITS AND THE RESPONDENT MAY FURTHER BE

**DIRECTED TO WITHDRAW THE
ADVERTISED POST OF JUNIOR CLERK
WHICH CAME UNDER 33% OF PROMOTION
QUOTA OF CLASS-IV. ANY OTHER
REMEDY WHICH THIS AUGUST TRIBUNAL
DEEMS FIT THAT MAY ALSO BE AWARDED
IN FAVOUR OF APPELLANT.**

RESPECTFULLY SHEWETH:

1. That the appellant joined the respondent department on 28.11.2018. The appellant more than 9 years service with good record through out at his credit. **Copy of appointment order is attached as annexure-A.**
2. That the appellant is senior most, qualified and eligible for the post of Junior clerk under 33% promotion quota of class-iv as passed F.A with more than 9 years experience. **Copies of Seniority list is attached as annexure-B.** ?
3. That there are total 5 number of junior clerks post exist wherein 3 post are vacant and 2 filled and after calculation of promotion quota, 1.6 came under 33% promotion quota and 3.3 in direct recruitment quota. So according to the rules 2 post are laying in promotion quota. The appellant is under expectancy upon the one post appellant would be promoted but the deptt: advertised the promotion quota seat with other 2 seats of junior clerk under wrong calculation of quota.
4. That the Government of KPK has fixed 33% quota for Class-IV with SSC qualification for the promotion to the Junior Clerk post. But despite of that fixed quota and having eligibility, the appellant was not consider for promotion to the post of Junior Clerk. **Copy of rules is attached as annexure-C**
5. That the appellant being aggrieved filed Departmental Appeal for his claim on 08.09.2020 and waited for 90 days, but no fruit full result has been received by the appellant so far, hence the appellant constrained to file present appeal on following grounds amongst the others: **Copy of Departmental Appeal is attached as Annexure-D.**

GROUND:

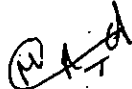
- A) That not considering appellant for the promotion to the post of Junior Clerk under 33% quota is against the norms of justice and material on record.
- B) That the stance of the appellant regards considering under 33% promotion Quota is confirmed from letter dated 17.09.2020 wherein clearly written that under 1.6 ratio 2 promotion can be made. **Copy of the letter is attached as annexure-E.**
- C) That on 26.10.2020 the Assistant Director send letter to Section Officer ST &IT department wherein held that the fraction figure .65 is not covered under the rules then how .35 covered under the rules and seat shown in initial quota under .35%. the vacancy not shown under promotion quota .65%. which was wrongly determined by the deptt with malafide intention, to only deprived appellant from promotion. According the rules always fraction figure moves upward and shall be considered for higher not lower. So the under .65 the one seat shall be available for promotion quota. **Copy of letter is attached as annexure-F**
- D) That the appellant is senior most eligible and qualified Class-IV employee and he is entitled to be promoted as Junior Clerk under 33% reserved quota.
- E) That the appellant has been kept deprived from his legal right of promotion which is not tenable under the norms of justice and fair play.
- F) That the apex Court has already clearly held in case of Anita Turab (PLD-2013 Supreme Court Page No. 195) that matter of tenure, appointment, posting, transfer and promotion, of service could not be dealt with in an arbitrary manner but could only be sustained if it was in accordance with law. Whenever there was statutory provision or rules or regulation of government the matter of appointment of Civil Servants that must be followed honestly and scrupulously and discretionary must be exercised and structured, transparent and reasonable manner, thus the verdict of the Honorable Supreme Court fully favours the appellant's case.
- G) That the Honorable Apex Court is also given the verdict that every civil servants is the legal right to be dealt with in accordance with the law and rules under the which is

(4)

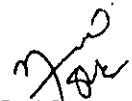
legal service rights are protected. Thus the appellant has legal and genuine claim.

- H) That it is, well settled principle of justice that no one should be suffered from the arbitrary acts of public functionaries and the public functionaries are required to act in accordance with rules and law with fair means. But in case of appellant such principle has been violated.
- I) That the appellant has not been treated according to law, rules.
- J) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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


Appellant
Mukhtiar Ahmad

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR.



NOTIFICATION:

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

S. No	Name Of Officer/ Official	Father Name	Qualification	Domicile	Date Of Birth	Date of 1 st entry into Government Service	Date of Appointment to present post	Whether Promotee or direct appointment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Abdul Rahim Naib Qasid BS-04	Dost Ali Khan	Middle	Bannu	20-4-1983	02-12-2003	02-12-2003	Direct appointment
2.	Tahir Gul Sweeper BS-04	Ajab Gul	--	Mardan	1983	28-2-2004	28-2-2004	Direct appointment
3.	Mohammad Ishaq Chwkdar BS-04	Shujat Khan	Middle	Charsadda	1-1-1985	28-2-2004	28-2-2004	Direct appointment
4.	Sabit Khan Naib Qasid BS-03	Raza Khan	Middle	Peshawar	1980	28-11-2011	28-11-2011	Direct appointment
5.	Mukhtiar Ahmad Chwkdar BS-03	Farid Khan	FA	Peshawar	4-3-1987	28-11-2011	28-11-2011	Direct appointment
6.	Mohammad Arsalan N/Q BS-03	Abdul rahim	BA	Peshawar	1-12-1993	4-4-2013	4-4-2013	Direct appointment
7.	Waris Khan N/Q BS-04	Khan Pasand	SSC	Peshawar	15-05-1977	10-02-2004	16-1-2007	Direct appointment
8.	Abdul Naveed Naib Qasid BS-04	Abdul Wahid	--	Peshawar	15-12-1979	10-02-2004	16-1-2007	Direct appointment
9.	Falak Niaz Chowkidar BS-04	Nawas Khan	SSC	Peshawar	08-09-1972	28-11-2004	16-1-2007	Direct appointment
10.	Fazal Wahid Naib Qasid BS-03	Gul Zameer	Middle	Peshawar	17-11-1979	26-01-2018	26-01-2018	Direct appointment
11.	Shahrayer Chowkidar BS-03	Raza Khan	Middle	Peshwar	5-02-1995	26-1-2018	26-01-2018	Direct appointment

DIRECTOR (S&T) 4/18/2020

Copy to:
PS to Secretary ST&IT Department for information please.

DIRECTOR (S&T)

	Assistant Director/Internet and Information Service Manager/Network Manager (BPS-17).	At least Second Class Master's Degree in the field of Physical Science, Biological Sciences, Earth Sciences, Applied Sciences, Computer Science, Information Technology, Agriculture, Forestry, Medicine and Engineering or equivalent qualification from a recognized Universities or Institutions.	24-32 years.	By initial recruitment.
5	Budget and Account Officer (BPS-17).	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Accountants BPS-16 with at least five years service as such.
5	Superintendent (BPS-17).	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior scale Stenographers, with at least five years service as such. NOTE: Joint seniority of Assistants and Senior Scale Stenographers shall be maintained for the purpose of promotion to the post of Superintendent: provided that when the date of continuous appointment of an Assistant and Senior Scale Stenographer is the same, the Assistant shall be deemed senior to the Senior Scale Stenographer.
7	Assistant Research Officer (BPS-16).	At least Second Class Master's Degree or (BS four years) in Biological Sciences or Bachelor of Engineering in any discipline or equivalent qualification from a recognized University.	24-32 years.	By initial recruitment.

8	Senior Scale Stenographers (BPS-16).	(i) At least Second Class Bachelor's Degree from a recognized University; (ii) a speed of seventy(70) words per minute in the short hand in English and thirty five(35) words per minute in typing; and (iii) having knowledge of computer in using MS office.	24-32 years.	By initial recruitment.
9	Assistant (BPS-16).	At least Second Class Bachelor's Degree from a recognized University.	24-32 years.	a) Seventy five percent by promotion, on basis of seniority-cum-fitness, from amongst the Senior Clerks with at least five years service as a Senior and Junior Clerks; and b) twenty five percent by initial recruitment.
10	Accountant (BPS-16).	At least Second Class Bachelor's Degree (Finance or Commerce) from a recognized University and having basic knowledge of computer.	24-32 Years.	By initial recruitment.
11	Computer Operator (BPS-16).	(i) At least Second Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years) from a recognized University or (ii) At least Second class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	20-32 years.	By initial recruitment.
12	Senior Clerk (BPS-14).	---	---	By promotion, on basis of seniority-cum-fitness, from amongst the Junior Clerks with at least two years service.
13	Junior Clerk (BPS-11).	(i) At least Second Class Secondary School	18-30 years.	a) Thirty-three percent by promotion, on the basis of

		(ii) Certificate from a recognized Board; and typing speed of thirty words per minutes on computer.		seniority cum fitness, from amongst the Daftries, Qasids, Naib Qasids, Chowkidars and Sweepers having Secondary School Certificate from a recognized Board with at least two years service as such; and b). sixty seven percent by initial recruitment. Note: For the purpose of promotion, there shall be maintained a common seniority list of Daftries, Qasids, Naib Qasids, Chowkidars and Sweepers with reference to the dates of their passing the Secondary School Certificate.
14	Driver (BPS-6).	Literate having LTV driving license issued by competent authority. Preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicle.	18-40 years.	By initial recruitment.
15	Daftari (BPS-4).	At least Middle pass.	18-40 years.	By promotion, on the basis of seniority cum fitness, from amongst holders of the posts of Qasids and Naib Qasids.
16	Qasid (BPS-4).	---	---	By promotion, on the basis of seniority cum fitness, from amongst Naib Qasids, Chowkidars and Sweepers with at least three years service.
17	Naib Qasid (BPS-3).	Literate.	18-40 years.	a) Fifty percent by initial recruitment; and b) fifty percent by transfer from Chowkidars and Sweepers.
18	Chowkidar (BPS-3).	Preferably literate.	18-40 years.	By initial recruitment.
19	Sweeper (BPS-3).	Preferably literate.	18-40 years.	By initial recruitment.

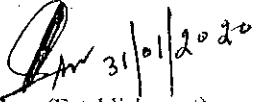
Secretary to
Government of the Khyber Pakhtunkhwa
Science and Technology and Information Technology Department

ENDORSEMENT NO.SOE/ST&IT/KP/2-36/2018-19/VOI:VI

1786-837
Dated Peshawar the 31.01.2020

Copy forwarded to the;

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Chairman Khyber Pakhtunkhwa Public Service Commission, Peshawar.
5. Directorate of Science & Technology Government of Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Adviser to Chief Minister on ST&IT Department Government of Khyber Pakhtunkhwa.
8. Chief Planning Officer, ST&IT Department Government of Khyber Pakhtunkhwa.
9. Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette.
10. All Section Officers, ST&IT Department Government of Khyber Pakhtunkhwa.
11. All Planning Officers, ST&IT Department Government of Khyber Pakhtunkhwa.
12. PS to Secretary ST&IT Department Government of Khyber Pakhtunkhwa.
13. PA to Additional Secretary, ST&IT Department Government of Khyber Pakhtunkhwa.
14. PA to Deputy Secretary, ST&IT Department Government of Khyber Pakhtunkhwa.


Section Officer (Establishment)
Science & Technology and Information Technology
Department Government of Khyber Pakhtunkhwa

Dated: 20-08-2020



GOVERNMENT OF KHYBER PAKHTUNKHWA
TF: 204-210, 3rd Floors, Deans Trade Center Sadar Cantt Peshawar
091-9212881



VACANCIES ANNOUNCEMENT

Applications are invited from suitable candidates (Male and Female Khyber Pakhtunkhwa Domiciled/ newly merged districts) for the posts mentioned below in the Directorate of Science & Technology Government of Khyber Pakhtunkhwa on regular basis:

Nomenclature of Post	No. of Posts	Age limit	Qualification/Experience	Zone allocation/ distribution/ women quota
Computer Operator (BPS-16)	03	20-32 Years	At least Second Class Bachelor's Degree in Computer Science /Information Technology (BCS/BIT four Years) from a recognized University OR At least Second class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	One for Zone 1 One for Zone 5 One for women
Junior Clerk (BPS-11)	03	18-30 Years	At least 2 nd class secondary school certificate from a recognized Board; and typing speed of 30 words/ minute on computer	One for Zone 1 One for Zone 2 One for Zone 3

Terms and Conditions:

- Age relaxation cases will be resolved as per Government policy.
- Recruitment will be made as per procedure of Government of Khyber Pakhtunkhwa.
- Candidates have to produce the original documents at the time of Interview.
- Incomplete documents and those received after due date will not be entertained.
- Government employees should apply through proper channel.
- Application along-with CV and relevant scholastic documents should reach this office within 15 days of the first publication of this advertisement.
- No TA/DA will be given for test / interview.

DIRECTOR

INF(P) 2993/20

ہمارا ایمان۔ کوپشن فری پاکستان
Our Faith, Corruption Free Pakistan

DIRECTORATE OF SCIENCE & TECHNOLOGY,
GOVERNMENT OF KHYBER PAKHTUNKHWA

PUC at Page No 17

1 | Subject: Promotion to The posts of Junior Clerk

PUC is a letter received from Mr. Mubshir Ahmad Chaudhary and subject notes above submitted please.

2

Supdt

The case of applicant was discussed with Section Officer R- Department in front Engr Falak Niaz Assistant Director. The Section Officer RV was of the view that the applicant can be considered for promotion as at present there are total 05 number of junior clerks wherein 03 posts are vacant and 02 filled, and after calculation of 33% of promotion quota, 1.6 comes for promotion and 02 promotion can be made. It was further discussed that this Directorate has already made two promotions on the posts of junior clerks, however one of the promoted junior clerks has further been promoted to the post of Senior Clerk. The Section Officer RV Estt Deptt stated that consequent upon further promotion on the post of senior clerk, the promotion quota once again needs to be filled.

In light of the above para, if agreed one of the already advertised posts of junior clerk may be decreased and allot it for promotion quota. Submitted please.

3

Asstt Director

In the light of above para may be clarified/ comments under rules which post may be reserved for promotion or already considered/ addendum in the advertise posts please.

14

Supdt

It is proposed by 19/1/2023

Seek guidance from Administration Deptt for clarification.

15

Submitted

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



No. Dir: S&T/ KP/ 3912
Dated December 01, 2020

To

The Section Officer (E),
ST&IT Department.

Subject: PROMOTION TO THE POST OF JUNIOR CLERK BPS-11.

I am directed to refer to your office letter No. SO(Estt)/ ST&IT/ KPK/ 2-36/2018-20/ Vol- VI/ 5737 dated 12-11-2020 on the subject noted above and to state that Mr. Mukhtiyar Ahmad, Chowkidar of this Directorate submitted an application on 8th September 2020 with the request for his promotion "That out of 05 posts of Junior Clerks BPS-11, only 01 post has been filled (@33% by promotion), however the rest of 01 position is still available for promotion. Hence it is requested that 01 post already advertised may be reserved for promotion".

The plea of Mr. Mukhtiar Ahmad chowkidar regarding one post to reserve for promotion is not covered in rules.

Detail of sanctioned posts Junior Clerks are as under:

S. No	Total number of sanction posts of Junior Clerks	Filled posts of Junior Clerks		No. of vacant posts	Remarks
		Filled by promotion as per exiting service rules 33% (5 X 0.33= 1.65 posts)	Filled by Initial recruitment as per existing service rules 67% (5 X 0.67= 3.35 posts)		
01	05	01	01	03	

Therefore, in view of the above scenario Mr. Mukhtiyar Ahmad, Chowkidar cannot be accommodated in fraction figure i.e. in 1.65 quota posts already one post is filled by promotion while for remaining 0.65 post rules are silent which cannot be covered under Appointment, Promotion and Transfer rules 1989 please.

Assistant Director

Copy to:

1. PS to Secretary ST&IT Department Government of Khyber Pakhtunkhwa.
2. PA to Director S&T Government of Khyber Pakhtunkhwa, for information please.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2168 /ST

Dated: 01/11 /2021

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

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

To

The Director Science & Technology,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 16284/2020, MR. MUKHTIAR AHMAD.

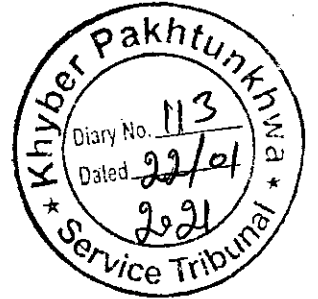
I am directed to forward herewith a certified copy of Judgement dated 20.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.



Appeal No. 16284/2020

Mr. Mukhtiar Ahmad V/S Science & technology Deptt.

SUBJECT: APPLICATION FOR EARLY HEARING
AND RESTRAINING THE
RESPONDENTS FROM FINALIZING
THE RECRUITMENT PROCESS
AGAINST THE ONE POST OF JUNIOR
CLERK TILL THE DISPOSAL OF
MAIN APPEAL.

*Application
be fixed before
S.B on 27/01/21.
by
26/1/21*

*put up to the court with
relevant app. f.
25/1/2021*

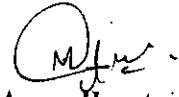
RESPECTFULLY SHEWETH:

1. That the above titled appeal filed for consideration of promotion to the post of Junior Clerk under 33% Quota and which not date is fix yet so far.
2. That there are total 5 number of junior clerks post exist wherein 3 post are vacant and 2 filled and after calculation of promotion quota, 1.6 came under 33% promotion quota and 3.3 in direct recruitment quota. So according to the rules 2 post are laying in promotion quota. The appellat is under expectancy upon the one post appellat would be promoted but the deptt: advertised the promotion quota seat with other 2 seats of junior clerk under wrong calculation of quota.
3. That now the Now the Deptt going to conduct test for initial recruitment against the post of Junior clerk on the one disputed post. If the initial recruitment was made against the said post then the appellat's case will be suffered a lot and will be become infructuous.
4. That the appellat has a good prima facie case and all the ingredients are in favour of appellat.
5. That if the respondents are not restrained from finalizing the recruitment process till the Disposal of the above mention appeal. then the appellat will suffer from irrespective loss.
6. That on previous date the restraining application was only notice to the respondent and date was fixed too long i.e 18.02.2021 and if the

Deo plus

date was not fixed early and restraining order has not been passed against one post of junior clerk and appointment has been made against that one post the appeal of the appellant became infructious and irreparable loss occur to the appellant.

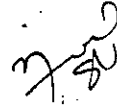
It is, therefore, most humbly prayed that the early date may be fixed in instant appeal instead of 18.02.2021 being stay matter case and further respondents may be restrained from finalizing the recruitment process on one of the disputed post till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.



Appellant

Mukhtiar Ahmad

Through:

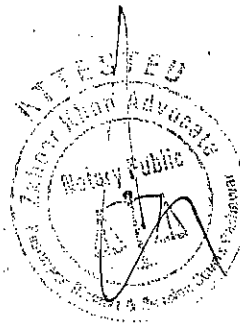


(SYED NOMAN ALI BUKHARI)

ADVOCATE, HIGH COURT
PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct.




Deponent