

Service Appeal No.4981/21 titled "Sherullah Vs. Chief Secretary Khyber Pakhtunkhwa, Peshawar and two others".

Kalim Arshad Khan, Chairman:

27.02.2023

1. Learned counsel for the appellant Mr. Riaz Khan Paindakhel, learned Assistant Advocate General for respondents present.

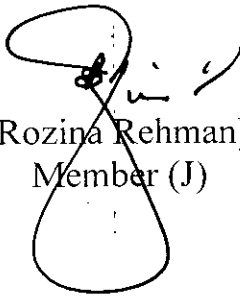
2. Brief facts of the case are that appellant was promoted as Budget and Accounts Officer. In the meanwhile, the post of Assistant Director (Admin) became vacant which was allegedly to be filled out of the Budget & Accounts Officers, but instead, the post of Assistant Director (Admin) was occupied by Junior Superintendents/Officers of the Department. Being aggrieved, the appellant filed departmental appeal which was not responded to, hence, he filed Service Appeal No.1068/2015 which was decided by directing the respondents to decide the departmental appeal with speaking orders. Consequently, the respondents rejected the departmental appeal of the appellant, hence, the present service appeal.


3. Not only the order dated 22.03.2021 of the Secretary to the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department but also the reply of the respondents are misconceived and not related to the prayer made in the departmental representation as well as in this appeal. This careless act on the irresponsible part of respondents has wasted a couple of years of the appellants. Therefore, while setting aside the order



dated 22.03.2021, we direct that the departmental representation of the appellant be properly decided within a period of 30 days but not later than 13th March, 2023 positively, failing which, a cost of Rs.100,000/- will be imposed upon the respondents to be recovered from their personal pay. Disposed of accordingly. Consign.

3. *Pronounced in open Court Peshawar under our hands and seal of the Tribunal on this 27th day of February, 2023.*


(Rozina Rehman)
Member (J)


(Kalim Arshad Khan)
Chairman

ANNEXURE-D 16

The Secretary to
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department
Peshawar

Subject: DEPARTMENTAL REPRESENTATION / APPEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR (ADMN), ASSISTANT DIRECTOR (F&A), INSTEAD OF WITH IMMEDIATE EFFECT.

I am directed to refer to the subject cited above and to state that M/S:-

1. Mr. Ghulam Sarwar Budget & Accounts Officer
2. Mr. Sherullah Budget & Accounts Officer

Were promoted to the posts of Assistant Directors (Admn/F&A) in BPS No. 17 on regular basis, vide Notification No: SO(PE)/2-6/DPC Meeting / B&AO/2014 dated 29.08.2014.

The aforesaid newly promotes Assistant Directors have preferred a departmental appeal for grant of promotion to the posts of Assistant Directors BPS No. 17 from the date of vacation of the posts instead of with immediate effect, on the basis of judgment of Service Tribunal upheld by Hon: Supreme Court of Pakistan in an other similar nature case.

The requisite appeals alongwith relevant supporting documents / Court Judgments are enclosed herewith for your kind perusal and further necessary action please.

Encl: As above.

Deputy Director (F&A)
Directorate of E&SE K.P, Peshawar

Endst; No. _____ /

Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

[Signature]
Deputy Director (F&A)
Directorate of E&SE K.P, Peshawar

Attended.
[Signature]
Ansari

The Secretary to
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu. Department.

Through: PROPER CHANNEL

Subject: DEPARTMENTAL REPRESENTATION / APPEAL FOR GANT OF PROMOTION
IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT
DIRECTOR (ADMN), ASSISTANT DIRECTOR F&A, BEING SENIOR MOST
BUDGET & ACCOUNTS OFFICER OF THE PROVINCE.

It is submitted that the facts and grounds of this departmental representation/appeal for grant of promotion to the appellant in BPS-17 being the Senior Most Budget & Accounts Officer of the Province appended below:-

1. That the appellant joined Govt service as Junior Clerk w.e.f 20.04.1980.
2. That the appellant was promoted step by step to the post of Budget & Accounts Officer
3. That the appellant stood at S.No. 2 of the Seniority list of B&AO corrected upto 31.08.2013.
4. That the appellant was allowed Selection Grade from BPS 16 to BPS 17 w.e.f 30.10.1993
5. That under the provision of Govt of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, issued vide No.SO(PE)/4-10/SSRC/Ministerial Staff/2013 dated 28.01.2013, the vacant posts of Assistant Director(Admn) & Assistant Director(F&A) BPS-17 must be filled up, out of Budget & Accounts Officers through promotion on the basis of seniority cum fitness.
6. That the posts of Assistant Director (Admn) & Assistant Director (F&A) BPS-17 remained occupied by junior most Superintendents/ Officers of the Department.
7. That the post of Assistant Director BPS-17 was vacant and the appellant promotion under the law was due w.e.f the date of vacation of post but the appellant was promoted to Assistant Director BPS-17 on 29.08.2014 vide order No.SO(PE)/2-6/DPC Meeting / B&AO from BPS-16 to BPS-17/2014 dated 29.08.2014, which is against law, ineffective and imperative against the rights of appellant, as there is a clear cut Court Directive in this regard in an other similar nature case which is attached for ready reference.

In the light of foregoing submission it is humbly prayed that the appellant may please be considered for regular promotion to the post of Assistant Director BPS-17 w.e.f the date of vacation of post, instead of 29.08.2014.

Sherullah
Assistant Director (Admn)
Directorate of E&SE Khyber
Pakhtunkhwa Peshawar

Copy in advance for similar request to PS. to Hon: Secretary E&SE Govt of Khyber Pakhtunkhwa Peshawar please.

Assistant Director (Admin)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

15
19
Abdullah
P. S.
Shweta.

READABLE COPY

OFFICE OF THE DIRECTOR SCHOOLS AND LITERACY N.W.F.P PESHAWAR.

NOTIFICATION.

The Director Schools and Literacy NWFP, Peshawar is pleased to accord sanction to the grant of Encashment /LPR/Retirement from Govt: Service/Leave with effect from the dates noted against each on full/half/with out pay, as due and admissible to him/her/them under the provision of Rules, 20 of NWFP, Govt Servants Revised Leave Rules 1981 in favour of the following Officers(s) teachers(s).

S.No.	NAME/DESIGNATION/ SCHOOLS/OFFICE.	RETIREMENT/PERIOD OF LEAVE. REMARKS
1.	Mr. Rahimullah Assistant Director (Admn) BPS-17 Directorate Literacy & School Peshawar	Retirement date w.e.f 9.03.2006(an) Encashment of LPR 180 days on full pay.

**DIRECTOR SCHOOLS AND LITERACY
N.W.F.P PESHAWAR**

Endst: No. 3049-53

Dated Peshawar the 26-01-2006

Copy forwarded for information & necessary action to the:-

1. Accountant General NWFP, Peshawar.
2. Executive District Officer(S&L) concerned.
3. District Accounts, Officer concerned.
4. Principal/Headmaster/Headmistress concerned.
5. Officer/Official concerned.
6. PA to Director Schools and Literacy NWFP, Peshawar.
7. Cashier local Directorate.

Sd/

DEPUTY DIRECTOR (F/A)
SCHOOLS AND LITERACY NWFP PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

No. SO(PE)E&SED/2-6/DPC Meeting/2015

Dated Peshawar the 24-07-2015

To,

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL REPRESENTATION/APEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR(ADMN), ASSISTANT DIRECTOR(F&A), INSTEAD OF WITH IMMEDIATE EFFECT.

I am directed to refer to your letter No.247/A-23/MS/DSC/DPC/V-I dated 01-07-2015 on the subject noted above in r/o Ghulam Sarwar Budget & Accounts Officer and Sherullah Budget and Account Officer with the request to resubmit the case with proper detail and sound justification to this department to proceed further in the matter.


(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)E&SED/2-6/DPC Meeting/2015
Dated Peshawar the 01-09-2015

*Reminder by
Secy. Edu. to
Director*

To,

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL REPRESENTATION/APEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR(ADMN), ASSISTANT DIRECTOR(F&A), INSTEAD OF WITH IMMEDIATE EFFECT.

I am directed to refer to this department letter of even number dated 24-07-2015, on the subject noted above in r/o Ghulam Sarwar Budget & Accounts Officer and Sherullah Budget and Account Officer wherein request has been made to resubmit the case with proper detail and sound justification but the same has not been furnished vide your letter No. 1890/A-23/MS/ dated 11-08-2015.

It is therefore, once again requested to furnish sound justification and views/comments of the Directorate of E&SE at the earliest to proceed further in the matter.

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

ADOLE
ADOLE
4/9

379/2275

4/9 7/10

25/8
11/8

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.
No. 1890 /A-23/MS/

Dated Peshawar the 11/8 /2015.

To:

The Section Officer (Primary)
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department

Subject: DEPARTMENTAL REPRESENTATION/APEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR (ADMN), ASSISTANT DIRECTOR (F&A) BEING SENIOR MOST BUDGET & ACCOUNTS OFFICER OF THE PROVINCE.

Memo:

I am directed to refer your letter No. SO(PE)E&SED/2-6/DPC Meeting /2015 dated 24.07.2015 on the subject cited above and to submit that this office understands that the departmental appeals in respect of Mr. Ghulam Sarwar Ex- B&AO and Mr. Sherullah Ex- B&AO for grant of promotion in BPS-17 from the date of vacation of the posts of Assistant Director (Admn), Assistant Director (F&A) instead with immediate effect already submitted to your goodself vide this office letter No. 247 dated 01-07-2015 contained adequate/sound justification as quoted by the officers concerned in their appeals.

However, the subject case is again submitted alongwith appeal of Mr. Sherullah Assistant Director (Admn) Directorate E&SE Khyber Pakhtunkhwa, Peshawar quoting and enclosing therein previous references and precedent in support to their departmental appeals referred to above.


Submitted for further appropriate action, please.

Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 1891

Copy forwarded to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.


Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar

Sherullah sent SO(PE).doc

lah:

بھصور جناب کلیم ارشاد صاحب، چیئر مین سروسز ٹریبونل صوبہ خیبر پختونخوا، پشاور

عنوان: حصول انصاف برائے Early Hearing بوجہ Open Heart Surgery

جناب عالی!

مؤدبانہ گزارش ہے کہ سب سے پہلے میں معافی چاہتا ہوں کہ اگر میری یہ درخواست آپ کی خدمت میں ناگوار گزرے تو مجھے معاف کریں کیونکہ یہ نہایت مجبوری اور کافی تکالیف اور اخراجات بوجہ اوپن ہارٹ سرجری لکھا ہے۔ 2015ء میں دوران ملازمت میں نے محکمہ کے ظلم اور اقرہ پروری کے خلاف اس عدالت سے بحوالہ اپیل نمبر 1068/2015 سے رجوع کیا۔ مگر حسب عادت محکمہ نے بروقت عدالت میں Comments نہ بھیجے اور 4 سالوں کے بعد 2019 میں عدالت نے حکمانہ فیصلے کے لیے میرا کیس محکمہ کو بھیجا۔ لیکن افسوس کہ محکمہ نے ایک بار پھر دو سال یعنی 2021ء تک کوئی کارروائی نہ کی تو مجبوراً اس عدالت میں ایک اور کیس برائے Implementation دائر کیا۔ تو پھر محکمہ نے صرف خانہ پری کر کے کیس کی اصلی روح سے ہٹ کر ادھر ادھر کی غیر ضروری وضاحت و اعتراضات کے ساتھ کیس حکمانہ طور پر ریجیکٹ کیا۔ جسکے خلاف میں نے موجودہ کیس بحوالہ نمبر 4981/2021 دائر کیا ہے۔ جسے عدالت نے محکمہ کو جون 2021ء میں دس دن کے اندر کمٹنس کے لیے بھیجا۔ لیکن 11 مہینوں کا وقت ضائع کرنے کے بعد محکمہ نے کمٹنس بھیجے۔ عدالت نے آج مجھے ایک 01/12/2022 کو بغیر کسی کارروائی کے اگلی پیشی 27/02/2023 دی ہے۔

جناب عالی!

اس کیس کے دوران میں ملازمت سے ریٹائرڈ بھی ہو گیا ہوں اور 2015ء سے لے کر 2022ء تک یعنی آٹھ سال سے عدالت کے دروازے پر حصول انصاف کے لیے ٹھوکریں کھا رہا ہوں۔ دوران کیس جو حالات وقوع پذیر ہوئے وہ مندرجہ ذیل ہیں:

(1) میں نے اوپن ہارٹ سرجری کی ہے اور ڈاکٹر نے ٹینشن اور جسمانی مشقت سے پرہیز کا کہا ہے۔

(2) میری بیوی، بیٹی اور بہن ہسپتال میں علاج کے دوران وفات ہوئیں۔

(3) میں خود کو روونا کا شکار ہوا۔ شکر ہے اب صحت یاب ہوں مگر بد قسمتی سے عدالتی پیشی سے واپسی پر موٹر سائیکل نے ٹکر ماری اور دو ماہ ہسپتال پر پڑا رہا۔ اب میں نماز کرسی پر ادا کرتا ہوں۔

(4) میں ہر پیشی کے لیے صبح 6 بجے ضلع مردان اور ضلع بونیر کے دامن سے ٹیکسی میں نکلتا ہوں اور پیشی کے بعد پھر اسی طرح شام گئے واپس گھر جاتا ہوں۔ اور ہر پیشی پر میرے 1800 روپے لگتے ہیں۔

مجھے حصول انصاف کے لیے چار وکلاء کے بھاری اخراجات ادا کرنے پڑے۔ اور تاحال انصاف کا منتظر ہوں۔ مالی ذہنی اور جسمانی طور پر تباہ ہو چکا ہوں۔ اور زندگی کے آخری آیام میں بلاوجہ ٹھوکریں کھا رہا ہوں۔

آپ سے عاجزانہ اپیل کرتا ہوں کہ برائے کرم میرے کیس کو Early Hearing کے لیے رکھیں کیونکہ 27/02/2023 بہت دور ہے اور میں 2015ء سے مسلسل پیش ہو رہا ہوں۔ اور میرا کیس 4981/2021 کو الگ Early hearing کے لیے رکھیں کیونکہ میرے کیس کی بنیادی نوعیت الگ ہے۔ میرے کیس پر تقریباً 80% Hearing بھی ہو چکی ہے۔ تا عمر دعا گو رہوں گا۔

العارض

تاریخ: 01/12/2022

Be fixed in the
3rd wave of

شیر اللہ (ریٹائرڈ اسٹنٹ ڈائریکٹر)

محکمہ تعلیم پشاور ڈائریکٹوریٹ، پشاور

موبائل: 0332-7220633

موجودہ: زیر سماعت اپیل نمبر 4981/2021

آخری بار پیشی 01/12/2022 اگلی پیشی 27/02/2023

be - 09 - 2623

0311916118

Mahboobali 3us@yahoo.com

Fixed on 24-01-2023

F/O Medical Student

Sherullah

27-9-12

Discount

Rs. 15,000/- (Fifteen thousand) 56 years
from Surgeon's fee only

Non diabetic
Non Smoker
No family Hx

Cor Arterio - Very tight Proximal LAD
with diffuse distal disease
Circ. Proximal very tight
RCA: Critical proximal lesion

Adv: CABG

Admit Ward 'B'
on 01/10/12 for CABG
on 2/10/12

Arrange 40 of blood

Final Report

Visit Date: 09 Jul, 2021

Chemical Pathology | Lipid Profile

Reported: 09 Jul, 2021 | 02:00 pm

Test	Result	Unit	Reference Values
Total Cholesterol	196	mg / dl	125 - 200
LDL-C	130	mg / dl	50 - 129
HDL-C	34	mg / dl	40 - 59
Triglyceride	311	mg / dl	40 - 150

Interpretation

TOTAL Cholesterol:
DESIRABLE: 125 - 200 mg/dl
BORDER LINE HIGH: 200 - 239 mg/dl
HIGH: 240 - 500 mg/dl

HDL-Cholesterol:
GOOD: \geq 60 mg/dl
FAIR: 40-59 mg/dl
LOW: < 40 mg/dl

LDL-Cholesterol:
OPTIMAL <100 mg/dl
GOOD: 100-129 mg/dl
BORDERLINE HIGH: 130-159 mg/dl
HIGH: 160-189 mg/dl
VERY HIGH: >189 mg/dl

TRIGLYCERIDE:
NORMAL: < 150 mg/dl
BORDER LINE HIGH: 150 - 199 mg/dl
HIGH: 200 - 499 mg/dl

- High level of LDL cholesterol is one of the major risk factor for a number of medical condition like heart disease and stroke, while high HDL cholesterol protects against heart disease.
- Elevated triglyceride level may be a risk factor for atherosclerosis, fatty liver disease and pancreatitis. High triglyceride levels may be associated with diabetes, renal diseases, and some medications.

Reference: National Cholesterol Education Program (NCEP) 2002

Method:

Report Initialized By: Khalid Khan | Digitally Verified By: Prof. Dr. Mirza M Dawood



Prof. Dr. Fazle Raziq
MBBS, M.Phil, FCPS (Haem), FICPP (Hon)
Professor, Consultant Haematologist
Head of Pathology Department and Blood Bank

Prof. Dr. Shabtaj Khan
MBBS, DCP, FCPS (Haem)
Consultant Haematologist

Dr. Maria Tasneem
MBBS, FCPS (Hist.)
Consultant Histopathologist

Brig(R) Prof. Iqbal Muhammad Khan Si(tu)
MBBS, DCP, MCPS, FCPS (Hist.), FICPP (Hon), MIAC
(Germany), FRCP (Edinburgh), IFACAP (USA)
Professor & Consultant Histopathologist

Prof. Dr. Jehan Zeb
BSc, MD, M.Phil
Professor Consultant Chemical Pathologist

Dr. Yasir Mehmood Yousafzai
MBBS, PGDIP, PhD (Haem)
Consultant Haematologist

Prof. Dr. Mirza M Dawood
MBBS, MCPS, M.Phil, FCPS
Consultant Chemical Pathology

Dr. Valced Khan
BSc, M.Phil, PhD
Molecular Genetics

Dr. Maria Khan
MBBS, M.Phil (Microbiology), FCPS (Microbiology)
Consultant Microbiologist

Prof. Dr. Salar Zai
DIP Med. Microbiology, MSc., M.Phil, Ph.D Microbiology
Professor Consultant Microbiologist

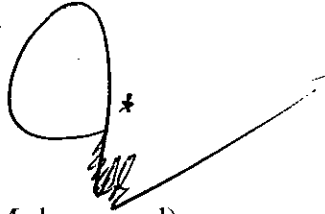
Dr. Saiqa Zahoor
MBBS, DCP, FCPS (Haem)
Consultant Haematologist

Dr. Hina Mushtaq
MBBS, FCPS (Haem)
Consultant Haematologist

26.10.2022

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

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 01.12.2022.



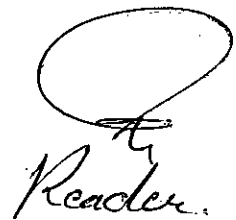
(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

01/12/22

Deleted from the list to
come up on the next date
27/12/23



Reader.

18.07.2022

Due to non-availability of Bench, case is adjourned to
04.08.2022 for the same as before.

4-8-2022

Reader

Proper DB not available the case is
adjourned to 14-9-2022

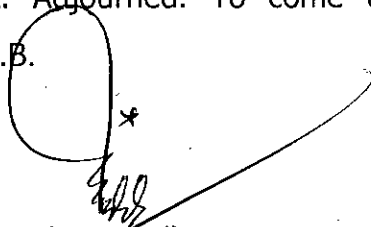


Reader


14.09.2022

Appellant alongwith his counsel present. Mr. Beharamand Khan,
Assistant Director alongwith Mr. Muhammad Adeel Butt, Additional
Advocate General for the respondents present.

Learned counsel for the appellant submitted rejoinder which are
placed on file. Copy of the same is handed over to learned Additional
Advocate General. Learned counsel for the appellant requested for
adjournment. Adjourned. To come up for arguments on 26.10.2022
before the D.B.



(Mian Muhammad)
Member (E)

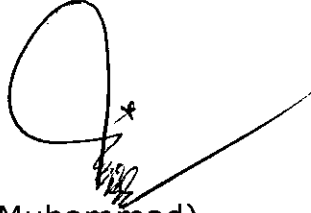


(Salah-Ud-Din)
Member (J)

27.04.2022

Appellant alongwith his counsel present. Mr. Faheem Ullah, Litigation Officer and Mr. Haseen Ullah, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and requested that time may be granted for submission of written reply/comments.

The case was though fixed for arguments, however respondents have not yet submitted reply/comments, therefore, last opportunity given, failing which their right for submission of reply/comments shall be deemed as struck off. To come up for submission of reply/comments as well as arguments on 12.05.2022 before the D.B.



(Mian Muhammad)
Member (E)



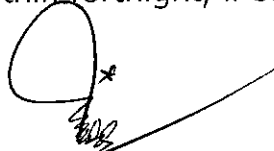
(Salah-ud-Din)
Member (J)

12-5-22 Paper DB not available in case 4
adjourned on 30-5-22

30th May, 2022

Learned counsel for the appellant present. Mr. Asif Masood, DDA alongwith Arshad Ali, ADO for the respondents present.

Representative of the respondent submitted reply which is placed on file. To come up for arguments on 04.08.2022 before the D.B. The appellant may submit rejoinder within fortnight, if so advised.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman

12.07.2021

Learned Addl, A.G be reminded about the omission
and for submission of reply/comments within extended
time of 10 days.

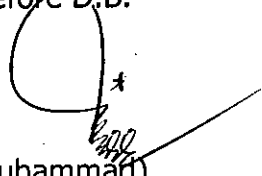

Chairman

stipulated period passed reply not submitted.

08.11.2021

Clerk of learned counsel for the appellant present.
Mr. Noor Zaman Khattak, District Attorney for
respondents present.

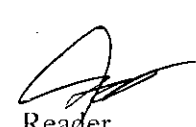
Arguments could not be heard due to general strike
of the Bar. Adjourned. To come up for arguments on
01.03.2022 before D.B.


(Mian Muhammad)
Member(E)

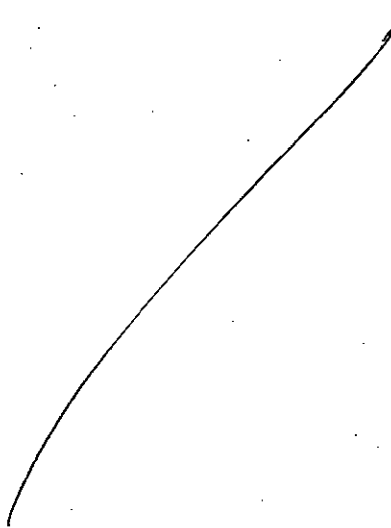

(Rozina Rehman)
Member(J)

01.03.2022

Due to retirement of the Worthy Chairman, the
Tribunal is defunct, therefore, case is adjourned to
06.06.2022 for the same as before.


Reader.



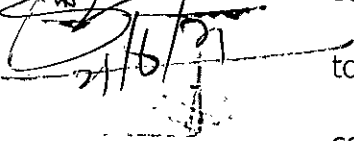


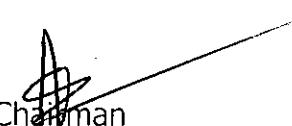
21.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 08.11.2021 before the D.B.

Appellant Deposited
Security & Process Fee


21/6/21

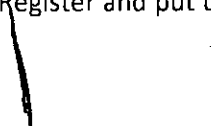


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4981 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/04/2021 27/05/21	<p>The appeal of Mr. Sherullah presented today by Mr. Mehboob Ali Dagai 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 21/06/21</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In S.A #: _____/2021

Sherullah

VERSUS

Chief Secretary, Khyber Pakhtunkhwa & Others

INDEX

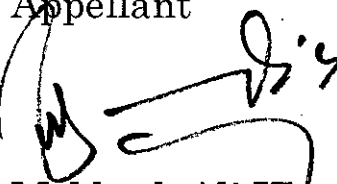
<i>S#</i>	<i>Description of Documents</i>	<i>Annexure</i>	<i>Pages</i>
1.	Grounds of Appeal		A 1-8
2.	Affidavit		A-9
3.	Addresses of the Parties		A 10
4.	Copy of Promotion Order as Budget & Accounts Officer	"A"	1-2
5.	Copy of Seniority List of Budget & Accounts Officers	"B"	3-5
6.	Copy of Selection Grade Notification BPS-16 to 17	"C"	6-9
7.	Copy of Service Rules for Assistant Directors F&A/Admn	"C/1"	10-12
8.	Copies of orders of Junior Superintendants posted as Assistant Directors	"C/2"	13-17
9	Copy of the impugned promotion order as Assistant Director	"D"	18
10	Attested Copies of Previous Appeal No: 1068/2015	"E"	19-24
11	Attested Copies of Parawise Comments Previous Appeal No: 1068/2015	"E/1"	25-27
12	Attested Copies of Rejoinder of Previous Appeal No: 1068/2015	"E/2"	28-30
13	Attested Copy of Judgment of Previous Appeal No: 1068/2015	"E/3"	31-34
14	Attested Copies of Execution Petition No: 144/2020	"F/1"	35-37

15	Attested Copy of Order Sheets on Execution No: 144/2020	"F/2"	38-41
16	Attested Copy of Dismissal Order on Deptt: Appeal	"F/3"	42
17	Copies of grounds of comments of competent authority on Deptt: Appeal	"G"	43-45
18	Copy of Vacancy of Assistant Director (Rahimullah retired)	"G/1"	46
19	Copy of Service Rules 1978 Prior to 2013, rules	"G/2"	47-49
20	Copy of Appeal of Ghulam Rasool etc decided by this Hon'ble Tribunal	"H"	50-56
21	Copy of Order of Hon'ble Supreme Court in favor of Ghulam Rasool etc	"J"	57-61
22	Copy of implementation order in the light of direction of Hon'ble Service Tribunal & Supreme Court	"K"	62
23	Copies of Similar nature appeals already decided by this Hon'ble Service Tribunal	"L to P"	63-88
24	Copies of Promotion Orders of Abdul Wajid etc on same point of view	"Q/ 1-2"	89-90
25	Copies of Directions of August Supreme Court of Pakistan on similar point	"J"	60
26	Copies of orders of this Hon'ble Tribunal KPK on similar point	"M"	69
27	Wakalatnama		92

Dated: 26/04/2021


Appellant

Through



Mehboob Ali Khan Dagai
Advocate, High Court,
Peshawar

(A1)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

In S.A. 4987 /2021

Diary No. 5049

Dated 28.4.2021

Sherullah, Ex-Assistant Director (Admn), Directorate of
Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar.

-----Appellant

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa,
Peshawar.
2. The Secretary Elementary & Secondary
Education, Peshawar.
3. The Director, Elementary & Secondary Education,
Peshawar.

-----Respondents

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT -
1974 AGAINST THE NOTIFICATION BEARING
ENDST NO: SO(PE)2-6 DPC MEETING/B&AO,
FROM BPS-16 TO BPS-17/ 2014 DATED
29/08/2014, WHEREBY THE APPELLANT
WAS PROMOTED FROM BPS-16 TO BPS-17
AS ASSISTANT DIRECTOR FROM IMMEDIATE
EFFECT I.E. (29/08/2014) INSTEAD OF
09/03/2006, THE DATE OF AVAILABILITY
OF VACANCY.

Filed to-day
Registrar
28/4/2021

Respectfully Sheweth,

FACTS.

1. That the appellant joined services as Junior Clerk with the respondents department on 20.4.1980.
2. That the appellant was promoted step by step to the post of Budget and Accounts Officer. Annex "A" (P 1 to 2)
3. That the appellant stood at Serial No.2 of the seniority list of B&AO corrected upto 31.8.2013 Copy of seniority list is attached herewith as Annexure-"B" (P 3 to 5).
4. That the appellant was allowed Selection Grade from BPS-16 to BPS 17 w.e.f. 30.10.1993. Copy of the notification is attached as Annexure-"C" (P 6 to 9).
5. That under the Provision of Govt: of Khyber Pakhtunkhwa Civil Servant (Appointment and Transfer Rules 1989, issued vide Notification No. SO (PE) 4-10/SSCR(Ministerial Staff/2013 dated 28-01/2013, the vacant posts of Assistant Director(F&A/Admn) BPS-17 must be filled up, out of budget and account Officers through promotion on the basis of seniority cum-fitness. Annex "C/1 (P 10 to 12)"
6. That the post of Assistant Director (Admn) & Assistant Director F&A BPS-17 remained occupied by Junior most Superintendents / Officers of the Department and despite of repeated requests of the appellant for his

promotion the respondents always turned deaf ears. Annex "C/2" (13 to 17)

7. That the post of Assistant Director was vacant and the appellant promotion under the law was due w.e.f. the date of vacation of post but the appellant was promoted to the post of Assistant Director BPS-17 on 29.8.2014 vide order No. SOPE/2-6/DPC Meeting /B&AO from BPS-17/2014 dated 29.8.2014, which is against the law ineffective and inoperative upon the rights of the appellant. Copy of the notification is attached herewith as Annexure- "D" (P 18).
8. That feeling aggrieved the appellant while in service filed departmental appeal before the Secretary to Govt: of Khyber Pakhtunkhwa Peshawar on 1.7.2015, but no response whatsoever was received, so the appellant filed Appeal No. 1068/2015, before this Hon'ble Tribunal, which was contested by the respondents by filing written reply etc. Copy of the reply and re-joinder etc are attached herewith as Annexure- "E/1 to 3" (P 19 to 34).
9. That after hearing arguments of both the counsel for the parties, this Hon'ble Tribunal vide its judgment and order dated 9.4.2019, the case was remanded to the appellate authority for decision of the department appeal of the appellant with speaking order. Copy of the previous appeal and judgment of

this Hon'ble Tribunal are attached herewith as Annexure- "E / 1 to 3" (P 19 34).

10. That since the respondents were reluctant to decide the departmental appeal of the appellant as per directions of this Hon'ble Tribunal, therefore, the appellant filed an execution petition before this august Tribunal on 2.10.2020 and it was on 01.4.2021 when the respondent No.2 produced, before this Hon'ble Tribunal, the copy of the orders of rejection of departmental appeal of the appellant on 22.3.2021; feeling aggrieved the appellant re-filed the instant appeal. Copy of the previous appeal and judgment and order is attached herewith as Annexure-"F / 1 to 3" (P 35 to 42).

GOUNDS.

- a) That the order of rejection of departmental appeal dated 22.3.2021 is in vogue, hasty in manner and not sustainable in the eye of law in any manner whatsoever.
- b) That the concerned authority while deciding the departmental appeal of the appellant has not gone through the same by applying a prudent mind as to what the appellant asked from them, what are the directions of this Hon'ble Tribunal and what law on the subject matter is applicable? The concerned authorities comments on the departmental appeal are in favour of the appellant which are attached herewith as Annexure-"G" (P 43 to 45).

AS

c) That the vacancy for promotion of the appellant on the fateful date i.e. on 9.3.2006 was available when one Rahimullah Assistant Director was retired at the age of superannuation and the respondents kept this vacancy occupied by most junior superintendents because of favoritism and personal likes and dislikes. Copy of the aforesaid notification is attached herewith as Annexure-"G/1 (P 46)".

d) That under the law and rules and decisions of the Apex Courts on the subject, the Appellant was entitled for promotion to the post of BPS-17 Assistant Director from the date of vacation of post i.e. 09/03/2006 as per promotion criteria dated 9.5.1978, prior to the promotion criteria dated 28.1.2013. Copy of the notification dated 9.5.1978, referred to above is attached herewith as Annexure-"G/2" (P 47 to 49).

e) That the act of respondents, ignoring the right of promotion of Appellant from actual date i.e. the date of vacation of post of Assistant Director BPS-17 is against law, perverse, arbitrary, in-operative and ineffective upon the rights of the appellant and based on malafide, surmises and conjectures.

f) That similar cases on the same prayer titled "Ghulam Rasool V/s Director of Schools & Literacy NWFP Peshawar Etc", were decided by this August Tribunal on 15/08/2006 which in

appeals before the August Supreme Court of Pakistan, got its finality. (Copy of Judgment of this Hon'ble Tribunal is produced as Annexure H (50 to 56) while that of the August Supreme Court of Pakistan is Annexure J (P 57 to 61) and order of its implementation is Annexure-K (P 62).

g) That similar nature of cases are also produced as Annexure L to P (P 63 to 88), detail of which is given below:-

- (i) Appeal No: 1356/2012 Kurshid Ali Forestor V/s Govt of KPK (Decided by Service Tribunal KPK) Annex "L (P 63 to 66)"
- (ii) Appeal No: 612/2008 Muhammad Iqbal Khattak V/s Govt of KPK (Decided by Service Tribunal KPK). Annex "M" (P 67 to 72)
- (iii) Writ Petition No: 2334-P/2014 Niaz Muhammad V/s C.E.L.R.H (Peshawar High Court) "N" (P 73 to 77)
- (iv) 2002 PLC (CS) 1388 Muhammad Hasnain Shah V/s IGP (Punjab Service Tribunal) Annex "O" (P 78 to 81)
- (v) 2010 PLC (CS) 760 Muhammad Amjad & Others V/s Dr. Israr Ahmad (Supreme Court of Pakistan). Annex "P" (P 82 to 88)

h) That similarly vide order bearing Endst No: 7174-85 dated 03/05/2000, Mr. Abdul Wajid

and Muhammad Khan etc Junior Clerks were promoted to the post of Senior Clerks and retrospective effect was given to them from the date of availability of vacancy and not from immediate effect. Copy of which is Annexure Q/1-2 (P 89 to 90).

- i) That the Hon'ble Supreme Court has been pleased to direct vide CP 35-P/2007 "THAT THE GOVT EMPLOYEES ARE ALWAYS ANXIOUS ABOUT THEIR PROMOTION OR TO GOT BENEFIT OF THE SERVICE AS EARLY AS COULD BE POSSIBLE AND THE DEPARTMENT CANNOT BE ALLOWED TO SLEEP FOR ANY INDEFINITE PERIOD". Annex "J" (P 57 to 61) specially P 60.
- j) That the directions of this Hon'ble Tribunal in Appeal No: 612/2008, copy attached vide No. 4 (ii) above are very clear which are reproduced as "That Anti-dating of promotion, after consideration of the candidate aspiring for such promotion after he was found eligible and fit for such promotion and is promoted, is an established principle of law. Such candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore has to be antedated to the date on which they vacancy for his turn became available". Copy of which is attached herewith as Annexure-"M" (P 67 To 72) specially P. 69 .
- k) The respondents misinterpreted the words "with immediate effect" which actually means "as and when the vacancy arise" and "the candidate is fit for promotion shall be given promotion without loss of time". But here in appellant's case, his promotion is actually delayed by more than 8 years by the respondents.

- l) That the appellant seeks leave of this Hon'ble Tribunal of claim further grounds at the time of final hearing.
- m) That this Hon'ble Tribunal has got the jurisdiction to entertain the instant appeal.

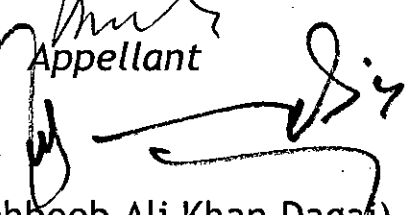
PRAYER:

It is, therefore, very humbly prayed that the instant appeal may very graciously be accepted and the respondents may kindly be directed for antedating the promotion of the appellant w.e.f 09.03.2006 i.e from the date of availability of vacancy instead of 29/08/2014 (i.e the date of passing of impugned notification) with all back benefits.

Any other consequential relief which this Hon'ble Tribunal deems fit and proper under the circumstances of the case may also be granted.

Dated: 26/09/2021


Appellant

Through 
(Mehboob Ali Khan Dagai),
Advocate High Court, Peshawar.

(A9) (9)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A _____/2021

Sherullah

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa,
Peshawar and others.

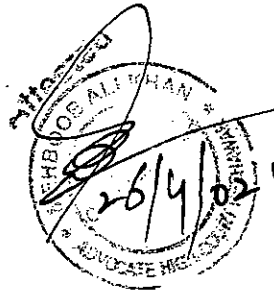
AFFIDAVIT

I, Sherullah, Ex-Assistant Director (Admn), Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Sherullah
DEPONENT

Identified by :

Mehboob Ali Khan Dagai
Mehboob Ali Khan Dagai,
Advocate High Court,
Peshawar.



**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A _____/2021

Sherullah

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa,
Peshawar etc.

ADDRESSES OF PARTIES


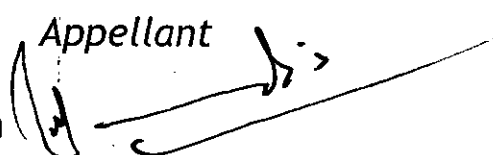
APPELLANT.

Sherullah, Ex-Assistant Director (Admn), Directorate of
Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar.

ADDRESSES OF RESPONDENTS

1. The Chief Secretary, Khyber Pakhtunkhwa,
Peshawar.
2. The Secretary Elementary & Secondary
Education, Peshawar.
3. The Director, Elementary & Secondary Education,
Peshawar.

Dated: 26/04/2021

Through 
Appellant

Mehboob Ali Khan Dagai,
Advocate High Court,
Peshawar.

Supdt. Promotion
 (1) (23) (Now called P&AO 2/1/07/12)
 ADEO

DIRECTOR SECONDARY EDUCATION N.W.F.P. PESHAWAR.

NOTIFICATION.

The following promotions/transfers/adjustments of Ministerial Staff of Education Deptt: NWFP are hereby ordered in the interest of public service with immediate effect.

No.	Name & Designation/address.	adjusted at	Remarks.
	Mr. Mohammad Amin, ASDEO (A) at SDEO (M) Alpurai (Swat).	I/CADEO (A) at DEO (F) Secy: Karak.	on his own pay & grade Vice S.No. 8
	Mr. Noor Ellahi, ADEO (A) at DEO (F) Pry: Mardan.	ADEO (A) at DEO (M) Secy: Mardan.	against vacant post.
	Mr. Zaristan, ADEO (A) at DEO (M) Secy: Chitral.	ADEO (A) at DEO (F) Pry: Swabi.	-do-
	Mr. Ali Gul, ADEO (A) at DEO (F) Secy: Karak.	ADEO (A) at DEO (M) Secy: Bannu.	-do-
	Mr. Mohammad Anwar, Supdt: at DEO (M) Pry: Dir (on return from Leave)	Supdt: at Directorate Pry: Edu: NWFP Peshawar.	Vice S.No. 6
	Mr. Gul Habib, Supdt: at Dte: Pry: Edu: NWFP Peshawar.	Supdt: at D.D.E. (S) Peshawar Div:	Vice S.No. 22
	Mr. Ghulam Hussain, Supdt: at D.D.E (S) Kohat.	Supdt: at D.D.E. (S) D.I. Khan Div:	Vice S.No. 19
	Mr. Iqbal Javed, Supdt: at DEO (M) Pry: Karak.	Supdt: at G.D.C. (W) D.I. Khan.	Vice S.No. 18
	Mr. Abdur Razaq, Supdt: at DEO (M) Secy: Chitral.	Supdt: at DEO (F) Secy: DIKhan.	Vice S.No. 27
	Mr. Mohammad Lisan, Supdt: at D.S.E. NWFP, Peshawar.	Supdt: at DEO (M) Secy: Peshawar.	Vice S.No. 24
	Mr. Ghani Mohammad, Supdt: at G.G.C. Abbottabad.	Supdt: at Govt: College Peshawar.	Vice S.No. 26
	Mr. Rehman Gul, Supdt: at DEO (M) Pry: Dir at Timergara.	Supdt: at D.E. (C) NWFP, Peshawar.	Vice S.No. 28
	Mr. Abdul Jalil, Supdt: at G.I.G.C. Kohat.	Supdt: at D.E. (C) NWFP, Peshawar.	Vice S.No. 15
	Mr. Ghulam Hussain, Supdt: at DEO (M) Secy: Abbottabad.	Supdt: at DEO (F) Pry: Abbottabad.	against vacant post.
	Mr. Wazir Mohammad, Supdt: at D.E. (C) NWFP, Peshawar.	ASDEO (A) at SDEO (M) Chitral.	-do-
	Mr. Faisal Imran, Supdt: at G.C. Nowshera.	ASDEO (A) at SDEO (F) Chitral.	-do-
	Mr. Gul-e-Sadbag, Supdt: at DEO (M) Pry: Bunner.	ASDEO (A) at SDEO (M) Daggar at Bunner.	-do-
	Mr. Mohammad Tariq, Supdt: at G.G.D.C. No. 1 D.I. Khan.	ASDEO (A) at SDEO (F) Tank. (DIKhan).	-do-
	Mr. Imam Bakhsh, Supdt: at DDE (S) DI. Khan.	ASDEO (A) at SDEO (M) Tank (DIKhan).	-do-
	Mr. Mir Ahmed, Supdt: at DEO (F) Secy: Dir (Timergara)	ASDEO (A) at SDEO (Male) Dir.	-do-
	Mr. Iltaf Hussain Gohar, Supdt: at DEO (F) Pry: A/Abad.	ADEO (A) at DEO (F) primary Abbottabad.	against vacant post.

24

- | | | | |
|-----|--|---|---|
| 2. | Mr. Sherullah, Supdt: at DEO (F) Pry: Mardan. | A.D.E.O. at DEO (F) Primary Mardan. | Vice S.No.2 |
| 3. | Mr. Jamshaid Jan, Supdt: at D.D.E. (S) Peshawar Div: | A.D.E.O. (A) at DEO (F) Pry: Dir. | against Vacant post. |
| 4. | Mr. Namdar Khan, Supdt: at DEO (M) Secy: Peshawar. | A.D.E.O. (A) at DEO (M) Pry: Mkd: | -do- |
| 5. | Mr. Fazli Razaq, Supdt: at DEO (F) Pry: Nowshera. | A.D.E.O. (A) at DEO (M) Secy: Kohat. | -do- |
| 6. | Mr. Mohammad Sadiq, Supdt: at G.C. Peshawar. | A.S.D.E.O. (A) at SDEO (Male) Karak. | -do- |
| 7. | Mr. Allah Bakhsh, Supdt: at DEO (F) Secy: D.I.Khan. | A.S.D.E.O. (A) at SDEO (F) Karak. | -do- |
| 8. | Mr. Zabeehullah, Supdt: at D.E. (C) NWFP, Peshawar. | A.S.D.E.O. (A) at SDEO (M) Timergara. | Vice S.No.46 |
| 9. | Mr. Mohammad Ghawas, Supdt: at G.C. Matta (Swat). | A.D.E.O. (A) at DEO (M) Secy: Chitral. | Vice S.No.3 |
| 10. | Mr. Amanullah Zahid, Supdt: at DE (C) NWFP, Peshawar. | SDEC (A) at SDEC (M) Pri Dir. | against vacant post. |
| 11. | Mr. Fazlur Rehman, Asstt: at A.E.O. Miranshah. | Supdt: at A.E.O. Miranshah. | against the post already occupied by him. |
| 12. | Mr. Aftab Ahmed, Asstt: at Addl: Commission Afghan Ref: (Edu: ell) NWFP, Peshawar. | Supdt: at D.E.O. (F) Secy: Dir. | Vice S.No.20 |
| 13. | Mr. Iltaf Ahmed, Asstt: at DE (FATA) NWFP, Peshawar. | Supdt: at A.E.O. Tank. | against vacant post. |
| 14. | Mr. Inamullah, S/Grapher at D.D.E. (S) DIKhan Div: | Supdt: at DEO (M) Primary Karak. | Vice S.No.8 |
| 15. | Mr. Mohammad Siddique S/Grapher at Dte:Pry:Edu:NWFP Peshawar. | Supdt: at Govt: College Nowshera. | Vice S.No.16 |
| 16. | Mr. Gul Wali, Asstt: at D.S.E. NWFP, Peshawar. | Supdt: at D.E. (C) NWFP, Peshawar. | Vice S.No.30 |
| 17. | Mr. Farhad Khan, S/grapher at DDE (S) Mardan Div: | Supdt: at D.E.O. (F) Primary Mardan. | Vice S.No.22 |
| 18. | Mr. Abdur Razaq, Asstt: at DEO (M) Secy: Kohat. | Supdt: at D.E.O. (M) Secy: Kohat. | against vacant post. |
| 19. | Mr. Abdul Zahir, Asstt: at DEO (M) Secy: Peshawar. | Supdt: at D.E.O. (M) Pry: Dir at Timergara. | Vice S.No.12 |
| 20. | Mr. Mohammad Azam, Asstt: at D.S.E. NWFP, Peshawar. | Supdt: at D.S.E. NWFP, Peshawar. | Vice S.No.10 |
| 21. | Mr. Mohammad Ibrahim, Asstt: at SDEO (M) D.I.Khan. | Supdt: at D.D.E. (S) Kohat Division. | Vice S.No.7 |
| 22. | Mr. Faqir Gul, Asstt: at G.G.C. Mardan. | Supdt: at D.E.O. (F) Primary Nowshera. | Vice S.No.25 |
| 23. | Mr. Nasrullah Khan, Asstt: at Directorate Bureau of Curr:Dev: & Edu: Ext:Svc: N.W.F.F. A/Abad. | Supdt: at D.E.O. (M) Secy: Abbottabad. | Vice S.No.14 |
| 24. | Mr. Abdullah Khalil, Asstt: at SDEO (M) Swat Ranazai | Supdt: at Govt: College Matta (Swat). | Vice S.No.29. |
| 25. | Mr. Saeedur Rehman, Asstt: at G.P.G.C. Kohat. | Supdt: at G.P.G.C. Kohat. | Vice S.No.13 |

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Handwritten signature and date '27/5' at the bottom right corner.

46. Mr. Shah Rawan, ASDEO (A) at S.D.E.O. (M) Timergara.

A.S.D.E.O. (A) at Vice S.No.1
SDEO (M) Alpuri
(Swat).

47. Mr. Said Rehman, ADEO (A) at DEO (F) Secy: Malakand.

A.S.D.E.O. (A) at Vice S.No.48
SDEO (F) Saidu
Sharif (Swat).

48. Mr. Fazli Karim Jan, ASDEO (A) at SDEO (F) S/Sharif (Swat).

ADEO (A) at DEO (F) Vice S.No.47.
Secondary Malakand.

Note :- 1/- Charge reports should be sent to all concerned.
2/- The promotion of the officers/officials mentioned at Sr.No.15 to 45 has been approved by the Departmental Promotion Committee of Education Deptt. in its meeting held on 13-5-1992 under the Chairmanship of Secretary to Govt: of NWFP, Education Deptt.

(Mohammad Rafique Khan Jadoon)
Director Secondary Education,
N.W.F.P. Peshawar.

EndstNo. 4031-4150/A-23/Promotion/II.A.E. Dated Pesh: the 27/5/1992
Supdts: ADEO's (A)

Copy forwarded for information and necessary action to the :-

- 1/- Accountant General, N.W.F.P. Peshawar.
- 2/- Director of Education (Colleges) NWFP, Peshawar.
- 3/- Director of Education (FATA) NWFP, Peshawar.
- 4/- Director Bureau of Curr:Dev: & Edu: Ext: Services, NWFP A/Abad.
- 5/- Director Primary Education NWFP (Hayatabad) Peshawar.
- 6/- Addl: Directress (Schools) NWFP, Peshawar.
- 7/- Divl: Directors of Education (Schools) concerned.
- 8/- District Education Officers (M&F) Secondary concerned.
- 9/- District Education Officers (M&F) Primary concerned.
- 10/- Sub: Divl: Education Officers (M&F) concerned.
- 11/- Principals Govt: Colleges (Male & Female) concerned.
- 12/- District/Agency Accounts Officers concerned.
- 13/- Officers/officials concerned.
- 14/- P/S to Minister for Education & Sports, NWFP Peshawar.
- 15/- P/S to Secretary to Govt: of NWFP Education Deptt.
- 16/- Section Officer (Directives) Govt: of NWFP Education Deptt.
- 17/- P/Files.
- 18/- M/File.
- 19/- P.A. to Director Secondary Education, NWFP Peshawar.

Deputy Director (Secondary)
For/Director Secy: Edu: NWFP,
Peshawar.

S. Musharaf Ali/
May 27, 1992.

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AMM

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

NOTIFICATION.

Final List of Budget & Accounts Officer (BPS-16) working in and under the Directorate Elementary & Secondary Education, DCTE, FATA & PITE, Khyber Pakhtunkhwa, as stood on 31-08-2013 is hereby approved.

The said seniority list was hereby notified for the information of all concerned to lodge appeal /objection (if any).

The above seniority list can be seen/checked on the website of E&SE Department Khyber Pakhtunkhwa given below: -

<http://kpese.gov.pk>

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Endst No 3638-59/F.No.A-23/S.List/B&AO/DD(F&A) Dated Pesh the 25/2/2014.

Copy of the above is forwarded for information

and n/action to the:-

1. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
2. Director PITE Peshawar.
3. Director of Education (FATA) Peshawar.
4. All District Education Officers (M&F) in Khyber Pakhtunkhwa.
5. Cashier Local Directorate.
6. P/S to Secretary to Government of Khyber Pakhtunkhwa E&SE Department Peshawar.
7. Deputy Director EMIS Govt of Khyber Pakhtunkhwa E&SE Department with the request to up-load the attached Seniority List of Assistants and Senior Scale Stenographer on web page of E&SE Department.
8. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.

"Dawal" 25/2/14
Deputy Director (F&A)
(E&SE) Khyber Pakhtunkhwa Peshawar

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✓ DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.
 FINAL SENIORITY LIST OF BUDGET & ACCOUNT OFFICERS (B/16) IN AND UNDER THE DIRECTORATE OF ELEMENTARY & SECONDARY
 EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA PREPARED UPTO 31.8.2013

S/#	Name of Officer	Father's Name	Place of present Posting	Academic Qualification	Date of Birth	Domicile	Date of 1st entry into Govt- Service	Regular Promotion to the Present Post ✓	Remarks
1 ✓	Ghulam Sarwar	Muhammad Suleman	DEO (M) A/Abad	BA	06-03-1956	Abbottabad	01-02-1979	11-01-1988	By Promotion
2 ✓	Sherullah	Karim Ullah	DEO (F) Mardan	BA	13-11-1955	Mardan	20-04-1980	01-06-1992	By Promotion
3	Umar Nawaz	Muhammad Salim Khan	DEO (M) Bannu	M.com	01-01-1961	Bannu	13-10-1984	25-01-2001	By Promotion
4	Musharaf Ali	Murtaza Ali	DE & SE Khyber Pakhtunkhwa Peshawar	BA	22-07-1962	Peshawar	04-03-1985	25-01-2001	By Promotion
5	Nasir Khan	Aminullah	DEO (M) NSR	BA	10-05-1960	Swabi	19-02-1979	31-07-2013	By Promotion
6	Muhammad Azam	Khalil-ur-Rehman	D C TE A/Abad	MA	01-01-1961	Mansehra	08-08-1979	31-07-2013	By Promotion
7	Inamullah	Muhammad Bakhs	DEO (M) D/I/Khan	M/BA	01-01-1956	D/I/Khan	11-07-1974	31-07-2013	By Promotion
8	Muhammad Ayub	Munir Khan	DEO (M) Haripur	BA	04-03-1954	Haripur	12-08-1973	31-07-2013	By Promotion
9	Sadiqullah	Amanullah	DEO (M) Chitral	Matric	06-01-1960	Chitral	25-08-1987	31-07-2013	By Promotion
10	Karim Shah	Wadan Shah	DEO (M) Mardan	BA	20-02-1958	Mardan	01-09-1987	31-07-2013	By Promotion
11	Adalat Khan	Mehbaran Shah	DEO (F) Charsadda	BA	02-01-1964	Peshawar	01-09-1987	31-07-2013	By Promotion
12	Taza Khan	Sargand Khan	DEO (F) Dir Lower	BA	15-06-1955	Dir	20-10-1979	31-07-2013	By Promotion
13	Ghulam Sarwar	Misri Khan	DCTE Abbottabad	MA	16-11-1956	Abbottabad	04-11-1979	31-07-2013	By Promotion
14	Zakir Khan	Faqir Khan	DEO (F) Abbottabad	Matric	03-01-1957	Abbottabad	21-03-1979	31-07-2013	By Promotion
15	Fazal Shah	Fazali Karim	DEO (F) Hangu.	Matric	20-05-1957	Peshawar	05-02-1981	31-07-2013	By Promotion
16	Munirullah Shah	Mian Dilbar	DEO (F) Peshawar	BA	06-01-1964	Peshawar	20-12-1989	31-07-2013	By Promotion
17	Muhammad Ali	Lal Sardar	DEO (M) Hangu	BA	02-12-1966	Karak	20-12-1989	31-07-2013	By Promotion
18	Waliullah	Abdul Qahar	DEO (M) Swabi	MA	01-04-1954	Swabi.	31-05-1973	31-07-2013	By Promotion
19	Mr. Sultan Ahmad	Rab Nawaz	DEO (F) DIK	FA	04-05-1954	D.I.Khan	03-05-1973	31-07-2013	By Promotion
20	Armin Jan	Saadullah Jan	DEO (M) Peshawar	BA	03-01-1966	Peshawar	22-12-1990	31-07-2013	By Promotion
21	Shamsul Islam	Sher Aziz	DEO (F) Dir Upper	Matric	19-04-1954	Chitral	20-01-1974	31-07-2013	By Promotion
22	Rehmatullah	Niamat Ullah	DEO (F) Tank	Matric	01-05-1954	D/I/Khan	01-06-1974	31-07-2013	By Promotion

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23	Zarif Khan	Muhammad Usman	DE (FATA)	Matric	21-01-1955	Peshawar	01-06-1974	31-07-2013	By Promotion
24	Muhammad Zahoor	Abdul Ghaffar	DEO (F) Malakand	Matric	04-03-1955	Malakand	17-07-1974	31-07-2013	By Promotion
25	Latifur Rehman	Hamayun	DEO (F) Chitral	Matric	15-05-1954	Chitral	10-01-1974	31-07-2013	By Promotion
26	Shafqat Malik	Gulistan	DEO (F) Haripur	Matric	01-01-1956	Abbottabad	10-05-1974	31-07-2013	By Promotion
27	Liaqat Ali	Nousher Khan	DEO (M) Buner	Matric	09-05-1954	Mardan	15-10-1974	31-07-2013	By Promotion
28	Muhammad Ali	Fateh Muhammad	DEO (F) Battagram	Matric	04-09-1954	Mardan	11-01-1974	31-07-2013	By Promotion
29	Muhammad Amin	Rehmani Gul	DEO (M) Swat	Matric	25-11-1954	Swat	11-04-1974	31-07-2013	By Promotion
30	Abdul Majeed	Muhammad Khan	DEO (F) Kohat	Matric	12-04-1956	Kohat	12-04-1974	31-07-2013	By Promotion
31	Abdur Rashid	Mudasir Shah	DEO (F) NSR	Matric	12-01-1956	Mardan	01-02-1974	31-07-2013	By Promotion
32	Zahoor Ali	Habib Khan	DEO (M) Karak	Matric	06-01-1955	Peshawar	16-01-1975	31-07-2013	By Promotion
33	Khog Badshah	Abdul Mutalib	DEO (M) Shangla	Matric	16-02-1955	Malakand	03-01-1975	31-07-2013	By Promotion
34	Haroonur Rashid	Magbulur Rehman	DEO (M) Battagram	Matric	11-04-1957	Haripur	29-05-1975	31-07-2013	By Promotion
35	Fazali Rehman	Ainul Qazat	DEO (F) Lakki	Matric	05-10-1955	Chitral	07-01-1975	31-07-2013	By Promotion
36	Ubaidullah	Abdullah Jan	DEO (M) Kohat	Matric	07-01-1956	Kohat	07-12-1975	31-07-2013	By Promotion
37	Walayat Khan	Baz Muhammad	DEO (M) Mansehra	Matric	15-01-1956	Peshawar	09-11-1975	31-07-2013	By Promotion
38	Fariqullah	Fatehullah	DE FATA Peshawar	Matric	06-12-1956	Peshawar	13-09-1975	31-07-2013	By Promotion
39	Ihsanullah	Hanimullah	DEO (F) Buner	Matric	03-03-1958	Mardan	18-09-1975	31-07-2013	By Promotion
40	Abdul Sattar	Abdul Rashid	DEO (F) Shangla	Matric	04-01-1957	Swat	15-10-1975	31-07-2013	By Promotion
41	Adam Sher	Juma Gul	DEO (M) Dir	Matric	02-12-1953	Dir	17-11-1975	31-07-2013	By Promotion
42	Jamilur Rehman	Khalilur Rehman	DEO (F) Mansehra	Matric	15-04-1956	Mansehra	17-11-1975	31-07-2013	By Promotion
43	Ghulam Muhammad	Muhammad Umer	DEO (M) Torghar	Matric	15-12-1955	Malakand	20-11-1975	31-07-2013	By Promotion
44	Jehan Zeb	Abdur Rehman	DEO (F) Swabi	BA	02-03-1961	Swabi	08-10-1981	31-07-2013	By Promotion
45	Mukhtiar Khan	Ghulam Sarwar	DEO (M) Charsadda	BA	16-10-1962	Peshawar	17-10-1981	31-07-2013	By Promotion

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 Director Elementary & Secondary Education
 Khyber Pakhtunkhwa Peshawar

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OFFICE OF THE DIRECTOR SECONDARY EDUCATION NWFP PESHAWAR.
NOTIFICATION/S/GRADE.

Consistent upon the approval of Departmental Promotion Committee in its meeting held on 12/12/2001, the following AEDO(A)/Budget Officer, Audit Officer, Accounts Officer BPS NO.16 of Education Department are hereby placed in B-17, Selection Grade 35% of the total posts of AEDO(A) under the provision of PD Notification PD(PRC)4-1/91 dated 30-10-93 with effect from the date mentioned against each:-

SNO/Serial	Name & Father's Name	Date of S/G awarded.
1/	Mian Dad S/O Sikander E.D.O. (S&L) Haripur (Rtd: 26.2.01)	19.07.1999.
2/	Fida Muhammad S/O Sher Mohd (Rtd on 13.7.2001) Dir: Colleges NWFP Peshawar.	-do-
3/	Abdul Malik S/O Darwiza Khan EDO (S&L) Dir at T-Gara. (Rtd: 6/10/01)	-do-
4/	Rahim Ullah S/O Karimullah Dir: Primary Edu: NWFP Pesh:	-do-
5/	Ali Ashgar S/O Rehmatullah E.D.O. Abbottabad (S & L)	-do-
6/	Abdur Rehman S/O Ghulam Haider E.D.O. (S & L) Abbottabad. (Rtd: 9/5/00)	-do-
7/	Fazli Rehman S/O Khaista Khan E.D.O. (S&L) Chitral.	-do-
8/	Muhammad Nadar S/O Mir Jan E.D.O. (S & L) Bannu.	-do-
9/	Abdur Rashid S/O Abdul Wasi (Rtd on 11.2.01) D.D.O. (Female) Peshawar.	-do-
10/	M-Muhammad Dilbar S/O Mian Basher Suitable E.D.O. (S&L) Swat (Rtd: 2/3/01). wef 23.2.01	-do-
11/	Said Rehman S/O M-Afzal Khan E.D.O. (S&L) Swat	-do-
12/	Muhammad Shuaib S/O Matiullah E.D.O. (S&L) Buner (Rtd: 9/2/2000).	-do-
13/	Shah Rawaan S/O Abdul Qadir E.D.O. (S & L) Swat	-do-
14/	Muhammad Zarin S/O Muhammad Rahim E.D.O. (S & L) Swat (Rtd on 1/8/99)	-do-
15/	Abdul Ghaffar S/O Firdous Khan E.D.O. (S&L) Malakand	Suitable wef 17.7.99
16/	Rajab Din S/O Barkat Ali E.D.O. Kohat (S&L)	-do-
17/	Gul Rehman S/O Muhammad Suleman R.D.E (NWFP) Pesh (Rtd: 16/6/2001).	-do-
18/	M-Hafeezur Rehman S/O Abdur Rehman E.D.O. (S&L) Lakki.	-do-

Attested
H. S. S.
Advocate.

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S/ awarded
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- 1. Ghulam Rasool S/O M. Amir Khan (Rtd:)
E.D.O. (S&L) Bunir -do-
- 2. Muhammad Tawab S/O Abdh. Wahab.
E.D.O. (S&L) Mardan. (Rtd: 10/12/99) -do-
- 3. Ali Safdar S/O Guli Sadburg
E.D.O. (S&L) Malakand -do-
- 4. Ghulam Sarwar S/O Muhammad Suleman
E.D.O. (S&L) Abbottabad. -do-
- 5. Ghulam Nabi S/O Abdul Hanan
E.D.O. (S&L) Peshawar. -do-
- 6. M. Umar Mirza S/O M-Najamuddin
E.D.O. D.I. Khan (Rtd: 5/8/2000) -do-
- 7. Awal Hanan S/O Gul Sattar
E.D.O. (S&L) Karrak -do-
- 8. Muhammad Yousaf S/O Gul Muhammad
E.D.O. (S&L) Dir at T/Gara. -do-
- 9. Azad Khan S/O Faqir Ghulam
E.D.O. (S&L) Bannu. -do-
- 10. Muhammad Yousaf S/O Muhammad Remzan
E.D.O. (S&L) Tank -do-
- 11. Fazal Subhan(Late) S/O Fazli Rehman
Pry:Edu:Girl Proj:-II NWFP Pesh: -do-
- 12. Fazli Rehman S/O Mula Bakhsh
E.D.O. (S&L) Haripur -do-
- 13. Mukhtiar Ahmad S/O Israr Muhammad
E.D.O. (S&L) Peshawar (Rtd: 13.11.01) -do-
- 14. Muhammad Ali S/O Musafar Jan
E.D.O. (S&L) Swat -do-
- 15. Muhammad Ayaz S/O Muhammad Farid
E.D.O. (S&L) Charsadda. -do-
- 16. Mubarak Ahmad S/O Nazar Muhammad
S.O(P&D) Civil Secretariate NWFP -do-
- 17. Muhammad Khan S/O Faqir Muhammad
Audit Officer at Dir: Secy: Edu: NWFP Pesh: -do-
- 18. Fazli Manan S/O Fazli Hanan
E.D.O. (S&L) Swat -do-
- 19. IzzatUllah S/O HidayatUllah
E.D.O. (S&L) Chitral -do-
- 20. Sardar Muhammad S/O Hussain Muhammad
E.D.O. (S&L) Malakand -do-
- 21. Ghulam Muhammad S/O Said Ghulam
E.D.O. (S&L) Swabi) Rtd: on 2/12/99 -do-
- 22. Ghulam Hussain S/O Safid Khan
E.D.O. (S&L) Chitral (Rtd: 10/2/2001) -do-
- 23. Buzur Jamher S/O Ghani Khan
E.D.O. (S&L) Lakki -do-
- 24. Abdul Quddus S/O Abdul Manan
D.D.O. (Female/Pry:) Peshawar. -do-
- 25. Ghulam Farid S/O Ghulam Rasool
E.D.O. (S&L) D.I. Khan -do-
- 26. Muhammad Suleman S/O Mir Zaman
Bureau T&E NWFP Abbottabad -do-

Attested.
[Signature]
Associate

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46. Zahid Khan S/O Ibrahim Khan
Dir:Colleges NWFP Peshawar -do-
47. Muhammad Easim S/O Muhammad Farid
E.D.O.(S&L)Haripur (Rtd:31/12/99) -do-
48. Karim Bakhsh S/O Khuda Bakhsh
E.D.O.(S&L)D.I.Khan -do-
49. Sajjad Ahmad S/O Mian Muhammad
Middle School Project NWFP Pesh: -do-
50. Subidar Khan S/O Mohidud Din
E.D.O.(S&L)Nowshera. -do-
51. Muhammad Saeed S/O Abdul Qayum
Dir:Colleges NWFP Peshawar. -do-
52. Guli Sadburg S/O Said Akbar
E.D.O.(S&L)Mardan -do-
53. Muhammad Tariq S/O Muhammad Remzan
E.D.O.(S&L)D.I.Khan -do-
54. Imam Bakhsh S/O Muhammad Bakhsh
E.D.O.(S&L)D.I.Khan -do-
55. Iltaf Hussain S/O Amir Alam
E.D.O.(S&L)Abbottabad -do-
56. SherUllah S/O Karim Ullah
E.D.O.(S&L)Mardan. -do-
57. Jamshad Jan S/O Muhammad Nazir
E.D.O(S&L)Charsadda -do-
58. Zabihullah S/O Abdullah
Directorate of Secondary Edu:NWFP Pesh: -do-
59. AmanUllah S/O Rehmatullah
E.D.O(S&L)Charsadda -do-
60. ✓ Muhammad Afsar Khan S/O S-Mehbaran Shah
E.D.O.(S&L)Mardan -do-
- 70 — 61. ✓ Allah Nawaz S/O Allah Dad Khan
E.D.O(S&L)D.I.Khan -do-
- 72 — 62. ✓ Fazul Rehman S/O Pir Ghulam
E.D.O.Nowshera(S&L) -do-
- 73 — 63. ✓ Fazul Rehman S/O Dildar Khan
E.D.O.(S&L)Bannu. -do-
- 74 — 64. ✓ Rehim Shah S/O Maroof Shah
E.D.O.(S&L)Malakand -do-
- 78 — 65. ✓ Muhammad Nasir Joya S/O FaizUllah
E.D.O(S&L)D.I.Khan -do-
- 81 — 66. ✓ Zahir Shah S/O Abdullah
E.D.O.(S&L)Chitral -do-
- 82 — 67. ✓ Muhammad Nawaz S/O Rab Nawaz
E.D.O.(S&L)D.I.Khan -do-
- 83 — 68. ✓ Gul HabibS/O Gul Nazir
E.D.O.(S&L)Nowshera -do-
- 85 — 69. ✓ Muhammad Riaz S/O Gul Muhammad
Dir:Colleges NWFP Peshawar. -do-
- 87 — 70. ✓ Hidayatur Rehman S/O Khaista Gul
Dir:Primary Edu:NWFP Peshawar -do-

Attested
D's
Advocate

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		S/G award on.
71	Sahat Shah Zeb S/O Muhammad Saeed P.D.O. (S&L) Malakand	19.7.99
72	Said Khan S/O Abdul Sadiq Dir: Bureau T&E NWFP Abbottabad	-do-
73	Amir Nawaz Khan S/O Muhammad Salim P.D.O. Lakki	-do-
74	Haibur Rahim S/O Fazal Wahid P.D.O. (S&L) Malakand	-do-
75	Muhammad Tariq S/O Muhammad Zahid P.D.O. (S&L) Swabi	-do-
76	Muhsin Ali S/O Murtaz Ali Dir: Primary Edu: NWFP Peshawar.	-do-
77	Amber S/O Gul Ahmad P.O. (?) Swat	-do-
78	Fazal Rehman S/O Azizur Rehman P.D.O. (S&L) Mansehra	-do-
79	Fazal Akbar S/O S. Ali Gohar P.D.O. (S&L) Mardan	-do-
80	Muhammad S/O Musa Khan P.D.O. (M) Kohat	-do-
81	Sher Dil Khan S/O Sher Ali Khan P.D.O. (F) Mardan	-do-
82	Muhammad S/O Manjwar Khan P.D.O. (S&L) Swabi	-do-

Necessary entry to this effect should be made in their Service Record.

On taking to this effect that if any overpayment made against them as a result of the incorrect award Selection Grade and detected latter on it will good recovery from their pay/Pension/graduity etc may be obtained from them and kept in their Service record. Certificate to the effect that the officers concerned are not involved in any disciplinary cases, should be obtained and kept in their record before making fixation of pay.

(M. R. KHAN)

604-754

604-754

to the:

Assistant General

Section Officer

District

Executive

Director of

Director of

to DSS

Secondary

Peshawar.

Attested
[Signature]
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10

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Peshawar, dated the 28th January, 2013

NOTIFICATION

No. SO(PE)/4-10/SSRC/Ministerial Staff/2013:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all rules issued in this behalf to the extent of the Elementary and Secondary Education Department (the (E&SE Department) in consultation with the Establishment Department and Finance Department hereby lays down the method of recruitment, qualifications and other conditions specified in Column 3 to 5. of the Appendix to this Notification which shall be applicable to the posts borne on the ministerial establishment in the Elementary and Secondary Education Department specified in Column No.2 of the said Appendix.

APPENDIX

S. NO	NOMENCLATURE	MINIMUM QUALIFICATION AND EXPERIENCE FOR INITIAL APPOINTMENT OR BY TRANSFER	AGE LIMIT	METHOD OF RECRUITMENT (EXISTING)
1	2	3	4	5
1.	Deputy Director (Finance and Accounts) / Deputy Director (Administration) (BPS-18)		-	By promotion on the basis of seniority cum fitness from amongst the Assistant Directors (Finance and Accounts) & Assistant Directors (Administration) with at least five years service as such.
2.	Assistant Director (Finance and Accounts) / Assistant Director (Administration) (BPS-17)		-	By promotion on the basis of seniority cum fitness from amongst the Budget and Accounts Officers with at least two years service as such.
3.	Budget and Accounts Officer (BPS-16)		-	By promotion on the basis of seniority cum fitness from amongst the Superintendents with at least two years service as such.
4.	Superintendent (BPS-16)		-	By promotion on the basis of seniority cum fitness amongst the holders of the posts of Assistants and Senior Scale Stenographers with at least five years service as such.
5.	Senior Scale	(i) At least Second Class Bachelor's Degree or equivalent	20 to 30	By promotion on the basis of seniority cum

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	Stenographers (BPS-16)	<p>(ii) Speed of Seventy words per minute in shorthand in English and Forty Five words per minute in typing; and</p> <p>(iii) Knowledge of Computer in using MS words and MS Excel.</p>	Years	fitness from amongst the Junior Scale Stenographers (BPS-14) with at least five years service as such.
6.	Assistant (BPS-14)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 Years	<p>(a) Seventy five per cent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least five years service as such; and</p> <p>(b) Twenty five per cent by initial recruitment</p>
7.	Junior Scale Stenographers (BPS-14)	<p>(i) Intermediate or equivalent qualifications from a recognized Board;</p> <p>(ii) Speed of Fifty words per minute in shorthand in English and Thirty Five words per minute in typing; and</p> <p>(iii) Knowledge of Computer in using MS words and MS Excel.</p>	18 to 30 Years	By Initial recruitment
8.	Senior Clerks (BPS-09)			By promotion on the basis of seniority cum fitness from amongst the Junior Clerks, Assistant Store Keepers and Laboratory Assistants with at least two years service as such.
9.	Junior Clerk/Assistant Store Keeper/ Laboratory Assistant (BPS-07)	<p>(i) For Junior Clerk / Assistant Store Keepers having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board and a speed of twenty five words per minute in typing;</p> <p>(ii) For Laboratory Assistants having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board with Science.</p>	18 to 30 Years	<p>(a) Thirty Three per cent by promotion, on the basis of seniority-cum-fitness from amongst the Daftaries, G/Operators, Qasids and Naib Qasids including other equivalent posts in the attached department/offices/institutions with at least Two years service as such and having qualification mentioned in column No. 3.</p> <p>(b) Sixty Seven per cent by initial recruitment</p> <p>Note: - For the purpose of promotion, there shall be maintained a joint seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids, etc including other equivalent posts in the attached department/offices/institutions with reference to the dates of their regular appointment or acquiring Secondary School Certificate whichever is later.</p>

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10.	Driver (BPS-04)	Having valid Driving License and preferably Literate.	18 to 32 Years	By Initial recruitment
11.	Naib Qasid / Chowkidar / Behshti / Cook / Bearer / Shop Attendant / Laboratory Attendant etc	Preferably Literate	18 to 30 Years	By Initial recruitment

12

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA.
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa Peshawar.
22. Master file

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2-2-2013
SECTION OFFICER (Primary)

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SAO 45

TO BE SUBSTITUTED THE SAME NUMBER AND DATE.
Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.

Notification

Consequent upon the recommendation of the Departmental Promotion Committee in its meeting held on 30-07-2013 and approval of the competent authority, the following Superintendents B-16 of Elementary & Secondary Education Department are hereby promoted/adjusted as regular Budget & Accounts Officers B-16 in the interest of public service with immediate effect.

S. #	Name & Designation	From	Promoted as B&AO at	Remarks
1	Nasir Khan	Project Directorate PSPQEO for Talented Students FATA Peshawar.	O/O the DEO(M) Nowshera	A.V.P.
2	Muhammad Azam	DCTE Abbottabad.	O/O DCTE, Abbottabad	Already occupied.
3	Inamullah	DEO(M) D.I.Khan	O/O DEO(M) DIK	-do-
4	Muhammad Ayub	DEO(M) Haripur.	O/O DEO(M) Haripur	-do-
5	Sadiqullah	DEO(M) Chitral	O/O DEO(M) Chitral	A.V.P.
6	Karim Shah	DEO(M) Mardan	O/O DEO(M) Mardan	A.V.P.
7	Adalat Khan	SDEO(M) Charsadda	O/O DEO(F) Charsadda	A.N.C.P.
8	Taza Khan	DEO(M) Dir Lower	O/O DEO(F) Dir Lower	A.N.V.P.
9	Ghulam Sarwar.	DEO(M) Abbottabad	O/O DCTE Abbottabad	A.V.P.
10	Zakir Khan	DEO(M) Manshera	O/O DEO (F) A. Abad	A.N.C.P.
11	Fazal Shah	DEO(F) Hangu	O/O DEO(F) Hangu	A.N.C.P.
12	Naqib-ur-Rehman	SDEO(M) Bannu	O/O DEO (F) Bannu	A.N.C.P.
13	Munirullah Shah	DEO(F) Peshawar	O/O DEO (F) Peshawar	A.N.C.P.
14	Muhammad Ali	DEO (M) Hangu.	O/O DEO (M) Hangu.	A.N.C.P.
15	Waliullah	SDEO (M) Swabi.	O/O DEO (M) Swabi	A.N.C.P.
16	Amir Zada	DEO(M) Dir Upper	O/O DEO (M) Dir (U)	A.V.P.
17	Mr. Sultan Ahmad	DEO(M) DIKhan	O/O DEO(F) D.I.Khan	A.N.C.P.
18	Amin Jan	DE&SE Khyber Pakhtunkhwa Pesh:	O/O DEO (M) Peshawar.	A.V.P.

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19	Nisar Muhammad	DEO(M) Malakand	O/O DEO(M) Malakand	A.V.P.
20	Shamsul Islam	DEO(M) Chitral	O/O DEO(F) Dir Upper	A.N.C.P
21	Rehmatullah	DEO(M) Tank	O/O DEO (F) Tank	A.N.C.P
22	Zarif Khan	D.E. FATA (Project)	Service placed at the disposal of DE (FATA) for further adjustment.	
23	Muhammad Zahoor	DEO(M) Malakand	O/O DEO(F) Malakand	A.N.C.P.
24	Latifur Rehman	DEO(F) Chitral	O/O DEO(F) Chitral	Alr occpd
25	Shafqat Malik	SDEO(M) Haripur	O/O DEO(F) Haripur	A.N.C.P.
26	Liaqat Ali	DEO(M) Mardan	O/O DEO(M) Bunir	A.V.P
27	Muhammad Ali	DEO(M) Mardan	O/O DEO(F) Battagram	A.N.C.P
28	Muhammad Amin	DEO(M) Swat	O/O DEO(M) Swat	A.V.P.
29	Abdul Majeed	AEO Kurram Agency	O/O DEO (F) Kohat.	A.N.C.P.
30	Abdur Rashid	DEO(M) Swabi	O/O DEO (F) Nowshera	A.N.C.P.
31	Zahoor Ali	DEO(M) Peshawar	O/O DEO (M) Karak.	A.N.C.P.
32	Khan Toor	DEO(M) Swat	O/O DEO (F) Swat	A.N.C.P
33	Khog Badshah	DEO(M) Malakand	O/O DEO (M) Shangla	A.V.P.
34	Haroonur Rashid	SDEO(F) Haripur	O/O DEO(M) Battagram	A.V.P.
35	Fazali Rehman	DEO(F) Chitral	O/O DEO (F) Lakki.	A.N.C.P.
36	Ubaiddullah	DEO(M) Kohat	O/O DEO (M) Kohat	A.V.P.
37	Walayat Khan	DEO(M) Mansehra	O/O DEO (M) Mansehra	Already occupied.
38	Faridullah	DE (FATA)	Service placed at the disposal of DE (FATA) for further adjustment.	
39	Insafulah	DEO(F) Swabi	O/O DEO(F) Bunir.	A.V.P.
40	Abdul Sattar	DEO(M) Swat	O/O DEO (F) Shangla	A.N.C.P.
41	Adam Sher	DEO(M) Dir Lower	O/O DEO (M) Dir Lower	Already occupied.
42	Jamilur Rehman	DEO(F) Mansehra	O/O DEO (F) Mansehra.	A.N.C.P.
43	Ghulam Muhammad	DEO(M) Malakand	O/O DEO (M) Torghar	A.V.P.
44	Jehan Zeb	SDEO(F) Swabi	O/O DEO (F) Swabi.	A.N.C.P.
45	Mukhtiar Khan	DE&SE Khyber Pakhtunkhwa	O/O DEO (M) Charsadda.	A.V.P.

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Consequential posting/transfer of the following Superintendents is hereby ordered in their own pay and BPS in the public interest:-

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S.No	Name & Designation	Adjusted as Supdt: at	Remarks.
46	Mr. Shamsul Arifeen Supdt: O/O the DEO (M) Peshawar.	Office of the DEO (Female) Peshawar.	Vice S.No.13 promoted.
47	Mr. Abu Talib Supdt: working as B&AO at DEO (M) Peshawar.	Office of the DEO (Male) Peshawar.	Vice S.No.46
48	Mr. Mukammil Khan Supdt: at O/O the DEO (Male) Hangu.	Project Directorate PSPPQEO for Talented Students FATA Peshawar.	Vice S.No.1 promoted.
49	Mr. Sarfaraz Khan Supdt: working as B&AO at O/O the DEO (Male) Charsadda.	Office of the SDEO (Male) Charsadda.	Vice S.No.7 promoted.
50	Mr. Zubair Khan Supdt: working as B&AO at O/O the DEO (M) Nowshera.	Office of the DEO (Female) Swabi.	Vice S.No.39 promoted.
51	Mr. Luqman Khan Supdt: working as B&AO at O/O the DEO (Male) Kohat.	Office of the DEO (Male) Kohat.	Vice S.No.36 promoted.
52	Mohammad Fayyaz Supdt: at O/O the DEO (M) Battagram.	Office of the DEO (Male) Manshera.	Vice S.No.42 promoted.
53	Mr. Aliaf Hussain Supdt: working as B&AO at DEO (M) Battagram.	O/O the DCTE Abbottabad.	Against vacant Stenographer B-16 post.
54	Mohammad Ashiq Supdt: O/O the DEO (Male) Battagram.	Office of the DEO (Male) Abbottabad.	Vice S.No.9 promoted.
55	Mr. Mumtaz Khan Supdt: at O/O the DEO (Female) Lakki.	Office of the SDEO (Male) Bannu.	Vice S.No.12 promoted.
56	Mr. Abdul Qayum Supdt: O/O the SDEO (Female) Abbottabad.	Office of the SDEO (Male) Haripur.	Vice S.No.25 promoted.
57	Mr. Mumtaz Supdt: at O/O the DEO (M) Shangla.	Office of the DEO (Male) Mardan.	Vice S.No.26 Promoted.
58	Mr. Sarwar Khan Supdt: working as B&AO at O/O the DEO (M) Swabi.	Office of the DEO (Male) Swabi.	Vice S.No.30 promoted.
59	Mr. Ghulam Sarwar Supdt: working against the post of Audit Officer at DCTE Abbottabad.	Office of the DEO (Male) Manshera.	Vice S.No.10 promoted.
60	Mohammad Mustafa Supdt: working against B&AO post	Office of the DEO (Male) Bunir.	Against vacant post.
61	Mohammad Bashir Supdt: working against the post of B&AO at O/O DEO(F) Haripur.	Office of the SDEO (Female) Haripur.	Vice S.No.34 promoted.
62	Mohammad Israr Supdt: (Surplus)	Against Coordinating Eng: Post O/O the DE&SE K.P.	Vice S.No.18 promoted.
63	Mushraf Ali AD (F&A)	AD Admn: Local Office	Vic: No. 45

✓
4. 2. 2013

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	Nouraz Shah Suptt:	Suptt: Estt: Local Office	As usual:
65	Shams-ur- Rehman Suptt: DEO (M) Kohat	AD (F&A) Local Directorate:	Vic: No.63
66	Ali Johar Suptt: SDEO (M) Wari Dir Upper	DEO (M) Peshawar.	Vice: No.31
67	Habib Aslam Suptt DEO (M) Malakand.	SDEO (M) Mardan	Vice S.No. 27

(15)
 انتہائی فوری سہ فروری 2013
 راجہ سید محمد رفیق
 سیکرٹری ایف & اے
 ڈی ایچ ایف ایڈ
 کراچی

Note:

- Charge report should be submitted to all concerned.

(Muhammad Rafiq Khattak)
 DIRECTOR

Endst: No. 4462-4559/A-23/MS/Promotion/B&AO/2013/Dated Pesh: the, July, 31, 2013.

Copy of the above is forwarded to the:-

- PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
- PS to Secretary Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department.
- Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
- Director of Education (FATA) Peshawar.
- Director Provincial Institute of Teachers Edu: Khyber Pakhtunkhwa Peshawar.
- Accountant General Khyber Pakhtunkhwa Peshawar.
- District Education Officers (Male/Female) concerned.
- District Accounts Officers concerned.
- Agency Accounts Officers concerned.
- Agency Education Officers concerned.
- Sub Divisional Education Officer (Male/Female) concerned.
- Officers concerned.
- PA to Director, Elementary & Secondary Edu: Khyber Pakhtunkhwa Peshawar.
- PA to Additional Directors (Estt:) & (Dev) Local Office.
- Master File.

Deputy Director (F&A) 519715
 Directorate of Elementary & Secy: Edu:
 Khyber Pakhtunkhwa Peshawar.

Fahid

(17) 56 G

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION NWFP PESHAWAR

NOTIFICATION

Consequents upon the approval of the competent authority, the following ministerial staff of Directorate of Elementary & Secondary Education NWFP Peshawar are hereby internally adjusted in the best interest of this office with immediate effect.

S.No	Name & Designation & Present Place of Posting.	To	Remarks
1.	Mr. Munir Ullah Shah AD (Admn)	Supdt. (P&D)	Vice S.No 2
2.	Mr. Mukhtiar Supdt. (P&D)	AD (Admn)	Vice S.No 1
3.	Mr. Nouroz Shah Supdt. (F&A)	Supdt. Establishment (M)	Vice S.No 4
4.	Mr. Iqbal Supdt (Estab-M)	Supdt (F&A) Section	Vice S.No 3
5.	Mr. Said Ali Shah Assistant	Assistant (P&D)	vice S.No 8
6.	Mr. Javed Abbas Assistant (F&A)	Assistant (Estab)	Vice S.No 7
7.	Mr. Farhad Ali Assistant (Estab)	Assistant (F&A)	Vice S.No 6
8.	Mr. Shams ur Rehman Assistant (P&D)	Assistani (Estab)	Vice S.No 9
9.	Mr. Samin Jan Senior Clerck. (Estab)	Senior Clerk (Estab)	Vice S.No 5
10.	Mr. Zahir Badshah Junior Clerk (with Cashier)	Work with Mr. Sher Rehman (S/C) on ministerial seat.	-----

Note: Compliance Report should be submitted to all concerned.

Director
Elementary & Secondary Education
NWFP Peshawar

Enidst: No. 6426-82 TA-23/MS/KC/Local Directorate /2008

Dated 28/11/2008

Copy forwarded to:

1. PS to Minister Education (E&SE) NWFP Peshawar.
2. PS to Secretary to Govt. of NWFP (E&SE) Deptt. Peshawar.
3. Additional Director (Estab) Local office.
4. Additional Director (P&D) Local office.
5. Deputy Director (Estab) Local office.
6. Officer / Official concerned.
7. PA to Director (E&SE) NWFP Peshawar.

Sma. 28/11/08
Deputy Director (F&A)
(E&SE) NWFP Peshawar

سیناری لیٹ 16
سیناری لیٹ 45
پہ (وزن) + 45
اور ٹیٹا فیر نے 50
لکھیا اور AD
کسٹ پر لکھانے



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Dated Peshawar the 29-08-2014

(18) 26
B D

NOTIFICATION

No. SO(PE)/2-6/DPC Meeting/ B&AO from BS-16 TO BS 17/2014: On the recommendation of the Departmental Promotion Committee meeting held on 02-07-2014, the competent authority is pleased to promote the following Budget & Accounts Officers (BS-16) to the posts of Assistant Director (BS-17) on regular basis with immediate effect:-

S.No.	Name of officer/ Designation	Promoted as:
1.	Ghulam Sarwar B&AO (BS-16) office of DEO (M) Abbottabad.	Assistant Director (BS-17).
2.	Sherullah B&AO(BS-16) office of DEO (F) Mardan.	Assistant Director (BS-17).

1. They will be on probation for a period of one year, extendable for another term of one year as specified in Rule-15 of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

2. Consequent upon their promotion to the post mentioned above they are posted / adjusted as under

S.No.	Name of officer/ Designation	Place of posting.
1.	Ghulam Sarwar B&AO (BS-16) DEO (M) Abbottabad.	Assistant Director (Administration) (BS-17) in the Directorate of E&SE, Peshawar against the vacant post.
2.	Sherullah B&AO(BS-16) DEO (F) Mardan.	Assistant Director (Finance & Accounts) (BS-17) in the Directorate of E&SE, Peshawar against the vacant post.

SECRETARY

In Ist. No. & date as above.

Copy forwarded to:

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Accountant General Khyber Pakhtunkhwa, Peshawar.
4. PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
5. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
6. District Accounts Officers Abbottabad/ Mardan.
7. PS to Secretary E&SE Department.
8. Officers concerned.
9. Office File.

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(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

(19)

BEFORE THE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL, PESHAWAR

Appeal No - 1068/2015



Sher Ullah

VERSUS

The Chief Secretary KPK and others

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Memo of appeal alongwith affidavit		1-6
2.	Addresses of parties		7
3.	Seniority list	A	8-9
4.	Notification 33 % of Selection grade and office order	B	10-16
5.	Impugned notification from BPS-16 to BPS-17	C	17
6.	Departmental appeal	D	18-19
7.	Judgment of this Honourable Tribunal in similar cases	E	20-27
8.	Judgment of the August Supreme Court of Pakistan in petition of similar cases	F	28-33
9.	Corrigendum in similar cases	G	34
10.	Promotion order of staff in similar cases	H	35-36
11.	Wakalat Nama		

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Petitioner

Through


MEHBOOB ALI KHAN

Advocate, High Court Peshawar
Cell No. 0300-5908467

Dated: 29/09/2015

(1)
(20)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. 1068/2015

1118
25-8-15

Sherullah Assistant Director (Admn) Directorate of
Elementary & Secondary Education Khyber Pakhtunkhwa,
Peshawar.

..... Appellant

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Elementary and Secondary Education
Peshawar.
3. The Director Elementary and Secondary Education,
Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
NOTIFICATION BEARING ENDST NO. SO
(PE)/2-6 DPC MEETING / BA & O, FROM
BS-16 TO BS-17 2014 DATED 28/08/2014,
WHEREBY THE APPELLANT WAS
PROMOTED FROM BS-16 TO BS-17,
ASSISTANT DIRECTOR
ADMINISTRATION, FROM IMMEDIATE
EFFECT (i.e. FROM 28/08/2014 INSTEAD OF
9.3.2006 THE DATE OF AVAILABILITY OF
VACANCY).

Filed to-day

29/9/15

Re-submitted

to-day

2/10/15

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(21)

(2)

SPECTFULLY SHEWETH,

the appellant submits as under:-

1. That the appellant joined Govt. service as Junior Clerk w.e.f. 20/04/1980.
2. That the appellant was promoted step by step to the post of Budget and Account Officer.
3. That the appellant stood at Serial No. 2 of the Seniority List of B&AO corrected upto 31/08/2013. (Copy attached as Annexure A);
4. That the appellant was allowed Selection Grade from BPS-16 to BPS-17 w.e.f. 30/10/993. (Copy of the notification is attached herewith as Annexure B).
5. That under the provision of Govt. of Khyber Pakhtunkhwa Civil Servant (Appointment Promotion and Transfer) Rules 1989, issued Vide No. SO (PE)4-10/SSCR/Ministerial Staff / 2013 dated 28/01/2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BPS-17 must be filled up, out of Budget & Account Officers through promotion on the basis of seniority cum fitness.
6. That the posts of Assistant Director (Admn) & Assistant Director F&A BPS-17 remained occupied by junior most Superintendents / Officers of the Department.
7. That the post of Assistant Director BPS-17 was vacant and the appellant promotion under the law was due w.e.f. the

ATTESTED

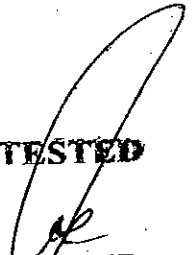
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

date of vacation of post but the appellant was promoted to Assistant Director BPS-17 on 29/08/2014 vide order No. SO(PE)/2-6/DPC Meeting / B&AO from BPS-16 to BPS-17/2014 dated 29/08/2014, which is against law, ineffective and imperative against the rights of appellant. (Copy of the notification is attached herewith as Annexure C).

8. That feeling aggrieved the appellant filed Departmental Appeal before the Secretary to Govt. Khyber Pakhtunkhwa Elementary and Secondary Education, Peshawar on 01/07/2015, but no response, whatsoever is received to appellant till the expiry of statutory period, hence the instant appeal before this August Tribunal. (Copy is annexure D).

GROUND:-

- A. That under the law and rules and decisions of the Apex Courts on the subject, the appellant was entitled for promotion to the post of (BPS-17) Assistant Director Administration from the date of vacation of post i.e. 09/03/2006.
- B. That the act of respondents ignoring the right of promotion of appellant from actual date i.e. the date of vacation of post of Assistant Director Administration (BPS-17) is against law, perverse, arbitrary in operative and ineffective upon the rights of the appellant and based on malafide, surmises and conjunctures.

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

C. That similar cases on the same prayer titled "Ghulam Rasool Versus Director of School and Literacy NWFP, Peshawar etc" were decided by his august Tribunal on 15/08/2006, which in appeals before the August Supreme Court of Pakistan got its finality. (Copy of the judgment of this Honourable Tribunal is produced as Annexure "E" while that of the august Supreme Court of Pakistan is Annexure "F" and order its implementation is Annexure G).

D. That similarly vide order bearing Endst No. 7174-85 dated 03/05/2000 Mr. Abdul Wajid and Mr. Mohammad Khan etc etc Junior clerks were promoted to the post of Senior Clerks and retrospective effect was given to them from the date of availability of vacancy of posts and not from immediate effect i.e. the date of passing such order. (Copies of orders are attached herewith as Annexure H).

E. That the cause of action arose to the appellant to file the instant appeal on 29/09/2015 i.e. after the expiry of statutory period for departmental appeal on 28/09/2015.

F. That the appellant seeks leave of this Honourable Tribunal of claim further grounds at the time of hearing.

G. That this Honourable Tribunal has got the jurisdiction to entertain the instant appeal.

PRAYER:-

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

It is therefore, very humbly prayed that the instant appeal may very graciously be accepted and the respondents may kindly be directed to consider / modify

the date of promotion of the appellant w.e.f 09/03/2006. (i.e. from the date of availability of vacancy) instead of 29/08/2014 (i.e. the date of passing of the impugned notification) with all back benefits.

Any other consequential relief which this Honourable Court / Tribunal deems fit and proper under the circumstances of the case may also be granted.

Appellant *M.A.K.*

Through

M.A.K.

MEHBOOB ALI KHAN

Advocate, High Court,
Peshawar.

29/9/15

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 23-4-2021

Number of Words 2800

Copying Fee 30

Urgent 4

Total 34

Name of Copyist *M.A.K.*

Date of Completion of Copy 23-4-2021

Date of Delivery of Copy 23-4-2021



Service Appeal No: 1068 / 2015

Sherullah Ex- AD(Admn) Directorate of E&SE Department, Khyber Pakhtunkhwa, Peshawar.
.....Appellant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS 1-3.

Respectfully Sheweth:-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action / locus standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
- 4 That the Appellant has filed the instant appeal on malafide motives.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the instant Appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 9 That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
- 10 That the appeal is not maintainable in its present form & circumstances of the case.
- 11 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 12 That the appellate order / Notification dated 29/08/2014 is legally competent & liable to be maintained in favour of the Respondents.

ON FACTS

- 1 That Para-1, needs no comments being pertains to the service record of the appellant.
- 2 That Para-2 is correct, hence needs no further comments.
- 3 That Para-3 is also correct, hence needs no further comments.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 4 That Para-4 is incorrect & misleading on the grounds that the appellant was made entitled for the grant of Selection Grade wef 19-7-1999 vide Notification dated 29-9-004. However, the appellant preferred a Service Appeal before the Honorable Service Tribunal, which was accepted on 15-8-2006 & upheld by the August Supreme Court of Pakistan vide judgment dated 05-3-2010. Hence in pursuance of the said judgment, the appellant has been allowed Selection grade wef 30-10-1993 vide Corrigendum order dated 26-4-2010 issued by the Respondent No: 3 in the interest of justice. (Copy of the said is Annexure-A).
- 4 That Para-5 is correct, hence needs no comments.
- 5 That Para-6 is also correct. Hence needs no comments.
- 6 That Para-7 is incorrect & denied. The cited Notification dated 28-01-2013 with reference to S/No: 2 says that in pursuance of the provisions contained in Sub: Rule-2 of Rule-3 of the Khyber Pakhtunkhwa, Civil Servants APT Rules, 1989 & supersession of all Rules issued in this behalf to the extent of E&SE Department in consultation with the Establishment & Finance Departments hereby lays down the method of the recruitment, qualification & other conditions specified in column 3 to 5 of the Appended to this Notification shall be applicable to the posts born on Ministerial Establishment in the Respondent Department specified in column-2 with the conditions for the grant of promotion on the basis of seniority cum fitness for the Budget & Accounts Officer with at least 2-years regular service as such. Hence the appellant is not entitled for the grant of promotion as mentioned in the Notification & has thus been made entitled for the grant of promotion in BPS17 wef 29-8-2014 against the AD (Admn:) post in the Respondent Department with immediate effect as and when the posts / vacancies were available to the Respondents for the purpose of adjustment of the appellant. (Copy of the said Notification is as Annexure-B).
- 7 That Para-8 is also incorrect & denied. There were no vacant posts available in the Respondent Department, upon which the appellant could be adjusted against the Asst: Director (Admn:) post in BPS-17. However, as & when the vacancy was available, the competent authority has been pleased to promote the appellant vide Notification dated 29-8-2014 with immediate effect & in the interest of public service (Copy of the said Notification is Annexure-C).
- 8 That Para-9 is incorrect & denied. No Departmental Appeal has been filed by the appellant against the impugned Notification dated 29-8-2014 nor any such record is available in the Respondent Department till date. Hence the plea of the appellant is liable to be dismissed on the following grounds inter alia :-

GROUNDS.

- A Incorrect & denied. The statement of the appellant is against the facts & actual circumstances of the case on the grounds that the appellant has been promoted against BPS-17 post of AD (Admn:) vide the impugned Notification dated 29-8-2014 on the availability of vacancy against the post in the Respondent Department.
- B Incorrect & denied. The appellant has been treated as per law, Rules & Promotion Policy in the instant case & has thus made entitled for the grant of promotion vide the impugned Notification dated 29-8-214 by the Respondent Department.
- C Incorrect & denied. The refer case is not fit & even applicable upon the case of the appellant as each & every case has its own nature & parameters. Hence the plea of the appellant is liable to be dismissed in favour of the Respondents.

ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

- D Incorrect & denied. The case & issue of the appellant is different from the cited case of the Junior & Senior Clerks. Hence not applicable upon the case of the appellant in the wake of the above made submissions in the foregoing paras.
- E Incorrect & denied. The appellant has got no cause of action as the impugned Notification dated 29-8-2014 is in accordance with law, Rules & policy issued by the Respondent Department in the interest of equity & justice with immediate effect. Hence is liable to be maintained.
- F The Respondents seek leave of this Honorable Tribunal to advance additional grounds & case law/ record at the time of arguments on the main appeal.
- G Incorrect & denied on the grounds that this Honorable Tribunal has got no jurisdiction to entertain the instant appeal against the Respondents.

Prayer

In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favour of the respondent Department.

24/11/2016

Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1&2)

Director
E&SE Department Khyber,
Pakhtunkhwa, Peshawar.
(Respondent-3)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Appeal No. 1068/2015

Sherullah

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa and others

REJOINDER ON BEHALF OF APPELLANT.

PRELIMINARY OBJECTIONS:-

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law, and rules, rather the respondents are estopped to raise such objections due to their own conduct.

ON FACTS:-

1. Reply to Paras 1 to 3 need no comments.
2. Reply of respondent to Para No. 4 of the appeal, supports not only the version of the appellant at this stage, but also supports the illegality, and malafide / irregularities of the respondents department at the stage of granting selection grade to the appellant.

3

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Reply of respondents to Para No. 5 and 6 of the appeal is correct and need no comments, however, the respondents have admitted their own irregularity, discrimination, illegality and malafide by depriving the appellant from his accrued right.

4. Reply of respondents to Para No. 7 of the appeal is incorrect to the extent that the appellant was not entitled for the grant of promotion on the criteria of at least 2 years regular service as Budget and Account Officer because the appellant Vide notification No. 4031-4150/A-23/Peshawar/II AE Dated Peshawar, the 27/05/1992, was promoted as Budget and Account Officer, who took over charge of the same on the same date, and as such he has rendered 22 years 2 months and 23 days regular services as Budget and Account Officer and that too the post / vacancy of Assistant Director Admn were available with the respondents departments w.e.f. 09/03/2006. (Proof is attached herewith).

5. Reply of respondents to Para No. 8 of the appeal is incorrect and denied as discussed earlier and further is against the ground realities as the post of Assistant Director (Admn) was lying vacant due to retirement of Mr. Rahim Ullah, Assistant Director (Admn) on 09/03/2006, under Director to Govt. of NWFP Education Department notification No. 3049-53 dated Peshawar, the 26/01/2006. (Copy of retirement notification is attached herewith).

6. Reply of respondents to Para No. 9 of the appeal is incorrect and denied. At Page No. 18 the copy of the letter from Director E&SE KPK Peshawar, to Secretary E&SE KPK Peshawar, bearing No. 247/A-23/MS/DSC/DPC/V-I dated Peshawar the 01/07/2015 and Copy of the departmental appeal at Page No. 19 clearly indicate that the appellant has filed his departmental appeal before the

ATTESTED

EXAMINER
Khyber Pakhtukhwa
Service Tribunal
Peshawar

competent authority, which was not decided within the stipulated period, hence the instant appeal was filed by the appellant.

GROUNDS:-

- A. Para A is incorrect.
- B. Para B is also incorrect as discussed above.
- C. Para C is equally incorrect.
- D. Para D is incorrect and not admitted.
- E. Para E is incorrect. The appellant being an aggrieved person has the cause of action to file the instant appeal.
- F. Para F is incorrect.

It is prayed that the appeal of the appellant may be accepted as prayed for with all back benefits with costs.

Through Appellant

[Signature]

Mehboob Ali Khan
Advocate, High Court,
Peshawar.

ATTESTED
[Signature]
F. N. JINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

AFFIDAVIT.

I, Shaukhat, appellant do hereby solemnly declare and affirm that the contents of my de-jointer are correct and true to the best of my knowledge and belief and nothing has been concealed therefrom.

Certified to be true copy

[Signature]

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar 11/8/2016

F. N. JINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 23-4-2021
Number of Words 2800
Copy 30
Ugen 4
Time 34.5
Name of SR
Date of Completion of Copy 23-4-2021
Date of Delivery of Copy 23-4-2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR



Appeal No - 1068/7015

1118
29-8-15

Sherullah Assistant Director (Admn) Directorate of
Elementary & Secondary Education Khyber Pakhtunkhwa,
Peshawar.

..... Appellant

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Elementary and Secondary Education
Peshawar.
3. The Director Elementary and Secondary Education,
Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
NOTIFICATION BEARING ENDST NO. SO
(PE)/2-6 DPC MEETING / BA & O, FROM
BS-16 TO BS-17 2014 DATED 28/08/2014,
WHEREBY THE APPELLANT WAS
PROMOTED FROM BS-16 TO BS-17,
ASSISTANT DIRECTOR
ADMINISTRATION, FROM IMMEDIATE
EFFECT (i.e. FROM 28/08/2014 INSTEAD OF
9.3.2006 THE DATE OF AVAILABILITY OF
VACANCY).

Filed to day

29/8/15

De-submitted

to day

29/8/15


ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	09.04.2019	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 1068/2015</p> <p>Date of Institution 29.09.2015 Date of Decision 09.04.2019</p> <p>Sherullah Assistant Director (Admn) Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.</p> <p align="right">Appellant</p> <p align="center">Versus</p> <p>1. The Chief Secretary Khyber Pakhtunkhwa Peshawar. 2. The Secretary Elementary & Secondary Education, Peshawar. 3. The Director Elementary & Secondary Education Peshawar.</p> <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah -----Member(J)</p> <p align="center"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 being aggrieved against the promotion order dated 29.08.2014 whereby he was promoted from the post of Budget & Account Officer (BS-16) to the post of Assistant Director (BS-17) with immediate effect. Prayer of the appellant is that the respondents may be directed to promote the appellant to the post of Assistant Director (BS-17) from the date of</p>

9.4.2019

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

availability of vacancy instead of 29.08.2014.

3. Learned counsel for the appellant argued that under the promotion criteria dated 28.01.2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BS-17 has to be filled up out of Budget & Account Officers through promotion on the basis of seniority cum fitness. Further argued that the posts of Assistant Director (Admn) & Assistant Director (F&A) remained occupied by the junior most superintendents and other officers of the department hence the appellant's promotion to the post of Assistant Director was due from the date of availability of vacancy but the appellant was promoted to the said post w.e.f 29.08.2014 instead of from the date of availability of vacancy which is against law and norms of justice; that the departmental appeal of the appellant went un-responded.

4. As against that learned Deputy District Attorney argued that the appellant has not filed any departmental appeal against the promotion order dated 29.08.2014; that the appellant was not entitled for the grant of antedated promotion; that as and when the vacancy was available, the competent authority promoted the appellant vide impugned promotion order dated 29.08.2014.

5. Arguments heard. File perused.

6. It is also to be seen that whether under the promotion criteria which was in field prior to the promotion criteria dated 28.01.2013, the appellant was also entitled to promotion to the post of Assistant Director (BS-17) or otherwise.


ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

9.4.2019

34

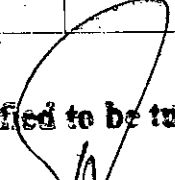
7. Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case is remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed of in the above terms. Copy of the departmental appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
09.04.2019

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 23-4-2021
Number of Words 2000
Copying Fee 22 -
Urgent 4 -
Total 26 -
Name of Copyist 
Date of Completion of Copy 23-4-2021
Date of Delivery of Copy 23-4-2021

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL
PESHAWAR.

35 (19)



E.P. NO. _____ 2020

IN-

APPEAL NO. 1068/2015

Sherullah Ex-Assistan Director (Admn) Directorate of Elementary &
Secondary Education Peshawar.

Versus

Secretary, elementary & Secondary Education Department, Peshawar

INDEX.

S.No.	Description of documents.	Annex:	P.No.
1-	Execution Petition		1-2
2-	Judgment dated 12-3-2012	A	3-
3-	Wakalatnama		

Dated 02/10 2020

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

IBADUR RAHMAN
Advocate High Court
127-Sarhad Mansion
Hashnagri, GT Road
Peshawar.
Cell = 0300-5932939

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL
PESHAWAR.

E.P. NO. 144 /2020

IN

APPEAL NO. 1068/2015

Sherullah Ex-Assistan Director (Admn) Directorate of Elementary &
Secondary Education Peshawar.

..... Petitioner

Versus

Secretary elementary & Secondary Education Peshawar.

..... Respondent

EXECUTION PETITION FOR IMPLEMENTATION
OF JUDGMENT DATED 09-04-2019 PASSED BY
THIS HONOURABLE TRIBUNAL.

Respectfully sheweth.

Petitioner submits as under :-

- 1- That the petitioner/ Appellant filed an Appeal against the notification bearing Endst No. SO (PE) /2-6 DPC meeting BA & O from BS-16 to BS 17 2014 dated 28/08/2014. whereby the appellant was promoted from BS-16 to BS-17 Assisntant Director Administration. with immediate effect instead of the date of availability of the vacancy.
- 2- That this honouable tribunal disposed-off the appeal with the following observations/directions :-

Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case if remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed off in the above terms. Copy of the departmental

ATTESTED

EXAMINER
Rabiatulhwa
e Tribunal
Peshawar

appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment, vide judgment dated 09-04-2019. (Copy attached as Annex:-A).

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- 3- That since then, the appellant/Petitioner time an again requested the respondents for implementation of the above judgment order of this honourable tribunal but still no response what so ever from there side.
- 4- That almost one and a half year has passed but still the respondent is reluctant to implement the judgment of this honourable tribunal and the applicant has left with no other option but to approach this honourable tribunal, hence, the applicant in hand.

It is, therefore, humbly prayed that the respondents be directed to implement the judgment/order dated 09-04-2019.

Any other remedy deem proper in the matter and not specifically asked for may also please be given with Costs.

Petitioner/Appellant

Through:-

IBADUR RAHMAN
Advocate High Court
Sarhad Mansion
Hashtnagri, GT Road
Peshawar.

DATED 02/9/2020

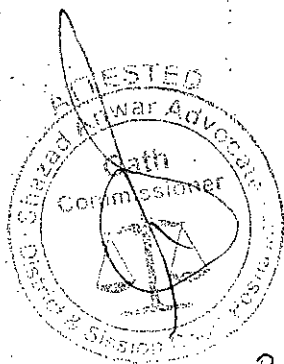
AFFIDAVIT

Stated on oath that above contents are true and correct to the best of my knowledge and belief.

Deponent

ATTESTED

EXAMINER
Khyber Pakhtukhwa
Service Tribunal
Peshawar



02-10-2020

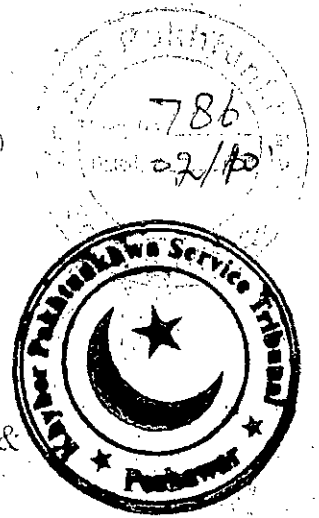
BEFORE THE HONOURABLE KP SERVICE TRIBUNAL
PESHAWAR.

(6) 38

E.P. NO. 144 /2020

IN

APPEAL NO: 1068/2015



Sherullah Ex-Assistan Director (Admn) Directorate of Elementary &
Secondary Education Peshawar.

..... Petitioner

Versus

Secretary elementary & Secondary Education Peshawar.

..... Respondent

EXECUTION PETITION FOR IMPLEMENTATION
OF JUDGMENT DATED 09-04-2019 PASSED BY
THIS HONOURABLE TRIBUNAL.

Respectfully sheweth.

Petitioner submits as under :-

- 1- That the petitioner/ Appellant filed an Appeal against the notification bearing Endst No. SO (PE) /2-6 DPC meeting BA & O from BS-16 to BS 17 2014 dated 28/08/2014, whereby the appellant was promoted from BS-16 to BS-17 Assisstant Director Administration, with immediate effect instead of the date of availability of the vacancy.
- 2- That this honouable tribunal disposed-off the appeal with the following observations/directions :-

Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case is remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed off in the above terms. Copy of the departmental

ATTESTED



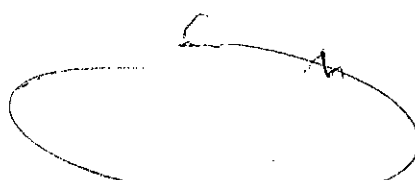
EXAMINER
Khyber Pakhtunkhwa Service Tribunal
Peshawar

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FORM OF ORDER SHEET

Court of _____

Execution Petition No. 144 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1.	2.	3.
1	<u>0</u> .10.2020	<p>The Execution Petition submitted by Mr. Sherullah through Ibad Ur Rahman advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This Execution Petition be put up before S. Bench on <u>06/11/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
06.11.2020		<p>Petitioner is present in person. Notice be issued to the respondents for implementation report for 31.12.2020 before S.B.</p> <p style="text-align: right;"> (Muhammad Jamal Khan) Member (Judicial)</p> <p>Certified to be true copy</p> <p>EXAMINER Khyber Pakhtunkhwa Service Tribunal Peshawar</p> <p>Date of Presentation of Application <u>23-4-2021</u> Number of Words <u>2000</u> Copies <u>22</u> - Urgent <u>4</u> Total <u>26</u> - Name of Applicant <u>Ju</u> Date of Application of Copy <u>23-4-2021</u> Date of Delivery of Copy <u>23-4-2021</u></p>

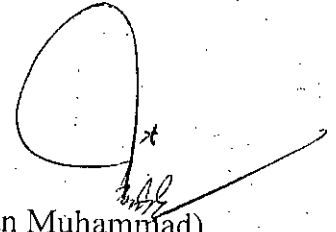
31.12.2020

(46) (29)

Learned counsel for the petitioner present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

Implementation report not submitted. Learned District Attorney seeking two weeks time to make sure submission of the implementation report on the next date.

Adjourned to 02.02.2021 before S.B.



(Mian Muhammad)
Member(E)

02.02.2021

Petitioner with counsel and Addl. AG alongwith Muhammad Saleem S.O and Abdul Wahid, Litigation Officer for the respondents present.

Representative of respondents requests for further time towards implementation of the judgment. In his view, the exercise will be completed in one month. Learned counsel for the petitioner does not object to the request provided the implementation report is positively submitted on next date.

The proceedings in hand are, therefore, adjourned to 01.04.2021 before S.B.



Chairman

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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01.04.2021

Petitioner with counsel present. Mr. Kabirullah Khattak learned Addl. AG alongwith Saleem SO for respondents present.

Representative of the respondent department submitted copy of office order dated 22.03.2021 wherein the departmental appeal of the petitioner has been dismissed. Copy of the same is handed over to the petitioner. To come up for further proceedings on 03.06.2021 before S.B.

ATTESTED

EXAMINER
Kabirullah Khattak
Senior Tribunal
Peshawar


(Atiq Ur Rehman Wazir)
Member (E)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

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No.SO (Lit) E&SED/1-3/SA#1264/2015.
Dated Peshawar the, March 22, 2021

Order

WHEREAS Mr. Sher Ullah, was promoted from the post of Budget & Accounts Officer (BS-16) to post of Assistant Director BS-17 on regular basis on the recommendations of the Departmental Promotion Committee vide notification dated 29.08.2014.

2. AND WHEREAS In terms of Rule 15 (2) of Khyber Pakhtunkhwa Government Servants Appointment, Promotion & Transfer (APT) Rules 1989(in-vogue by then), he was on probation for a period of one year extendable for another year. Hence he was on probation upto 28.08.2016.

3. AND WHEREAS final seniority list of Assistant Director was issued on 31.08.2015.

4. AND WHEREAS his date of birth being 13-11-1955, he proceeded on retirement on 12-11-2015 on the basis of superannuation. Hence he retired from service before completion of his probation period on i.e 28.08.2016.

5. AND WHEREAS promotion to next higher grade/post is not considered during probation period as contained in clause-IV (f) of promotion policy 2009 of provincial Government.


6. NOW THEREFORE this departmental appeal has been considered on the above grounds and dismissed, being devoid of merit.

SECRETARY

Endst: Even No. & Date:

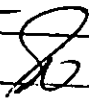
Copy of the above is forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to judgement dated 09.04.2019 in Service Appeal No 1264 of 2015 in appeal No. 1068/2015.
2. The Director, E & S E Department Khyber Pakhtunkhwa, Peshawar.
3. Director, Curriculum & Teachers Education Abbottabad.
4. Section Officer (Lit-II), E&SE Department.
5. PS to Secretary, E & S E Department Khyber Pakhtunkhwa, Peshawar.
6. Mr. Sher Ullah, Ex-Assistant Director (Administration) (BS-17) Directorate of E&SE Peshawar
7. Office Order File


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 23-4-2021
Number of Words 2000
Copying Fee 22 -
Urgent 4 -
Total 26 -
Name of Copyiest 
Date of Completion of Copy 23-4-2021
Date of Delivery of Copy 23-4-2021



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 1393 /F.No. /A-23/MS/Appeal/Litigation Vol-II

Dated Peshawar the 30/9/2019

Phone: 091-9225344

Email: ddadm.n.ese@gmail.com

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The Section Officer (Litigations)
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department

Subject:

APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS PER THE DECISIONS OF HON'S SERVICE TRIBUNAL KHYBER PAKHTUNKHWA IN SERVICE APPEAL NO 1067 AND 1068.

Memo:

I am directed to refer to your letter No SO(Lit-II)E&SED/1-3/S.A#1067-68/15/Ghulam Sarwar and Sherullah dated 23/08/2019 on the subject noted above and to state that:

1. As per Service Rules, the posts of Assistant Director (Admn) and Assistant Director (F&A) BS-17 are filled promotion on the basis of seniority cum fitness from amongst the Budget & Accounts Officers having at least year's services as B&AO.
2. Mr Fazle Khaliq Assistant Director BS-17 and Mr Rahimullah BS-17 retired from service on the age of 60 years on 07/01/1997 and 09/03/2006 respectively (Copies attached as Annex-A-I&II).
3. The posts of Assistant Director (Admin) and Assistant Director (F&A) remained occupied by junior officers transfer as stopgap arrangements till 2014; therefore no promotion case was processed till 2014.
4. On vacation of the post of Assistant Director (Admin) and Assistant Director (F&A), promotion order of the appellants M/S Ghulam Sarwar and Sherullah standing at S.No. 1 and 2 of seniority list of B&AO, having 17 years and 22 years services as B&AO at their credit were made on 29/08/2014. (Copy attached at Annex-B).
5. Both the above aggrieved officers preferred departmental appeal which was submitted to competent authority vide this office Memo No.247 dated 01/01/2015, but the same could not be decided within stipulated time limit. Copies attached at Annex-C.
6. Presently, both the appellants have been retired from service on 05/03/2016 and 13/11/2015 respectively and there is no other aggrieved 3rd party to be effected if the appeals of the appellants are considered/accepted except revision of their pension papers.
7. The appellants presented precedent regarding Ante dated promotions of different categories considered E&SE Department (copies attached at Annex-D-I&II).
8. Furthermore, there is also several court decisions in favor of Ante-dated promotion wherein it has been decided that delay on the part of Department shall not suffer the Govt: employees (copies attached at Annex-E).

As per decisions of Hon's Service Tribunal Khyber Pakhtunkhwa in Service Appeal No 1067 and 1068, report submitted with the request that this Directorate have got no objection on the consideration of appeals of the above officers from the date of vacation of the posts on the retirement of the officers mentioned at serial No 1 above please.

Endst: No. _____

Copy forwarded to the: -

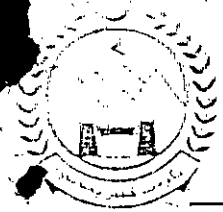
1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Deputy Director (F&A)

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.

Deputy Director (F&A)

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar



49 44

To: The Section Officer (Litigations-II)
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu. Department

Subject: APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS PER
THE DECISIONS OF HON'S SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA IN SERVICE APPEAL NO 1067 AND 1068.

Memo:

I am directed to refer to your letter No SO(Lit-II)E&SED/1-3/SA#1067-68/15/Ghulam Sarwar and Sherullah dated 19/12/2019 on the subject cited above and to submit that the subject case was thoroughly examined and studied in depth impartially in the light of this office both letters reflected in your above quoted reference i.e 4393 dated 30/09/2019 and 4404 dated 10/12/2019 and the following factual position was found that:

1. The appellants were promoted to BPS-17 regular as Assistant Director (Admn) and Assistant Director (F&A) on the basis of seniority list cum fitness w.e.f 29/08/2014 with immediate effect and the appellants submitted their appeals during service requesting for Antidation of their promotion w.e.f the availability of vacancy as one Fazle Khaliq Assistant Director and Rahimullah Assistant Director were retired at the age of 60 years w.e.f 07/01/1997 and 09/03/2006 (copies attached) and the department did not made any promotion after these dates till 29/08/2014 and these posts were occupied through transfers on own pay scale by junior officials till 29/08/2014.

- i. The reference of 2006 SCMR 1324 made at S.No.8 and PLD 2008 Supreme Court 395 at S.No. 9 of this office letter No 4404 dated 10/12/2019 is due to oversight shown against the appellants whereas the reference 2006 SCMR 1324 and PLD 2008 Supreme Court 395 actually is in favour of the appellants, on the following grounds:-
- ii. The appellant referred in SCMR 2006, 1324 was retired on 03/10/1995 and lodged appeal on 31/10/2000 after elapse of about six years thus the court rejected his appeal, as no promotion after retirement can be allowed.
- iii. Same is the case of PLD 2008 Supreme Court 395 with the direction at S.No.6

"It may be noted that the question of antedating promotion would only arise in case if, the petitioner was already promoted,"

(both judgments attached).

As such these both references quoted by this office falls in favour of the appellants and not against them as Ghulam Sarwar & Sherullah both were already promoted and applied for Antidation promotion while in service.

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Therefore, it is crystal clear that the current under references appeals are of Antidation and not back dated promotion.

2. The appellants have produced various references/judgments of Courts in favour of Antidation promotion (copies attached).
3. It is also clarified that the existing service rules through which the appellants were promoted as Assistant Director (Admn) and Assistant Director (F&A) BPS-17 regular comes into being on 28/01/2013 (copy attached) and the appellants were promoted w.e.f 29/08/2014 after the laps of one year and 8th months (copy of promotion order attached) and before these current service rules there were the service rules for promotion to BPS-17 regular but only there was the difference of nomenclature of posts i.e before 2013 these posts were called/nominated as Administrative Officer/Assistant Director Schools etc. (copy attached).
4. It is also clarified that the appellants have based their case on the service tribunal KPK Judgment in appeal 724/2002 dated 27/08/2002, upheld by Honorable Supreme Court of Pakistan in Civil Petitions No.35-P to 51-P and CP 301-P of 2007, wherein it has been directed that the Govt servants shall not suffer at the hands/lapses on the part of department as they are always anxious of their promotion or getting their benefits at the earliest.

The appellants further contend and quoted reference of Honorable Supreme Court of Pakistan the question of giving promotion with immediate effect means when the promotion vacancy is available and seniority cum fitness is ok, then promotion shall be given immediately but in their cases their promotions is not actually with immediate effect but actually it is delayed i.e after the laps of so many years.

This office submit the case after thorough/deep and quite impartial examination of their appeals as per remarks noted in last paragraph of this office letter No.4393 dated 30/09/2019.

Encls: AS ABOVE

O/C

M 25.2

Assistant Director (Lit)
Directorate of E&SE KP, Peshawar.

Endst: No. 2896

Copy forwarded to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

O/C

M 25.2.20

Assistant Director (Lit)
Directorate of E&SE KP, Peshawar.

G/1 (46)

READABLE COPY

OFFICE OF THE DIRECTOR SCHOOLS AND LITERACY N.W.F.P PESHAWAR.

NOTIFICATION.

The Director Schools and Literacy NWFP, Peshawar is pleased to accord sanction to the grant of Encashment /LPR/Retirement from Govt: Service/Leave with effect from the dates noted against each on full/half/with out pay, as due and admissible to him/her/them under the provision of Rules, 20 of NWFP, Govt Servants Revised Leave Rules 1981 in favour of the following Officers(s) teachers(s).

S.No.	NAME/DESIGNATION/ SCHOOLS/OFFICE.	RETIREMENT/PERIOD OF LEAVE	REMARKS
1.	Mr. Rahimullah Assistant Director (Admn) BPS-17 Directorate Literacy & School Peshawar	Retirement date w.e.f 9.03.2006(an) Encashment of LPR 180 days on full pay.	

**DIRECTOR SCHOOLS AND LITERACY
N.W.F.P PESHAWAR**

Endst: No. 3049-53

Dated Peshawar the 26-01-2006.

Copy forwarded for information & necessary action to the: -

1. Accountant General NWFP, Peshawar.
2. Executive District Officer(S&L) concerned.
3. District Accounts, Officer concerned.
4. Principal/Headmaster/Headmistress concerned.
5. Officer/Official concerned.
6. PA to Director Schools and Literacy NWFP, Peshawar.
7. Cashier local Directorate.

Sd/
DEPUTY DIRECTOR (F/A)
SCHOOLS AND LITERACY NWFP PESHAWAR.

G/C

(B)

H

OFFICE OF THE DIRECTOR SCHOOLS AND LITERACY N.W.F.P. PESHAWAR.
NOTIFICATION.

The Director Schools and Literacy NWFP, Peshawar is pleased to accord sanction to the grant of Encashment/LPR/Retirement from Govt: Service/Leave with effect from the dates noted against each on full/half/with out pay, as due and admissible to him/her/them under the provision of Rules, 20 of NWFP, Govt: Servants Revised Leave Rules 1981 in favour of the following Officers(s) teachers(s).

S.No.	NAME/DESIGNATION/SCHOOLS/OFFICE.	RETIREMENT/PERIOD OF LEAVE	REMARKS.
1.	Mr. Bahadur Khan Assistant Director (Admin) District Directorate Peshawar.	Retirement date w.e.f. 03.03.2006 (10)	Encashment of 127 days on full pay.

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Endst: No. 3049-83

DIRECTOR SCHOOLS AND LITERACY
 N.W.F.P. PESHAWAR.
 Dated Peshr the 26/1/2006.

- Copy forwarded for information & necessary action to the:-
1. Accountant General NWFP, Peshawar.
 2. Executive District Officer (S&L) Concerned.
 3. District Accountant Officer concerned.
 4. Principal/Headmaster/Headmistress concerned.
 5. Officer/Official concerned.
 6. PA to Director Schools and Literacy NWFP, Peshawar.
 7. Cashier Local Directorate.

o/c

7-26/1/06 FIA
 DEPUTY DIRECTOR (ESTABLISHMENT)
 SCHOOLS AND LITERACY NWFP PESHAWAR

Abdul jabbar.

North West Frontier Province - Education Department

Dated Peshawar the, 9-5-1978.

Notification.

No.S.O © 5-2/70 (E). In exercise of the Power conferred by sub-rule (2) of Rule 3 of the North West Frontier Province Civil Servant (Appointment promotion and Transfer) Rules 1975, and in consultation with the Information, Services and General Administration Department and the Finance Department, the Education Department is pleased to lay down the method of Appointment, qualification and other conditions specified in column 3 and 6 of the Appendix to this notification, which shall be applicable to posts borne on the Administrative establishment of the Education Department specified in column 2 of the Appendix.

Captain Aftab Ahmad Khan
Secretary to Government of
North West Frontier Province,
Education Department.

Endst: No.S, O (Coll) 5-2/70 (E). Dated Peshawar the, 9-5-1978.

1. The Secretary, Services and General Administration Department, Government of NWFP Peshawar.
2. The Secretary to Government of NWFP Finance Deptt: Peshawar.
3. The Secretary to Government of NWFP Law Department, Peshawar.
4. The Secretary to NWFP, Public Service Commission, Peshawar.
5. The Manager, Government Printing Press, Peshawar, with the request that the Notification along with the appendix, may please be published in the next issue of Provincial Gazette and one hundred spare copies of the same may also be supplied to the Director Education NWFP Peshawar, for further distribution. The printing Press may also arrange its publication for sale purpose according to the requirement.
6. The Director of Education, NWFP, Peshawar.
7. The Accountant General, NWFP, Peshawar.

(Syed Noor Badshah)
Section Officer (Colleges)
Government of NWFP. Edu: Deptt:

\$\$ Saleem Janbaz \$\$

Saleem Janbaz

APPENDIX

METHOD OF APPOINTMENT, QUALIFICATION AND OTHER CONDITIONS
APPLICABLE TO MINISTERIAL POSTS IN THE EDUCATION DEPARTMENT

Sr. No.	Womenculture of the post	Minimum Qualification Prescribed for Appointment by Initial Recruitment and Transfer	Minimum Qualifications for Appointment and Promotion	Age Limit for Appointment by Initial Recruitment	Method of Appointment
1.	2	3	4	5	6
1.	Administrative Officer / Assistant Director (Colleges) / Assistant Lecturer (School)				By promotion on the basis of seniority - Cum - Fitness from amongst holder the post of Assistant Director establishment and Assistant Accounts Officer
2.	Assistant Director Establishment / Assistant Accounts Officer				By Promotion on the basis of seniority -cum-fitness from amongst the holders of the posts of Superintendents
3.	Superintendents				By promotion on the basis of seniority -cum-fitness from amongst the holders of the posts of Assistants / Head Clerks Stenographers.
4.	Assistants / Head Clerk	Degree from a recognized University		Not less than 19 years and not more than 25 years	(i) 25% by initial recruitment and (ii) 75% by promotion on the basis of seniority -cum-fitness from amongst the holders of the posts of Senior Clerks.

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1.	2.	3.	4.	5.	6.
5.1.	Senior Clerk				By promotion on the basis of seniority - Cum - Fitness from amongst holders the posts of Junior Clerks / Asstt: Store Keepers / Laboratory Asstt./Junior Libraries By initial recruitment
6.	Junior Clerk / Assistant Store Keepers Library Assistant / Junior Librarian	a. Matriculation or equivalent qualification from a recognized University / Board with Science group fro Laboratory Assistant b. Speed of 25 words per minute in English typing		Not less from 18 years and not more than 25 years	By initial recruitment
7.	Stenographers	a. Matriculation or equivalent qualification from a recognized University / Board. b. Speed of 100 words per minute in short hand in English and 45 words per minutes in typing	Not less than 16 years and not more than 25 years		i. 25% by initial recruitment and ii. 75 % by promotion on the basis of seniority -cum-fitness from amongst the holders of the posts of Steno Typist
8.	Steno - Typist	a. Matriculation or equivalent qualification from a recognized University / Board. b. Speed of 80 words per minute in short hand in English and 35 words per minute in typing.		Not less than 18 years and not more than 25 years	By initial recruitment.
		c.			

H (50) 993
BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

~~ANNEXURE-E~~

Appeal No. 754/2002

Date of institution - 17.08.2002

Date of decision - 15.08.2006

Ghulam Rasool, Ex-ASDEO (Accounts),
Office of the E.P.O, (S&L) Buner.....(Appellant)

VERSUS

1. Director of Schools & Literacy NWFP Peshawar.
2. Secretary Schools & Literacy NWFP.
3. Secretary Finance NWFP Peshawar.
4. Chief Secretary NWFP Peshawar.....(Respondents)

M/S Anwarul Hussan & Shafiullah Advocates.....For appellants.
Mr. Zaffar Abbas Mirza, Addl. Govt. Pleader.....For respondents.

MR. ABDUL KARIM QASURIA.....MEMBER.
MR. FAIZULAH KHAN KHATTAK.....MEMBER.

JUDGMENT.

ABDUL KARIM QASURIA, MEMBER - This appeal has been filed by the Ghulam Rasool appellant against the orders dated 7.5.2002 and 1.7.2002 whereby he was not granted selection grade BS-17 w.e.f. 30.10.1993 with the prayer that the impugned orders

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may be set aside and he be granted selection grade BS-17 w.e.f. 30.10.1993.

2. Brief facts of the case are that the appellant was employed under respondents No. 1 and 2 and retired from service on 1.8.2001 as Assistant Sub Divisional Education Officer (Accounts) from the office of EDO (S&L) Buner. During his service the appellant was promoted from the post of Superintendent to the post of ASDEO(Accounts) in BS-16 vide order dated 4.8.1987. Vide order dated 30.10.1993 the Finance Department allowed selection grade BS-17 to the Administrative Officer/Account Officer/Assistant Accounts officer at the ratio of 33% of their total strength alongwith Superintendents and also issued a clarification vide letter dated 31.1.1994 regarding awarding selection grade BS-17 to various officers. In order to extend the said benefits to various officers in BS-16; respondent No. 2 issued a Notification dated 29.8.1994 wherein various categories of officers in BS-16 were brought at par. In spite of clear cut orders of the Government and clarification, the selection grade was only allowed to the Superintendents BS-16 w.e.f. 30.10.1993 while other categories of officers BS-16 who were at par with the Superintendents were left. Respondent No. 2 issued a Notification dated 6.2.1997 bringing

*Asst. Secy
Buner
23/10/93*

*Asst. Secy
Buner
23/10/93*

various categories of officers at par with one another by amending the Service Rules. Respondent No. 2 issued the impugned order dated 7.5.2002 under which the AEDO (A), Budget Officer, Audit Officer, Account Officer BS-16 of Education Department were granted selection grade BS-17 but the appellant was granted selection grade w.e.f. 19.7.1999 instead of 30.10.1993 under this Notification against which the appellant preferred a departmental appeal on 1.7.2002 but the same was rejected on 31.7.2002. Hence the instant appeal.

3. The respondents have filed the written reply in which the claim of the appellant has been opposed by raising legal objections. The appellant also filed the replication rebutting the objections raised by the respondents.

4. The learned counsel for the appellant argued that the appellant was promoted from the post of Superintendent to the post of Assistant Sub Divisional Education Officer (Accounts) in BS-16 vide order dated 4.8.1997. Respondent No. 3 vide Notification dated 30.10.1993 allowed selection grade BS-17 to the Administrative officer/Accounts Officer/Assistant Accounts Officer at the rate of 33% of their total strength alongwith Superintendents on the joint seniority list.

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Adm

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Respondent No. 3 vide Notification dated 31.1.1994 issued a clarification regarding grant of selection grade to various categories of officers. It was stated that condition of amendment in the service rules as referred to in para-2 of respondent No. 2 letter dated 30.10.1993 will not be applicable on the department/offices where no post of Accounts officer/Assistant Accounts Officer or similar other post exists which requires to be filled in by promotion from amongst Superintendent BS-16. In that case the grant of selection grade was made effective from 30.10.1993 while in case of amendment in the rules it was to be effective from the date of amendment in the Service Rules. The counsel further argued that respondent No.2 vide Notification dated 28.8.1994 brought various categories of posts in BS-16 at par. But inspite of the above equality of the posts only the Superintendents were given selection grade w.e.f. 1993 while for the incumbents of other posts the condition of amendment in the Service Rules was made and resultantly deprived them from their due rights of grant of selection grade from 30.10.1993. The rules were amended by respondent No. 1 vide Notification dated 6.2.1997 by bringing various categories at par. Respondent No. 1 vide impugned Notification dated 7.5.2002 granted selection grade BS-17 w.e.f. 19.7.1999 as per joint seniority list of ADEO (A)/Budget Officer/Audit Officer/Accounts

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Officer (BS-16) Keeping in view the above facts the appellant has been discriminated against. The counsel stated that the impugned orders are against natural justice, unlawful, arbitrary and malafide. It was also argued that issuance of Notification dated 6.2.1997 is the repetition of Notification dated 29.8.1994 which only delayed the grant of selection grade which was allowed w.e.f. 30.10.1993.

5. The AGP opposed the contention of the appellant stating that the issue of grant of selection grade to the appellant has been disposed of as per policy and instructions contained in letter of respondent No. 3 dated 30.10.1993 and 31.1.1994. The amendment in the Service Rules was made on 6.2.1997 and the selection grade was allowed vide letter of respondent No. 3 dated 30.10.1993. He refuted the contention of the appellant that any discriminatory treatment was meted out against the appellant but the entire action of the respondent is covered under the prevailing rules/instructions. The instruction/policy contained in letter dated 30.10.1993 issued by respondent No. 3 is very much clear and no deviation has been made from that policy.

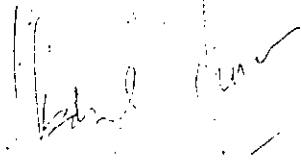
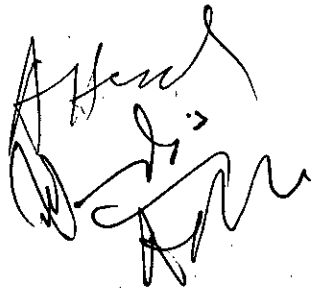
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6. After listening to the arguments and perusal of the record, it is evident that selection grade was allowed as per general principle w.e.f. 30.10.1993 but a condition in para-3 (last para) of letter dated 30.10.1993 issued by respondent No. 3 was placed turning up the grant of selection grade with effect from the date of amendment in the Service Rules which adversely affected the benefits accrued to the appellant in the grant of selection grade. The amendment in the service rules was completed in the year 1997 which is a very lengthy period while there is no plausible explanation with the respondent department for such a long delay. The Tribunal also feels that while there was no such bar in respect of the department in which only the post of Superintendent existed as per respondent No. 3 letter dated 31.1.1994 but delaying the same benefits to the other categories on the pretext of amendment in the Service Rules which was delayed for six years, is not justified. Reliance is also put on the NWFP Tribunal decision dated 17.3.2001 in Appeal No. 813/1999 in which the benefit of selection grade was allowed w.e.f. 30.10.1993 instead of 17.3.1997 the date on which Rules were reversed.

7. The Tribunal therefore, keeping in view the principle of consistency and being the present appeal of identical nature accept



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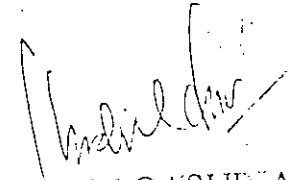
the appeal and allow grant of selection grade w.e.f. 30.10.1993 as per the seniority position of the appellant and modify the impugned order dated 7.5.2002 to that extent.

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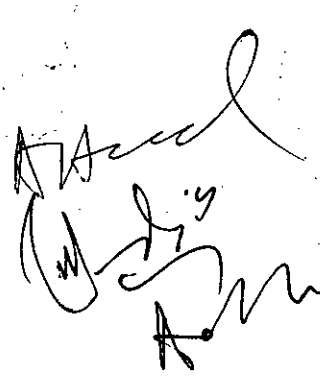
8. Our this single judgment will also dispose the other connected appeals bearing No. 893/2002 Karim Bakhsh, 894/2002 Mukhtiar Ahmad, 895/2002 Fazlur Rehman, 896/2002 Jamshed Jan, 897/2002 Muhammad Khan, 898/2002 Gul Habib, 899/2002 Abdul Wahab, 918/2002 Muhammad Suleman, 919/2002 Sajid Khan, 920/2002 Ghulam Nabi Malik, 1004/2002 Gjulam Sarwar, 1005/2002 Ali Asghar, 1006/2002 Iltaf Hussain Gohar, 1049/2002 Abdul Qayyum, 1050/2002 Buzur Jamheer and 388/2003 Subaidar Khan Versus Secretary Education NWFP etc, being identical nature and involves common questions of law and facts.

9. No order as to costs. File be consigned to the record after completion.

ANNOUNCED
15.08.2006.


(ABDUL KARIM QASURA)
MEMBER.


(FAIZULLAH KHAN)
MEMBER.



IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

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Present

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Ch. Ijaz Ahmed
Mr. Justice Khilji Arif Hussain

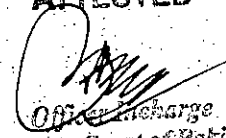
J

CIVIL PETITIONS NO.35-P TO 51-P & CP.301-P OF 2007

(On appeal from the judgments/order dated
15.08.2006 & 08.12.2006 passed by NWFP
Service Tribunal, Peshawar in Appeals No.
724, 893-899, 918-920, 1004-1006, 1049,
1050/2002, 388/2003 & 675/2006)

Director of Schools & Literacy, NWFP, Peshawar and others	Petitioners. (in all cases)
Versus	
Ghulam Rasool	Respondent. (in CP.35-P/2007)
Karim Bakhsh	Respondent. (in CP.36-P/2007)
Mukhtiar Ahmed Nashad	Respondent. (in CP.37-P/2007)
Fazal Rehman	Respondent. (in CP.38-P/2007)
Jamshed Khan	Respondent. (in CP.39-P/2007)
Muhammad Khan	Respondent. (in CP.40-P/2007)
Gul Habib	Respondent. (in CP.41-P/2007)
Abdul Walrab	Respondent. (in CP.42-P/2007)
Muhammad Suleman	Respondent. (in CP.43-P/2007)
Sajid Khan	Respondent. (in CP.44-P/2007)
Ghulam Nabi Malik	Respondent. (in CP.45-P/2007)
Ghulam Sarwar	Respondent. (in CP.46-P/2007)

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ATTESTED

Officer in Charge
Supreme Court of Pakistan
Peshawar

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Asghar Ali Respondent
(in CP.47-P/2007)

Haf Hussain Gohar Respondent
(in CP.48-P/2007)

Abdul Qayyum Respondent
(in CP.49-P/2007)

Buzur Jamheer Respondent
(in CP.50-P/2007)

Subedar Khan Respondent
(in CP.51-P/2007)

Muhammad Yousaf Alqadri Respondent
(in CP.301-P/2007)

For the petitioners Mr. Qaiser Rasheed, Addl. AG
(in all cases)

For the respondents Mr. Intiaz Ali, ASC
(in all cases) Mr. Tasleem Hussain, AOR

Date of hearing 05.03.2010.

ORDER

HFIKHAR MUHAMMAD CHAUDHRY, CJ. - These petitions, for leave to appeal, have been filed against the judgments dated 15.08.2006 and 08.12.2006 passed by NWFP Service Tribunal, Peshawar whereby appeals filed by the respondents have been allowed as a result whereof they have granted selection grade.

2. Brief facts of the case, relevant for disposal of instant petitions are that the Secretary, Finance Department, Government of NWFP (petitioner No.3) vide notification dated 30th October 1993 allowed selection grade BPS-17 to Administrative Officer/Accounts Officer/Assistant Account Officer at the ratio of 33% of their total strength along with the Superintendent on the joint seniority list. In order to extend the said benefits to various officer in BPS-16,

Director Schools and Literacy, Education Department, NWFP, Peshawar (petitioner No.2) issued a notification dated 29th August 1994, wherein various categories of officers in BS-16 were brought at par by amending the Service

Amir

ATTESTED

[Signature]
Court of Pakistan
Peshawar

CP.35-P/2007, etc.

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Rules, however, selection grade was only allowed to Superintendents BS-16 w.e.f 30.10.1993 while other categories of officers in BS-16 were left. Petitioner No.2; subsequently issued order dated 7th May 2002, under which the AEDO (A), Budget Officer, Audit Officer, Account Officer in BS-16 of the Education Department were granted selection grade BS-17 but the respondents were granted such grade w.e.f 19th July 1999 instead of 30th October 1993. Feeling aggrieved, the respondents challenged the said order before the NWFP Service Tribunal, who by means of impugned judgments granted them selection grade BS-17 w.e.f. 30th October 1993. As such instant petitions for leave to appeal have been filed.

3. Learned Additional Advocate General NWFP stated that the respondents were entitled for selection grade BS-17, subject to certain conditions, laid down in the letter dated 30th October 1993, including the amendments in the respective Recruitment and Appointment Rules. As according to him these Rules were amended on 6th February 1997 and joint seniority list was also prepared in the meantime; therefore, they have been found entitled for selection grade w.e.f. 17th June 1999 but the Service Tribunal granted them selection grade w.e.f. 30th October 1993, therefore, according to him impugned judgments are not sustainable.

Actual
10-10-03
AM

4. Learned counsel appearing for the caveat, however, opposed the petitions and stated that Service Tribunal had done nothing except enforcing/implementing the policy of the Government mentioned in letter 30th

TESTED October 1993, on the basis of which respondents were entitled for selection grade. As far as question of amending the respective Recruitment and Appointments Rules and preparation of joint seniority list of officers in BS-1

In charge
Court of Sessions
Peshawar

is concerned, it is the job of the petitioners, therefore, the respondents should not be allowed to suffer at the hands of the department.

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5. We have heard the learned counsel for the parties and have also carefully gone through the impugned judgment passed by the Service Tribunal. There is no doubt that on 30th October 1993, Government issued a policy letter laying down a criterion for granting selection grade BS-17 to grade BS-16 officers to the extent of 33% but the respondents were not allowed the benefit of the same for one or the reason and ultimately they have to approach Service Tribunal. A careful perusal of the impugned judgment indicates that the Tribunal has not passed an order beyond the scope of policy letter dated 30th October 1993. As far as the discretion of the Government to amend the Recruitment and Appointment Rules is concerned, it was the duty of the Government to prepare and issue the joint seniority list of the Administrative Officers and the Superintends and make the amendments, without any delay, after issuance of the letter. Service Tribunal in fact has enforced the policy letter dated 30th October 1993.

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6. It is pertinent to mention here that the department cannot be allowed to sleep for any indefinite period to amend the rules and to prepare seniority list at the cost of the respondents, who are government employees and they are always anxious about their promotion or to get benefit of the service as early as could be possible. Unfortunately, in instant case, after issuance of the policy letter dated 30th October 1993, rules were amended in 1997, but perhaps the seniority list was prepared later on and on account of such slackness, the respondents had suffered a lot and ultimately in 2001 they were given selection grade and in the meantime, some of them stood retired. We are, therefore, of the opinion that under these circumstances the Service Tribunal has rightly granted relief to the respondents and judgments passed by it, being unexceptionable,

TESTED

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discharge admit no interference by this Court.

It is informed by the learned counsel appearing for the

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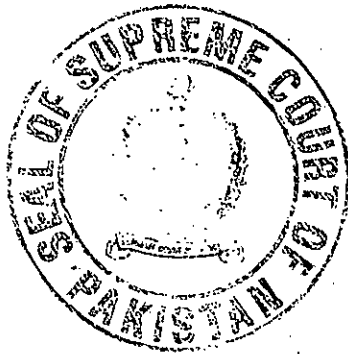
...that despite lapse of about more than 16/17 years, the judgments of

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the Service Tribunal, passed in favour of the respondents, have not been implemented. In such state of affairs, we direct the concerned authority to implement the same within a period of four weeks and send a compliance report to the Registrar of this Court, for our perusal in Chambers. Learned Additional Advocate General is directed to communicate these directions to the concerned authorities to ensure its compliance in letter and spirit.

Thus for the foregoing reasons, petitions are dismissed and leave declined.



Sd/- Iqbal Muhammad Chaudhry
Sd/- Ch. Ijaz Ahmed, J
Sd/- Khilji Arif Hussain, J

Peshawar,
05.03.2010.

11/4/10

Certified to be true copy
Office of the
Supreme Court of Pakistan
Peshawar

NOT APPROVED FOR REPORTING.

C.R. No.	757-P/2010
Date of process	
Application	25-3-2010
No of Words	1000
No. of Pages	15
Requisition Fee	5
Copying Fee	9.30
Court Rec. Fee	14.30
Date of	30-3-2010
Date of	31/3/10
Compt	copy
Receiv	Asad Kamel Khan
Total	14.30
Adver	6/2
Estab	8.30

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OFFICE OF THE DIRECTOR (E&SE) KHYBER PUKHTOON KHWA
PESHAWAR

Corrigendum.

In pursuance of NWFPS Services Tribunal Peshawar judgment dated 15.8.2006 up hold by the Hon.able Supreme Court of Pakistan vide its verdict dated 5.3.2010 and Write Petition No.35-P To 51-P and CP 301-P of 2007, and under the provision of Finance Department Notification No.FD/(PRC)4-1/91, dated 30.10.1993 and (E&SE)department circular No.604-754 dated 7.5.2002, the date of award of S/Grade (B-17) of the ADEOs/ASDEOs/Acs/Admn. officers/B&AOs/Supdt(B-16) working in Directorate of (E&SE) K.P.K.Peshawar and districts officers issued vide this office Notification No.4420-4585/A-23/MS/S Grade(B-17)/Supdt/AO dated 29.9.2004 may read as "30.10.1993" instead of "19.7.1999" in column No.6 of the above order on the same terms and conditions already framed.

SYEDA SARWAT JEHAN
DIRECTRESS

Endst.No. 3410-24 I/DSR/E&S.E./Litigation dated 26/4/2010

- Copy of the above is forwarded for information and necessary action to the:-
1. Registrar Supreme Court of Pakistan with reference to his decision/judgment dated refer to above for information please.
 2. Registrar NWFPS Services Tribunal Peshawar with reference to his judgment referred to above for information please.
 3. Secretary to Govt. of E&SE K.P.K. Peshawar.
 4. Accountant General K.P.K. Peshawar.
 5. Director of Education (FATA) Peshawar.
 6. Director Higher Education K.P.K. Peshawar.
 7. Director of Curriculum and Teachers Education K.P.K. Abbott Abad.
 8. Manager BIEP Arbab Road University Town Peshawar.
 9. Manager Girls Project II K.P.K. Peshawar.
 10. Section Officer (Litigation) E&SE Department K.P.K. Peshawar.
 11. All District Accounts Officers in K.P.K.
 12. All Executive District Officers in K.P.K.
 13. All officers concerned.
 14. P.A. to Director of E&SE K.P.K. Peshawar.

DEPUTY DIRECTOR (E&S)

26/4/2010

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 1356/2012

Date of Institution... 13.12.2012

Date of decision... 06.12.2017



Khurshid Ali Forester, Petrol Squad Division, Mingora Swat. ... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Forest
Department Peshawar and 3 others (Respondents)

MR. Ibad Ur Rehmand Advocate

For appellant.

MR. Mian Amir Qadar
District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:

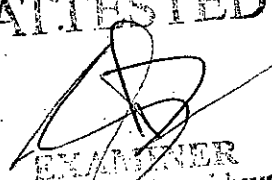
Arguments of the learned

counsel for the parties heard and record perused.

FACTS

2. The appellant had challenged the promotion of one Badrudin forester in a service appeal No. 776/Neem/2006 decided on 12.03.2012. The case of the appellant was that he was senior to said Badrudin and the promotion of Badrudin be ~~was~~ set aside and instead the appellant be promoted. This Tribunal vide judgment dated 12.03.2012 accepted the appeal by declaring the order of promotion of said Badrudin illegal and directed the appellate authority to decide the departmental appeal of the appellant within reasonable time but not later than

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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two months of the receipt of that judgment. The department instead of setting aside the promotion of said Badrudin and deciding the appeal of the appellant transferred said Badrudin on 24.04.2012 and promoted the appellant against the vacant post of Badrudin on 16.07.2012 with immediate effect. The appellant being aggrieved from the word "immediate effect" filed departmental appeal on 15.08.2012 which was not responded to and thereafter he filed the present service appeal on 13.12.2012.

ARGUMENTS

3. Learned counsel for the appellant argued that this Tribunal in the judgment dated 12.03.2012 clearly set aside the promotion of said Badrudin (the then respondent No. 5) and had directed the appellate authority to decide the departmental appeal of the appellant on merits. That the department instead of demoting the respondent No. 5 and promoting the appellant in his place adopted a novel way of transferring the said Badrudin out of the cadre and promoted the appellant. Learned counsel for the appellant argued that in such situation when this Tribunal had accepted the appeal of the appellant and directed the department to decide the appeal of the appellant regarding his seniority qua said Badrudin the department was duty bound to have acted accordingly within the stipulated time. That the department promoted the appellant which means that there was no impediment in the way of appellant for promotion. He next relied upon certain judgments of the superior courts in order to augment his arguments that in cases where a civil servant is deferred or not considered for promotion for no fault of his then he must be given antedated promotion along with back benefits. In this regard

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

he relied upon certain judgments reported as 1997 PLC CS 1210, 2000 PLC CS 1324, 1985 SCMR 1158 amongst others.

4. On the other hand the learned District Attorney argued that the appellant was promoted as per the direction of this Tribunal and that he could not be given antedated promoted on the basis of promotion policy of the Provincial Government. In this regard he relied upon a notification dated 31.03.1990.

CONCLUSION

5. The judgment of this Tribunal dated 12.03.2012 had vividly and categorically set aside the promotion of said Badrudin. At that time the issue was in between appellant and said Badrudin who was made party to the said appeal. In the said judgment the respondents were clearly directed to decide the departmental appeal within a period of two (02) months regarding the seniority of appellant and Badrudin. But the department by evading the issue of seniority transferred Badrudin out of the cadre in order to save him and then promoted the appellant on 6.07.2012. The conduct on the part of the department speaks a lot by not demoting the said Badrudin. The decision of the department dated 24.04.2012 shows disregard for the order of this Tribunal. The department had saved Badrudin from demotion by interpreting justice in their own way. In such situation when no impediment was pointed out in the way of promotion of the appellant in decision dated 24.04.2012 then no fault lay with the appellant for not being promoted from 19.04.2006 when said Badrudin was promoted. The appellant did make said Badrudin as party in the said case as he was aggrieved only from Badrudin and which was decided in his favor. Now the position is that the appellant should have been placed in the position of Badrudin as no other deficiency or lacuna or any

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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impediment has been shown by the department not to promote the appellant. Judgments relied upon by the learned counsel for the appellant speak about such situation and in such cases the courts have granted antedated promotion to the aggrieved civil servant.

6. Coming to the notification referred to above by the learned District Attorney the same is not applicable to the case of the appellant. That notification is applicable only when promotions are being made as a routine under the promotion policy. This notification does not cover the case of those persons who are left out of the promotion despite their entitlement and when the courts restore their entitlements. Otherwise, too, the restoration of entitlement should be from the date when the aggrieved person was denied his entitlement.

7. As a consequent to the above discussion this appeal is accepted and the appellant is treated as promoted from 19.04.2006 along with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

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CP Rawan

(Muhammad Hamid Mughal)
Member

Niaz Muhammad Khan
(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

ANNOUNCED
06.12.2017

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Khyber Pakhtunkhwa
Services Tribunal,
Peshawar

Date of Presentation of 06-12-17
Served 1600
Filing Fee 10
Jurat 10
Total 10
Date of 13-12-17
Date of 13-12-17

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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

A

Appeal No. 612/2008

Date of Institution. 16.04.2008
Date of Decision 13.03.2009

Muhammad Iqbal Khattak,
Assistant Political Agent, Khar Bajaur Agency. (Appellant)

VERSUS

1. Government of NWFP through Secretary Establishment Department, Peshawar.
2. Govt. of NWFP through Chief Secretary, Peshawar. (Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO.SOE.II (E&D) 2 (192)2007 DATED 19.2.2008 WHEREBY THE APPELLANT WAS PROMOTED ON REGULAR BASIS W.E.F. 19.2.2008 INSTEAD OF 30.11.1999 AND ORDER NO.SOE-II (E&D) 2(192) WHEREBY HIS DEPARTMENTAL APPEAL WAS DISMISSED.

MR. SHAKEEL AHMAD;
Advocate For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader, For respondents.

MR. JUSTICE (R) SALIM KHAN, .. CHAIRMAN.
MR. BISMILLAH SHAH, .. MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.-The present appeal No 612 of 2008 by Muhammad Iqbal Khattak and appeal No. 613 of 2009 by Ahmad Khan Involved, similar questions of law, therefore, these are taken together for arguments and disposal.

2. Muhammad Iqbal Khattak was promoted as Tehsildar on regular basis vide order dated 28.12.1988. He was promoted to PCS(E.G) (BPS-17) on temporary basis vide notification dated 06.03.1996. He contended that many posts became vacant, but the appellant was promoted to (BPS-17) on regular basis on 19.2.2008 with immediate effect, instead of ante-dating his promotion to the date on which the vacancy fell to his turn in the

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EXAMINER
NWFP SERVICE TRIBUNAL
Peshawar

Ahmad

attested

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seniority lists of officers of PCS (E.G). His departmental appeal was rejected on 22.03.2008. The present appeal was filed on 16.4.2008 which is within time. The case of Ahmad Khan (Appellant) is similar to the case of Muhammad Iqbal Khattak on facts also. His appeal is also within time.

3. The respondents contested the appeal on many grounds, including the ground that no one could claim a vested right in promotion or in the terms and conditions for promotion to a higher post.

4. We heard the arguments and perused the record.

5. The learned counsel for the appellants contended that the appellants were temporarily posted to BPS-17 post on 06.3.1996, but they remained silent, because they did not have a vested right for promotion to a higher post. The appellants have already been considered for promotion and have been found eligible and fit for regular promotion to BPS-17 post, therefore, the principles embodied in the judgment of the August Supreme Court of Pakistan reported as 1990 SCMR 1321 are not applicable to their cases. In fact, the vacancies had become available for the appellants as early as on 30.11.1999, and it was the responsibility of the official respondents to expeditiously deal with the cases of the appellants for their regular promotion. The appellants could not be punished for no fault on their side, or for delay caused by the official respondents in processing the cases of the appellants. He relied on 1997 PLC (C.S) 77, wherein it has been held in para 3 as under:-

"On behalf of the Government it is contended that no civil servant has a right to claim that he should be promoted from a back date even though a vacancy may be existing on the date from which the promotion is being claimed. This is no doubt true but there are no orders by the Government that the respondents/petitioners should be held up for some time. The delay in making the promotions occurred entirely due to the reason that the officials of the Education Department could not carry out a fairly simple exercise within a reasonable period. In the circumstances it will not be appropriate for this Civil Petition to interfere with the order of the Service Tribunal. Leave is refused."

This judgment was in the petition for leave to appeal against the judgment dated 19.02.1995 of the Punjab Service Tribunal. It is worth-mentioning that

Ahmad Khan

APPELLANT
Punjab Service Tribunal
Lahore

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the judgments cited as 1990 SCMR 1321 and cited as 1997 PLC (C.S) 77 are on two different aspects of the same subject.

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Ante-dating of promotion, after consideration of the candidate aspiring for such promotion, after he was found eligible and fit for such promotion and is promoted, is an established principle of law. Such a candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore, has to be ante-dated to the date on which the vacancy for his turn became available or to the date on which he actually took charge of the post on officiating/acting charge basis, whichever is later.

7. The A.G.P contended that the present appeals were miserably time-barred and both the appellants were stopped by their own conduct to file the present appeals. In fact, the principle embodied in the judgment reported as 1990 SCMR 1321 was applicable to the cases of the appellants from 06.3.1996 to 18.2.2008. They could not claim promotion as of right. The principle embodied in the judgment reported as 1997 PLC (C.S) 77 became applicable to their case on 19.2.2008. Cause of action arose to the appellants for claiming ante-dation of their promotion as prayed for only when their cases were considered for promotion, they were found eligible and fit for promotion, and their promotion orders were issued, though with immediate effect. They filed their departmental appeals within time from the date of the impugned order dated 19.2.2008, and their appeals were rejected on 22.3.2008. They filed Service Appeals on 16.04.2008. The departmental appeals as well as the Service Appeals were well within time.

8. The A.G.P further contended, that, according to the proviso contained in sub-section (2) of Section 22 of the N.W.F.P Civil Servants Act 1973, "no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade." Judgment cited as 1990 SCMR 1321 was, then, applicable and appellants could not file representation. This stage has already passed. The appellants have been considered for holding the higher post after their promotion to that higher post, and their fitness for such promotion and holding of post has already been determined. The judgment cited as 1997

impugned

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PLC (C.S) 77 has become applicable after determination of fitness of the appellants. The question in these cases is not the determination of fitness but is the right of ante-dation of their promotion. The appellants had vested right for consideration of promotion on their turn, whenever it was, and, when found fit on determination of fitness, at any stage, they had a right to claim ante-dation of their promotion to the dates on which the vacancies were available for their respective turns or from the date on which they actually took the charge of their respective posts, whichever were later in time.

9. The A.G.P also contended that according to sub-rule (6) of Rule 9 of the N.W.F.P Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 "acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis." The appellants have never claimed any vested right for regular promotion to the post which they held on acting charge basis, on the basis of acting charge appointment. In fact, they did not have such a right. They remained silent for a long time, knowing that they did not have such a right on the basis of acting charge appointment. They, however, had a vested right, as civil servants, for consideration for promotion, when the authority was to consider someone for promotion against the vacancy. No other person could be considered till the appellants were so considered. They, therefore, had a vested right for ante-dation of their promotion only when they were regularly promoted, but from the date when the vacancy became available for their turn.

10. The A.G.P further contended that, according to the North West Frontier Province, Provincial Management Service Rules, 2007, notified on 11.05.2007 vide No. SOE.II(ED)2(14)2007, The NWFP Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 were repealed. He was of the view that the N.W.F.P Provincial Management Service Rules, 2007 had come into force at once w.e.f. 11.05.2007, while the orders of promotion of the appellants were issued on 19.02.2008. He submitted that the promotion orders were covered by the new rules, therefore, the appellants could not claim any benefit out of the already repealed rules of 1997. In order to clarify this controversy, it is necessary to reproduce the relevant Rule 8 of the N.W.F.P Provincial Management Service Rules, 2007 which is as under:-

ATTESTED

M. S. Khan

*Assessed
M. S. Khan
A.G.P.*

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8. Repeal:- The North-West Frontier Province Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50:50. The existing incumbents of PCS (E.G) and (S.G) in different pay scales, for the purpose of their promotion, shall continue to be governed under the said service rules till the retirement of the last such incumbent."

The above rule, by itself, clarifies that the rules of 1997 shall not stand repealed before the retirement of the existing incumbents of both the cadres of Secretariat/Executive Groups, and shall remain in force till the retirement of the last such incumbent. It further clarified that separate seniority list of both the cadres shall be maintained under the existing rules. The existing rules for such incumbents are the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997. It was also clarified that such incumbents shall be promoted at the ratio of 50:50. It means that out of each two vacancies, one vacancy shall be given to Secretariat Group, while another vacancy shall be given to the Executive Group. Further clarification is to the effect that the existing incumbents of PCS (E.G) and (S.G) in different pay scales shall continue to be governed under the rules of 1997 for the purpose of their promotion, and this process is to continue till the retirement of last such incumbent. Both the appellants belonged to the Executive Group of Civil Servants. They were to be governed under the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 before 11.05.2007, and they have to be governed under the above mentioned rules of 1997 till the retirement of the last incumbent of a post in Secretariat Group/Executive Group.

The cases of the appellants are, therefore, to be governed in accordance with the provisions of Section 8 (quoted above) of the new N.W.F.P Provincial Management Service Rules, 2007. The record shows that vacancies were available for the appellants but they were not promoted at the due time and their cases for promotion were delayed unnecessarily without any fault of the appellants. They, therefore, are entitled to ante-dation of their promotion, against the first available vacancy falling to the turn of each of them or from the date of taking over the charge of that vacancy on officiating/acting charge basis, whichever is later.

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12. In the light of the above, we accept both the appeals, and direct the official respondents to ante-date the promotion of each of the two appellants to the respective dates on which a vacancy became available for the respective turn of the appellants or from the respective dates of their taking charge of such vacancy on officiating/acting charge basis, whichever is later. The appellants are entitled to the costs of their respective litigation from the official respondents.

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11.03.2009

*1st Justice @ Salim ul Haq
Chairman
2nd Biswanath Chak
Member*

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Secretary
Services Division
Patna

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Number of presentations of	2408 13-4-09
Number of warrants	
Copying fee	14
Organs	12
Total	16
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Date of completion of copy	13-4-09
Date of delivery of copy	13-4-09

*Amir
G.S.
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ACCEPTED

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Annex
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PESHAWAR HIGH COURT,
PESHAWAR

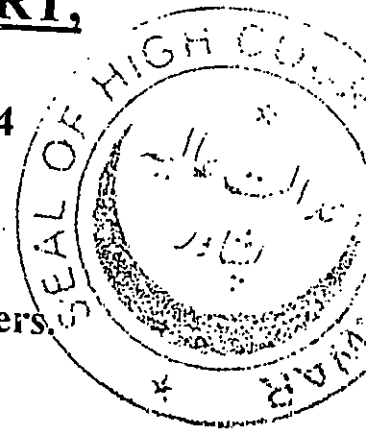
Writ Petition No.2334 -P of 2014

Niaz Muhammad

Vs.

Chief Executive LRH, and five others.

JUDGMENT



Date of hearing.....08.12.2015.....

Petitioner(s) by. Mr. Ibadur Rehman Advocate.

Respondent(s) by. Mr. Shakeel Ahmad Advocate.

MUHAMMAD YOUNIS THAHEEM, J.- Niaz

Muhammad, the petitioner, seeks constitutional

jurisdiction of this Court praying:

“On acceptance of petition, respondents No.1 and 2 be directed to consider the petitioner for promotion to the post of Junior Clerk and promote the petitioner from the date when his juniors were promoted with all back benefits.

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2. In essence grievance of petitioner is that he

is serving as Ward Orderly in Lady reading Hospital,

Peshawar since 1987; that for promotion of class-IV, a

seniority list was prepared wherein the petitioner was

reflected at S.No.4, but without observing seniority list.

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Peshawar High Court
04 JAN 2016

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the respondents No.3 to 6 were promoted to the post of Junior Clerk, while the petitioner was ignored from promotion without any lawful reason. The petitioner approached the respondents personally and through written requests for his promotion, but in vain, hence, the instant writ petition.

3. The respondents 1 and 2 submitted their comments, wherein they admitted his service since 13.06.1987.

4. Arguments heard and available record perused.

5. The main contention of learned counsel for petitioner is that, petitioner is serving as ward orderly since 1987 and according to seniority list (Annexure-E), he was eligible and fit for promotion being at S.No.4, but despite the fact persons junior to him have been promoted, which act of the respondents is illegal, against the law, discriminatory, without lawful authority, so be set at naught.

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5. The respondents have neither disputed the seniority list in their comments nor during the course of arguments, rather relied upon the seniority list placed on file as Annexure-E, wherein the petitioner has been shown at S.No.4. The respondents No.1 and 2 have promoted Mr. Salahuddin, Muhammad Ali and Muhammad Shafiq from the post of Ward orderly to the post of Junior Clerk vide order No.1206-12 dated 17.05.2013, who as per seniority list are at S.No. 1, 2 and 5 respectively. The respondents have also promoted Mr. Johar Shah and Mr. Shamsheer Khan Ward Orderlies, to the posts of Store Keeper, vide order dated 29.05.2013, who are at S.No.6 and 7 respectively. The respondents No.1 and 2 have also promoted one Mst. Miraj Bibi Ward Aya to the post of Junior Clerk, vide order No.15535-39 dated 17.05.2013. It is very much astonishing to note that according to seniority list, the petitioner was at S.No.4 and despite being fit, has not been promoted, while the respondents No.3 to 6, junior to him in seniority had been promoted to higher scale. It is

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held that the Departmental Selection and Promotion Committee of Lady Reading Hospital, Peshawar has failed to adhere the seniority list and had promoted the class-IV, employees illegally, without observing law/policy and seniority order for promotion.

6. For the reasons discussed above, the instant Writ Petition is allowed, decisions taken by the Departmental Selection and Promotion Committee of Lady Reading Hospital, Peshawar in meetings held on 4th and 17th May of 2013, regarding promotion of Class-IV, employees and promotion orders made in consequence thereof are declared null and void and are set aside. The respondents No.1 and 2 and other over helms of affairs are directed to reconstitute the Selection and Promotion Committee afresh, who shall made approval for promotion strictly in accordance with the seniority list. The promotion would be deemed w.e.f 17.05.2013 and petitioner will be entitled for back benefits also from the said date. It is further directed that the judgment of this

Writ
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 PESHAWAR COURT
 2016

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Court be implemented within one month according to

law.

Sd/- Mirza Hussain Khan
Sd/- M. Younis Thakur

Announced.
Dt.08.12.2015

JUDGE

JUDGE

office
May
18/12

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar,
Authorized Under Article 87 of
The Qanun-e-Shahadaat Act 1984

04 JAN 2016

12755

Date of Presentation of Application 14-12-15

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2010 P L C (C.S.) 760

[Supreme Court of Pakistan]

Before Tassaduq Hussain Jilani and Asif Saeed Khan Khosa, JJ

MUHAMMAD AMJAD and others

Versus

Dr. ISRAR AHMED and others

Civil Appeals Nos. 384 and 385 of 2003, decided on 14th April, 2010.

(On appeal from the judgment of the Service Tribunal dated 15-10-2001 passed in Appeal No.775 of 1999).

Punjab Civil Servants Act (VIII of 1974)---

---S. 8---Promotion---Delay---Legitimate expectancy, principle of---Civil servant was not promoted despite availability of vacancy---Service Tribunal allowed the appeal filed by civil servant and directed the authorities to consider him for promotion from the date when he became eligible for the post as there was vacancy available then---Validity---State functionaries were mandated to act with certain amount of reasonableness---Such canon of due process of law was not observed in processing civil servant's promotion matter---Having acquired requisite experience and having authored number of articles required for post in question, the civil servant had legitimate expectancy for the post in question---Judgment passed by Service Tribunal was neither against the rules nor the law declared---Civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available---Judgment passed by Service Tribunal directing the authorities to consider case of civil servant's promotion to post in question from the date when vacancy in his quota was available was unexceptionable---Supreme Court declined to interfere in the judgment passed by Service Tribunal---Appeal was dismissed.

Government of N.-W.F.P. v. Buner Khan 1985 SCMR 1158; Government of the Punjab v. Rana Ghulam Sarwar Khan 1997 SCMR 515; Muhammad Iqbal v. Executive District Officer (R) Lodhran 2007 SCMR 682; Sarwar Ali Khan v. Chief Secretary to Government of Sindh 1994 PLC (C.S.) 411; Luqman Zareen v. Secretary Education N.-W.F.P. 2006 SCMR 1938; Ch. Muhammad Siddique v. Director, Special Education 1998 SCMR 88 and Idrees Ahmed v. Hafiz Fida Khan PLD 1985 SC 376 ref.

Dr. A. Basit, Advocate Supreme Court (in C.A. 384) and Mr. Saeed Yousaf Khan, Additional Advocate-General for Appellants (in C.A. 385 of 2003).

Mr. Shoaib Shaheen, Advocate Supreme Court for Respondents.

Date of hearing: 14th April, 2010.



JUDGMENT

TASSADUQ HUSSAIN JILLANI, J.--- This judgment shall dispose of Civil Appeal No.384 of 2003 filed by Dr. Muhammad Amjad and another and Civil Appeal No. 385 of 2003 filed by Government of Punjab through Chief Secretary as they are directed against the same judgment passed by the Punjab Service Tribunal dated 15-10-2001 vide which the appeal of the respondents was allowed and it was directed as follows: --

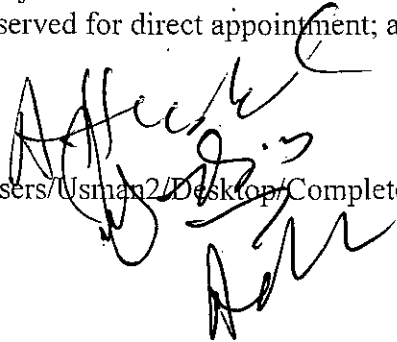
"Appellant's promotion to the post of Associate Professor (ENT) having been kept in abeyance till 3-12-1998 has affected his vested right of seniority vis-a-vis respondents Nos.3 and 4. I, therefore, accept the appeal, direct the respondents to consider the case of the appellant for promotion to the post of Associate Professor (ENT) in BS-19 w.e.f. the date when the vacancy, in his quota, became available and thereafter a joint seniority list of the officers directly recruited and those promoted shall be issued according to the rules".

2. Facts briefly stated are that respondent Dr. Israr Ahmad was appointed as Assistant Professor (ENT) in the Health Department on 13-1-1992. Admittedly as per the relevant rules 33% of the posts of Associate Professor were to be filled through direct recruitment and 2/3 by way of promotion. Respondents became eligible for promotion to the post of Associate Professor in February, 1997 when four posts were available in the promotion quota. However, the department did not consider his case for promotion till 3-12-1998 when he was promoted. He filed a representation and even that was not considered whereafter he approached the Service Tribunal. In the meanwhile, in June, 1998, the Punjab Public Service Commission had conducted interviews for two posts of Associate Professor, in which both the appellants were selected whereas respondent could not qualify. The Punjab Service Tribunal allowed respondent's appeal mainly on the ground that since a substantive post against promotion quota was available in 1997 and respondent was eligible to be considered, his promotion as Associate Professor should reckon from the date, the substantive post in the said quota was available.

3. Dr. Abdul Basit, learned counsel for the appellants in Civil Appeal No.384 of 2003 made the following submissions:

(i) That it is admitted position that in terms of the Punjab Health Department (Medical and Dental Teaching Posts) Service Rules, 33% of the posts are to be filled in through direct recruitment and the remaining 2/3rd by promotion. The appellants along with respondents Dr. Israr Ahmad applied through Public Service Commission against the posts reserved for direct recruitment, the appellants qualified the test and interview in 1998 and on the recommendation of the Punjab Public Service Commission, they were selected against the posts of Associate Professor whereas the respondent could not qualify;

(ii) that there is no cavil with the proposition that the posts of Associate Professor in the promotion quota were available and the meetings of the Departmental Promotion Committee (D.P.C.) did take place on 11-5-1993, 17-8-1995, 1-10-1996 and on 3-9-1997 but since neither the appellants nor the respondent were qualified to be appointed as Associated Professors by the said date, they were not so appointed. Since respondent did not challenge the act of the department of not promoting him in time, he could not raise his claim for pro forma promotion at a belated stage particularly when he failed to qualify the examination conducted by the Punjab Public Service Commission for appointment of Associate Professors against the posts reserved for direct appointment; and



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(iii) that section 8 of the Punjab Civil Servants Act, 1974 was amended by Act III of 2005 and under the amended provision, no civil servant can claim pro forma promotion as of right.

4. Learned Additional Advocate-General adopted the arguments of learned counsel for the appellants (in Civil Appeal No.384 of 2003) and made following additional submissions:

(i) That the impugned judgment is violative of section 8 of the Punjab Civil Servants Act and cannot be sustained;

(ii) that respondent Dr. Israr Ahmad was duly promoted on 3-12-1998 and although the post fell vacant earlier but the delay occurred due to procedural and unavoidable causes because the department sent the case for respondent's promotion only on the receipt of requisite documents; and

(iii) that the respondent appeared along with appellants (in the connected appeal) before the Punjab Public Service Commission for appointment against the posts reserved for direct appointment wherein the former failed but appellants were declared selected. That being so, it was not open for the respondent to claim seniority over the appellants after having not being selected by the Commission.

5. Learned counsel for the respondent Mr. Shoab Shaheen who assisted the Court on behalf of respondent at the asking of the Court, submitted as under:

(i) That although the post for direct recruitment as Associate Professor fell vacant in February, 1997, and the case of respondent's promotion against the said post was pending decision in the department, yet, in the meanwhile the posts were filled through selectees of Punjab Public Service Commission on 27-7-1998 and respondent was promoted later on 3-12-1998 which was unfair, mala fide and discriminatory; and

(ii) that respondent had a right to be considered for promotion against the post reserved for promotion quota as soon as the substantive vacancy was available and respondent could not have been condemned for inaction of the State functionaries. In support of the submissions made, learned counsel relied on Government of N.-W.F.P. v. Buner Khan 1985 SCMR 1158, Government of the Punjab v. Rana Ghulam Sarwar Khan 1997 SCMR 515 and Muhammad Iqbal v. Executive District Officer (R) Lodhran 2007 SCMR 682.

6. We have heard learned counsel for the appellants, learned Additional Advocate-General as also Mr. Shoab Shaheen, Advocate Supreme Court who assisted the Court on behalf of respondent at the asking of the Court.

7. In accepting respondent's appeal, the learned Service Tribunal considered the availability of substantive posts in the promotion quota, the eligibility of respondent to be considered in February, 1997 and the unreasonable delay caused by the department in processing his case. The Court found as follows:--

"In the comments submitted by respondent No.2, it was submitted that the post of Associate Professor (ENT) to be filled through promotion, when became available, the department started moving for filling the post by gathering documents from the prospective candidates and it was only after clearance that the competent authority, appellant was promoted as

Associate Professor (ENT) on regular basis w.e.f. 3-12-1998. It is said that the delay which occurred, if any, was procedural and unavoidable because the case was prepared on receipt of documents from different quarters. Explanation given is hardly convincing. It means that spade work which commenced in February, 1997 ended in December, 1998 playing with the rights of civil servant in such an arbitrary manner is not only unpardonable but wholly unconscionable. Appellant suffered and felt aggrieved, undoubtedly when the post of Associate Professor (ENT) was not being filled but the last nail was driven in the coffin on 27-7-1998 when the recently arrayed respondents Nos.3 and 4 were inducted through direct recruitment as Associate Professors (ENT)."

8. We specifically asked the Additional Advocate-General as to whether the respondent was eligible to be considered for promotion against the promotion quota by 3-2-1997, to which his answer was in the affirmative. He could not give any explanation tenable in law for non-consideration of case by the Departmental Promotion Committee. The State functionaries are mandated to act with a certain amount of reasonableness which canon of due process of law was not observed in processing respondent's promotion matter. Having acquired the requisite experience and having authored the number of articles required for the post in question, respondent had legitimate expectancy for the post in question. The impugned judgment in these circumstances is neither against the rules nor the law declared.

9. In *Sarwar Ali Khan v. Chief Secretary to Government of Sindh 1994 PLC (C.S.) 411*, the appellant was working as a Superintendent (BS-16) in the Sindh Labour Appellate Tribunal when the said post was converted into that of Deputy Registrar in BS-17. However, the post was upgraded on the recommendation of the Departmental Promotion Committee. On 1-7-1988, the post of Registrar (BS-18) fell vacant and on 5-7-1988 he was appointed to the post in his own pay and status. Ultimately, he was promoted on regular basis to the post of Registrar (BS-18) on the recommendation of the Departmental Promotion Committee vide notification dated 30-6-1991. He applied for salary of BS-18 from the date when he was posted against the post of Registrar in his own pay and status i.e. 5-7-1988. His appeal was dismissed by the Service Tribunal merely on the ground that he did not challenge notification dated 5-7-1988 in time, that the Departmental Selection Board had not cleared his case for promotion and that he had been compensated by the grant of special pay. This Court allowed the appeal on the ground that his claim cannot be rejected merely on the ground of being time-barred; that there was no valid reason for the Selection Board to withhold clearance for regular promotion and in absence of any valid explanation, it was not fair and equitable to refuse the prayer.

10. In *Government of the Punjab through Secretary Education v. Rana Ghulam Sarwar Khan 1997 SCMR 515*, the brief facts are that there were 12092 posts in College Teachers Cadre. The Provincial Government decided to introduce a 4-tier structure for college teachers and with that object in view, it classified the posts in ratio of 1:15:34:50 in 4-tiers namely B.P.S 20, 19, 18 and 17. It was vide notification dated 1-9-1990. However, the department took two years to make the appointments in accordance with the above ratio. On account of this, the promotion of civil servants from BS-18 to 19 was held up till 1992. They represented before the Government that they should be promoted w.e.f. the date when the post was made available and in terms of notification dated 1-9-1990. The Service Tribunal allowed the relief. The Provincial Government challenged the judgment of the Tribunal. In upholding the said judgment, this Court was of the view that, "The delay in making the promotions occurred entirely due to the reason that the officials of the Education Department could not carry out a fairly simple exercise within a reasonable period."

In Government of N.-W.F.P. v. Buner Khan 1985 SCMR 1158, the facts briefly stated are that 75% of the posts in Grade 18 in Provincial Education Department were to be filled in by promotion from among the Grade 17 officers of the said department and 25% by direct recruitment. However, no proper rotation of the vacancies for the purpose was maintained. The petitioners before this Court were directly recruited in BPS-18 on 30-12-1980 and 1-9-1982, whereas the respondents (who were promotees) were promoted to the said grade on 12-5-1984 and no joint seniority list in the said grade was notified with the result that some of the direct recruits were promoted to Grade 19 without the promotees being considered for the said promotion. The Tribunal allowed the appeal of the promotees and directed the Government to promote them in Grade 18 w.e.f. the date when the vacancies were available and a joint seniority list be issued accordingly. This judgment was challenged both by the Government and those who were directly recruited. This Court maintained the judgment of the Service Tribunal with a slight modification i.e. instead of direction by the Tribunal, "to promote", this Court directed that "the promotees shall be considered for promotion to Grade-18 post with effect from the dates when vacancies in their quota became available and that thereafter a joint seniority list of the officers directly recruited and those promoted shall be issued according to the rules."

12. In Luqman Zareen v. Secretary Education N.-W.F.P. 2006 SCMR 1938, several school teachers were allowed pro forma promotion w.e.f. the date when the substantive vacancies were available but they were not considered on account of; "the usual apathy, negligence and bureaucratic red-tapism which had deprived the petitioners of the fruits that they deserved. The petitioners could not be permitted to be punished for the faults and inaction of others."

13. In Ch. Muhammad Siddique v. Director, Special Education 1998 SCMR 88, the civil servant who was a lady teacher was granted pro forma promotion because her case was not considered when the substantive post was available for no fault of her own. The Court held as follows:--

"It has not been denied that the case of the respondent was placed before the D.P.C. on 23-7-1987 and was deferred due to certain deficiencies but she was later promoted on 15-5-1988. That being so, she was entitled to ask for promotion with effect from the date the post became available and/or the date when her case was deferred by D.P.C. The judgment of the Service Tribunal, in our view, is quite just and fair and does not suffer from any illegality."

14. Considering the case of the respondent in the light of the judgments of this Court, to which reference has been made above, we find that it is nobody's case that respondent was not eligible to be considered for promotion when substantive vacancy in the promotion quota was available. That being so, the impugned judgment directing the appellants to consider the case of respondent's promotion to the post of Associate Professor in BPS-19 w.e.f. the date when the vacancy in his quota was available is unexceptionable.

15. So far as the argument of learned Additional Advocate-General with reference to section 8 of the Punjab Civil Servants Act, 1974 (VIII of 1974) which was amended in terms of Act III of 2005 is considered, the same would be of no avail to the appellants because there is nothing in the amended provisions which makes it retrospective in effect. Reference to the amended provision would be in order which reads as under:--

"8. Promotion.--- (1) A civil servant shall be eligible to be considered for appointment by promotion in the service or cadre to which he belongs in a manner as may be prescribed; provided that he possesses the prescribed qualifications.

(2) Promotion including pro forma promotion shall not be claimed by any civil servant as of right.

(3) Promotion shall be granted with immediate effect and be actualized from the date of assumption of charge of the higher post, and shall in no case be granted from the date of availability of post reserved for promotion.

(4) A civil servant shall not be entitled to promotion from an earlier date except in the case of pro forma promotion.

(5) A retired civil servant shall not be eligible for grant of promotion or pro forma promotion.

(6) A post referred to in subsection (1) may either be a selection post or a non-selection post to which promotion shall be made as follows:

(a) In the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority-cum-fitness."

16. Section 6 of the General Clauses Act provides that any repeal or amendment of a statute will not affect its previous operation unless the amended provision provides otherwise. The said section reads as under:-

"6. Effect of repeal.--Where this Act, or any (Central Act) or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not:

(a) revive anything not in force of existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed of anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

17. In Idrees Ahmed v. Hafiz Fida Khan PLD 1985 SC 376, the import of section 6 of the General Clauses Act came under consideration and the Court held as follows:--

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Q/1-2

OFFICE OF THE DIRECTOR SECONDARY EDUCATION, N.W.F.P, PESHAWAR.

PROMOTION.

Consequent upon their approval by the Departmental Promotion Committee of Education Department NW FP, in its meeting held on 11-5-2000, the following Junior Clerks already working on their own pay & BPS against the vacant post of Senior Clerks are hereby promoted on regular basis to the post of Senior Clerks in BPS-07 and posted against the post of Senior Clerks as noted against each in the interest of public service with effect from the date as noted against each:-

<u>S.No.</u>	<u>Name & Designation.</u>	<u>Promoted & posted as</u>	<u>Remarks</u>
1.	Mr. Abdul Wajid J/Clerk	Senior Clerk at G.D.C. No.2(M) D.I.Khan.	Post already occupied by him. He is allowed proforma promotion as S/Clerk with effect from 31-5-1994.
2.	Mr. Mahmood Khan J/Clerk	Senior Clerk at Director Bureau of Curr:Dev:& Edu:Extn: services Abbottabad.	Post already occupied by him. He is allowed proforma promotion as S/Clerk with effect from 25-5-1995.

- Note:-
1. Charge report should be submitted to all concerned.
 2. Necessary entry to the effect should be made in his Service Book.

(QAISRO KHAN)
DEPUTY DIRECTOR (SECONDARY)
DIRECTORATE OF SECONDARY EDUCATION
NWFP PESHAWAR

Endst: No. 7174-85 / A-23/MS/Promotion from J/C to S/C. Dated 31/5/2000.

Copy forwarded to the:-

1. Director of Education (Colleges) NWFP Peshawar.
2. Director Bureau of Curr:Dev:& Edu:Extn: Services Abbottabad.
- 3-4. Distt:Accounts Officers Abbottabad & D.I.Khan.
5. Section Officer (Directives) Education Deptt: NWFP, Peshawar.
6. Principal GDC No.2(M) D.I.Khan.
- 7-8. Officials concerned.
9. P.L. to Director Secy. Edu: NWFP, Peshawar.
10. P/File.
11. H/File.

DEPUTY DIRECTOR SECONDARY
EDUCATION NWFP PESHAWAR

3/1/

1996 (90)
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OFFICE OF THE DIRECTOR SECONDARY EDUCATION N.W.F.P. PESHAWAR

PROMOTION.

Consequent upon their approval by the Departmental Selection Committee of Education Department in its meeting held on 12/11/1996. The following Junior Clerks already working on their own pay & BPS against the vacant post of S/Clerk by promoted on regular basis to the post of S/Clerk in accordance with the provisions of the Public Service Commission against the post of S/Clerk in the Department of Public Service with effect from the date as noted against each:-

S.No.	Name & Designation.	Promoted & posted as	Remarks.
1.	Mohammad Hanif J/C	S/Clerk DEO(M) Secy: Karak	Against V.Post He is allowed proforma promotion WEF 7/2/93.
2.	Hazrat Ali S/Clerk	S/Clerk at GGHS No.1 Mardan.	Against V.P He is allowed proforma promotion S/C w.e.f. 25/5/95
3.	S.Nizakat Ali Shah J/C	S/Clerk at G.G. Comp: Higher Secy: School Pesh:	-----do-----
4.	Asghar Ali J/Clerk	S/Clerk at DEO(F) Pry: Swat	-----do-----
5.	Shoukat Hussain J/C	S/Clerk at G.P.G.C P/ibad.	-----do-----
6.	Inayatullah J/C	S/Clerk at DEO(F/P) D.I.K.	Against V.Post He is allowed proforma promotion S/C WEF 10/1/1996.
7.	Kala Khan K/Clerk	S/C at DEO(M/P) P/ibad	-----do-----
8.	Barkat Ali J/C	S/C at G.C.Timargarra	-----do-----
9.	Sher Shah J/C	S/C at GGHS Shaidu Nowshera.	-----do-----
10.	Mati-ul-Haq J/C	S/Clerk at D.E.(FITA) NWFP Peshawar	-----do-----
11.	Mohammad Jwal	S/Clerk at D.S.E. NWFP Peshawar	Against the post occupied by him

Note:- 1. Charge reports should be sent to all concerned.
2. Necessary entry to the effect should be made in their S/Book.

(GHULAM SIRAJ KHAN)
DEPUTY DIRECTOR SECONDARY
N.W.F.P. PESHAWAR.

No. 3461-580 / A-23/J/C Promotion Dated 27/11/96.

Copy forwarded for information and necessary action to the:-
 Accountant General, N.W.F.P. Peshawar.
 Divisional Director of Education (Schools) concerned.
 Distt: Education Officer (M/F) Secy: concerned.
 Principal Govt: Colleges (M/F) concerned.
 Distt: Education Officer (M/F) Pry: concerned.
 Principal, G.H.S.S. (Mand Female) concerned.
 Distt: Accounts Officer concerned.
 Sub: Divisional Education Officer (M/F) concerned.
 Peshawar Local Directorata.
 Officials concerned. 11.P/File. 12.N/File.
 Deputy Director Secy:
 For/ Director Secy: Education.
 N.W.F.P. Peshawar.

Q/12

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**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR**

**LENGTH OF NON-GAZZETTED AND GAZZETTED SERVICE IN R/O MR.
GHULAM SARWAR ASSISTANT DIRECTOR (ADMN) AND MR. SHERULLAH
ASSISTANT DIRECTOR (F&A) OF THE ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.**

S.No.	Name	Desig:	Total Service on Non-Gazetted posts	Total service on Gazetted posts
1	Ghulam Sarwar	Assistant Director (Admn)	1.02.1979 to 21.05.1987 Senior Scale Stenographer and Supdt: (in those years these posts were non-Gazetted) 8 years 3 months	22.05.1987 to 29.10.1993 as Sr.Scl: Steno(S.G)/ASDEO (A) BPS-16 6 - 5 30.10.1993 to 31.08.2014 21 - 0 1.09.2014 to dated BPS-17 regular as Assistant Director (Admn)

Total Service:
months

8 years 3 months

27 years & 5

S.No.	Name	Desig:	Total Service on Non-Gazetted posts	Total service on Gazetted posts
2	Sherullah	Assistant Director (F&A)	20.04.1980 to 30.06.1991 as Junior Clerk/Asstt/Supdt: (in those years these posts were non-Gazetted) 10 years 10 months	1.07.1991 to 29.10.1993 as ADEO Accounts BPS-16 2 - 3 30.10.1993 to 31.08.2014 20 - 10 As ADEO Account/B&AO BPS-17 (S.G) 1.09.2014 to dated BPS-17 regular as Assistant Director (F&A)

Total Service: 10 years 10 months

23 years & 1 month

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Deputy Director (F&A)
E&SE Khyber Pakhtunkhwa
Peshawar

کلیم ارشد صاحب

محضور جناب صاحب چیرمین سرورس ٹریبونل صوبہ خیبر پختونخوا

مضمون! حصول انصاف برائے 'Ex Party Action' Early Hearing

جناب عالی!

موردبانہ گزارش ہے کہ سب سے پہلے میں معافی چاہتا ہوں کہ اگر میری یہ درخواست آپ کی خدمت میں ناگوار گزرے تو مجھے معاف کریں۔ کیونکہ یہ نہایت مجبوری اور کافی تکالیف اور اخراجات گزارنے کے بعد لکھا۔

جناب عالی 2015 میں دوران ملازمت میں نے محکمہ کے ظلم اور اقرار پروردی کے خلاف اس عدالت سے بحوالہ اپیل نمبر 1067 / 2015 and سے رجوع کیا۔ مگر حسب عادت محکمہ نے بروقت عدالت میں Comments نہ بھیجے اور دوسری طرف

چیرمین کا عہدہ بھی کافی عرصہ خالی رہا۔ ساتھ ساتھ کروٹا کی وجہ سے عدالت بھی کچھ عرصہ بند رہا اس لیے 2019 میں عدالت نے حکمانہ فیصلے کیلئے میرا کیس محکمہ کو بھیجا۔ مگر افسوس کہ محکمہ نے 2 سال یعنی 2021 کوئی کارروائی نہ کی تو مجبوراً اس عدالت میں ایک

اور کیس برائے Implementation دائر کیا۔ تو پھر محکمہ نے صرف خانہ پڑی کر کے کیس کی اصلی روح سے ہٹ کر ادھر ادھر کی غیر ضروری وضاحت و اعتراضات کے ساتھ کیس حکمانہ طور پر Reject کیا۔ جس کے خلاف میں نے ایک اور کیس بحوالہ نمبر

2021 / 5050 / 15049 اس عدالت میں دائر کیا ہے۔ جسے عدالت نے محکمہ کو جون 2021 میں 10 دن کے اندر محکمہ کے

Comments کیلئے بھیجا۔ مگر 8/11/2021 یعنی 5 مہینے کا وقت ضائع کرنے کے باوجود Comments نہیں بھیجے۔ اور عدالت نے مجھے آج 1/3/2022 کو ~~10/6/2022~~ کی آگلی پیشی ~~6/6/2022~~ دیا ہے۔

جناب عالی اس کیس کے دوران میں ملازمت سے ریٹائرڈ بھی ہو گیا اور 2015 سے لیکر 2021 یعنی 7 سال سے عدالت کے دروازے پر حصول انصاف کیلئے ٹھوکریں کھا رہا ہوں۔

جناب عالی اس کیس کے دوران:-

(1) میں نے Open Heart سرجری کی ہے۔ اور ڈاکٹر نے ٹینشن اور جسمانی مشقت سے پریز کا کہا ہے۔

(2) اس دوران میرے بیوی 7 مہینے ہسپتال میں داخل رہی اور فوت ہو گئی۔

(3) اس دوران میری بیٹی ایک مہینہ ہسپتال میں داخل رہی اور فوت ہو گئی۔

(4) اس دوران میری بہن کروٹا کے وجہ سے زیر علاج رہی اور فوت ہو گئی۔

(5) اس دوران میں خود کروٹا کا شکار ہوا اور تین مختلف ہسپتالوں سے علاج کرا کر شکر ہے صحت یاب ہو گیا ہوں۔ مگر بد قسمتی

سے عدالتی پیش سے واپسی پر موٹر سائیکل نے ٹکر ماری اور 2 ماہ بستر پر پڑا رہا۔ اب بھی نماز کرسی میں ادا کرتا ہوں۔

جناب عالی میں ہر پیشی کیلئے صبح 6 بجے ضلع مردان اور ضلع بونیر کے دامن سے ٹیکسی میں نکلتا ہوں پھر مردان سے پشاور کوچ میں آتا ہوں اور پیشی کے بعد پھر اسی طرح شام گئے واپس گھر جاتا ہوں۔ اور تقریباً ہر پیشی پر میرے 1800 سو روپے لگتے ہیں۔

اس دوران مجھے حصول انصاف کیلئے 4 وکیلوں کے ہاری اخراجات ادا کرنے پڑے اور تاحال انصاف کا منتظر ہوں مالی، جسمانی اور جسمانی طور پر تباہ ہو چکا ہوں اور زندگی کے آخری ایام میں بلاوجہ ٹھوکریں کھا رہا ہوں۔ اسلئے آپ سے عاجزانہ اپیل کرتا ہوں کہ

براہ کرام میرے کیس کو Urgent Hearing کیلئے رکھیں کیونکہ ~~6.6.2022~~ بہت دور ہے اور میں 2015 سے مسلسل

آ رہا ہوں۔ انصاف کا تقاضہ ہے کہ محکمہ کی مجرمانہ اور قصداً تاخیری حربوں کے مقابلے میں Ex party Action لیکر احسان مند

فرمائیں۔ عمر بھر دعاگوں رہوں گا۔

آپ کا فرمان بردار شیر اللہ محکمہ تعلیم ضلع مردان

موبائل نمبر: 0332-7220633

اپیل نمبر 1067 & 1068/2015 اور موجودہ زیر سماعت

1/3/2022

اپیل نمبر 1067 & 1068 / 2021 Last Hearing

توجہ سے کیس نمبر 4980

814122

04 Set

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No: 4981/2021

Sher Ullah, Ex-AD Admn DCTE Abbottabad.....Appellant.

VERSUS

Chief Secretary, Govt; of Khyber Pakhtunkhwa & others.....Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1 to 3.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the appellant has got no cause of action /locus standi.
- 2 That the appellant is not an aggrieved person within the meaning of Article 212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the instant Service Appeal is badly time barred under Law of limitation Act 1908.
- 4 That the appellant has concealed material facts from this Honorable Tribunal.
- 5 That the instant service appeal is based on malafide intentions.
- 6 That the appellant has not come to this Honorable Tribunal with clean hands.
- 7 That the appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 8 That the instant Service Appeal is against the prevailing Law, Rules and policy.
- 9 That the appellant has been treated as per law & policy by the Department.
- 10 That the appeal is not maintainable in its present form.
- 11 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 12 That the appellant is not competent to file the instant appeal against the Department.
- 13 That the instant appeal is not maintainable in its present form.

14 That this Honorable Tribunal has got no jurisdictions to entertain the instant case.

15 That the Notification No.SO (PE)2-6/DPC meeting/B&AO, form BPS16 to BPS-17/2014 dated 29-08-2014 is legally competent & liable to be maintained as the appellant is not entitled for the grant of promotion w.e.f. 08-01-1997 in the Respondent Department.

ON FACTS

- 1 That Para-1 needs no comments being pertains to the service record of the appellant against the senior scale stenographer post inducted vide order dated 01-02-1979 & later on promoted to the post of superintendent ~~post~~ on dated 22-06-1987 & copies of the orders under reference are attached as **Annexure-A & B.**
- 2 That Para-2 is correct that vide order dated 11-01-1988, the appellant was promoted to the post of B&AO in BPS-16 by the Department & copy of the order is attached as Annexure-C.
- 3 That Para-3 is correct to the extent of final seniority list as stood up to 31-03-2013 of B&AOs attached as **Annexure-D**, hence, needs no further comments.
- 4 That Para-4 is incorrect & misleading on the grounds that there was no vacant post of Deputy Director (BPS-18)(regular)available for the ministerial staff in the Respondent Department upon which the appellant could be adjusted against the above mentioned post. Hence the stand of the appellant is also liable to be dismissed.
- 5 That Para-5 is correct that vide Notification No.SO (PE)2-6/DPC meeting/B&AO, form BPS16 to BPS-17/2014 dated 29-08-2014, the appellant was promoted against the AD (Admn) Post in BPS-17 w.e.f. 29-08-2014 in view of his seniority & other service record in the Department, therefore, the plea of the appellant regarding grant of promotion w.e.f. 01-08-1997 against the AD in BPS-17 post is illegal & liable to be rejected copy of the Notification dated 29-08-2014 is **Annexure-E.**
- 6 That Pra-6 is also incorrect & denied on the grounds that the appellant has got retired from official service against the AD (Admn) post on completion of his 60 years of age /superannuation & the Notification No. SO(PE)4-10/SSRC/Ministerial Staff/2013 dated 28-01-2013 is not applicable upon the case of the appellant in the given circumstances of the case, hence the plea of the appellant regarding working against the Deputy Director post (Admn) as baseless & without any legal justification & a copy of the Notification dated 28-01-2013 is Annexure-F.
- 7 That para-7 is incorrect & denied on the grounds that the appellant has got retired from the official service on attaining of 60 years of age on superannuation & was not entitled for the grant of promotion against the Deputy Director (Admn) BPS-18 under the shadow of ministerial staff, nor he has submitted any application for the grant of promotion against the above mentioned post to the Respondent Department till date, hence, his plea is liable to be rejected.

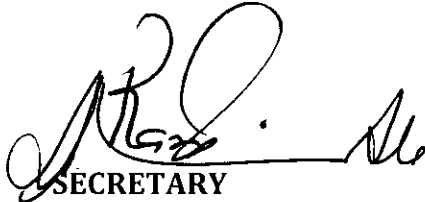
- 8 That para-8 is incorrect to the extent of filling of Departmental appeal against the Notification dated 29-08-2014, whereby, he has been promoted as AD in BPS-17 by the Department under the Rules. Therefore, the Notification dated 29-08-2014 has got final against the appellant under the Law, whereas, rest of the para regarding service appeal No.1067/2015 is relates to the record off this Honorable Tribunal.
- 9 That Para-9 is Correct that vide Judgment dated 09-04-2019 the case of the appellant was remitted to the Department for disposal the case of the appellant which was decided vide order dated 22-03-2021 competent authority in shape of dismissal on merits of the case & copies of the Judgment dated 09-04-2019 & order dated 22-03-2021 are **Annexure-G & H.**
- 10 That Para-10 is incorrect on the grounds that vide order dated 22-03-2021 the Departmental appeal of the appellant has been decided by the Respondent No.2 as per Judgment dated 09-04-2019 & was dully communicated to the appellant, hence, the plea of the appellant & misleading.
- 11 That Para-11 is legal, the statement of the appellant is baseless, hence the appeal of the appellant is liable to be dismissed on the following grounds inter alia :-

ON GRONDS

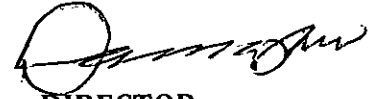
- A **Incorrect & not admitted.** The order dated 22-03-2021 is legal, hence, the statement of the appellant is against the law, rules & policy as submitted in the foregoing Paras in the instant reply, hence the case of the appellant is of no legal force & liable to be dismissed.
- B **Incorrect & not admitted.** The statement of the appellant is baseless & is liable to be dismissed.
- C **Incorrect & not admitted.** The statement of the appellant in this para is too baseless, hence liable to be rejected.
- D **Incorrect & not admitted.** No vacancy was available in the Department during the period dated 08-01-1997, hence, the stand of the appellant is illegal.
- E **Incorrect & not admitted.** The appellant has got no cause of action, nor he is an aggrieved person to file the instant Service Appeal before this Honorable Tribunal, hence is liable to be dismissed in favour of the Respondents.
- F **Incorrect & not admitted.** The appellant has been treated as per law rules & policy by the Department.
- G **Incorrect & not admitted.** The cited cases as mentioned in sub-grounds from A to G are not applicable upon the case of the appellant, hence, denied. However, the Respondents No: 1-3 seek leave of this Honorable Tribunal to submit additional grounds & case law / record at the time of arguments on main appeal on the date fixed before this Honorable Bench

In view of the above made submissions, it is most humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant Appeal with cost in favor of the Respondent Department in the interest of justice.

Dated ___/ ___/2022.



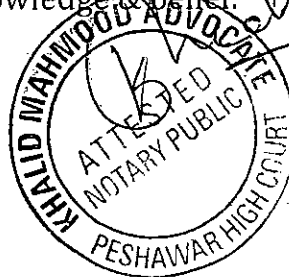
SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 & 2)



DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)

AFFIDAVIT

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.



Deponent

OFFICE OF THE DIRECTOR OF EDUCATION (S) H.W.F.P. PESHAWAR.

APPROVAL FOR APPOINTMENT.

The Departmental Selection Committee of the Education Department, has approved the appointment of Mr. Iqbal Sarwar as Stenographer at the Office of the Divisional Director of Education (Schools) Hazara Division Abbottabad. Consequently he is placed in regular scale of Rs. 460-28-680/30-900 (NPS-12) with effect from 1/2/1979.

Service Book etc. Necessary entry to this effect should be made in his Service Book etc.

Mr. Iqbal Sarwar, S.O. (Acct) at DDE (S), Hazara Div. Abbottabad. Sand - Vice Br. No. 1.

Mr. Abdul Wahid, Supt. O/O the Inspector of Govt. Schools & Sports (Colleges) NWFP, Peshawar. (MOHAMMAD MOHSIN) Vice. Na. Br. Huzar FOR DIRECTOR OF EDUCATION (S) Hazara Division Abbottabad.

5. Encl. No. 2753-54/A-23/87ens. Dated Peshawar the 16 Feb. 1989. Govt. College, Mardan. Copy is forwarded for information and necessary action on LHM to the:-

6. Mr. Iqbal Sarwar, S.O. (Acct) at DDE (S), Hazara Division Abbottabad. With reference to Mr. Sarwar's letter No. 2753-54/A-23/87 dated 29/1/89.

7. Mr. Iqbal Sarwar, S.O. (Acct) at DDE (S), Hazara Division Abbottabad. Vice Br. No. 6. Sand - Vice Br. No. 6. Mr. Sarwar, Director of Education (Schools) NWFP, Peshawar.

8. Mr. Sardar Moolanji, Asstt. at DDE (F) Mardan. Vice Br. No. 2.

9. Mardan Hussain, Asstt. Govt. College, Mardan. For Director of Education (Schools) NWFP, Peshawar.

Notes - 1. Charge reports should be sent to the concerned. Attested - 2. The promotion of Mr. Sarwar S.No. 2 to 3 has been approved by the Departmental Promotion Committee of Education Department. This promotion is purely on seniority basis and should be given without any reason. If any objection is raised, it should be taken up against the concerned authority on or before 20.02.1989 positively.

Asstt. Div. Director of Education (Schools) Hazara Division Abbottabad

DIRECTOR OF EDUCATION (SCHOOLS) HAZARA DIVISION PESHAWAR

B

S/K JFZ

Amex-B

OFFICE OF THE DIRECTOR OF EDUCATION (SCHOOLS), NWFP, PESHAWAR.

NOTIFICATION.

The following Promotions/Transfers of Ministerial Staff of Education Department are hereby ordered in the interest of public service with effect from the dates of their taking-over charge.

S.No.	Name & Designation,	Adjusted at,	Remarks.
1.	Mohammad Nawaz, ADEO(A) at DEO(M), Chitral.	A.D.E.O(A), at DEO(F), Chitral D.I.Khan.	Against vacant post.
2.	Khan Afzal, Supdt: DDE(S), Hazara Divn:	A.D.E.O(A) at DEO(M), Chitral.	Vice Sr.No.1.
3.	Fazalur Rehman, Supdt: DDE(S), Malakand Divn:	A.S.D.E.O(A) at SDEO(M), Mastuj (Chitral). Supdt: DDE(S), Malakand Divn:	Against vacant post.
4.	Abdul Ghaffar, Supdt: DDE(S), D.I.Khan Divn:	Supdt: DDE(S), Malakand Divn:	Vice Sr.No. 3.
5.	Noor Mohammad, Supdt: DEO(M), Abbottabad.	Supdt: DDE(S), D.I.Khan.	Vice Sr. No.4.
6.	Mohammad Ramzen, Asstt: at DDE(S), D.I.Khan Divn:	Supdt: at Govt. College, Bannu,	Against vacant post.
7.	Ali Safdar, Stenographer DDE(S), Malakand Divn:	Supdt: at DEO(M), Abbottabad.	Vice Sr. No. 5
8.	Qazi Abdul Malik, Asstt: Govt. College, Haripur (On return from Leave).	Supdt: at Govt. College, A.Abad.	Against vacant post.
9.	Ghulam Sarwar, Stenographer at DDE(S), Hazara Divn: A.Abad.	Supdt: at DDE(S), Hazara Divn:	Against vacant post.
10.	Ahmad Ali, Asstt: at R.D.E., Peshawar.	Supdt: at DDE(S), Hazara Divn:	Vice Sr. No.

Note:- The promotion of S.No. 2,3,6,7,8,9 & 10 has been approved by the Departmental Promotion Committee.

- Charge reports should be sent to all concerned.
- All of them should take over charge against their new assignments on or before 1.7.1987 positively.
- The promotion of Sr. No.2,3,6,7,8,9 & 10 are purely on temporary basis and liable to reversion at any time with assigning any reasons.
- No TA/DA is allowed to S.No. 1, 4 & 5.
- The resultant vacancies of S. No.7,9 & 10 are being filled by this Directorate.

(MOHAMMAD IDRIS KH
DIRECTOR OF EDUCATION
N.W.F.PROVINCE, PESH

Endst. No. 18740-80 /A-23/II-AE. dated Peshawar, the 22/
Copy forwarded for information and necessary action

- to the:-
- Director of Education (Colleges), NWFP, Peshawar.
 - Additional Directress of Education (Schools), NWFP., Peshawar.

- 3. Divisional Director of Education (Schools), concerned.
- 4. Principal, Govt. College, concerned.
- 5. Distt: Education Officer (Male & Female) concerned.
- 6. Registrar, Departmental Examinations, NWFP., Peshawar.
- 7. Distt: Accounts Officer concerned.
- 8. Sub: Divl: Edu: Officer (Male), Mastuj (Chitral).
- 9. Officers concerned.
- 10. Personal files.

+Z.K.+

Imad
 Deputy Director (Schools)
 for/ Director of Education (Schools)
 N.W.F.P., Peshawar.

22/6/87

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Annex - C

OFFICE OF THE DIRECTOR OF EDUCATION (SCHOOLS), NWFP., PESHAWAR.

NOTIFICATION.

The following adjustment/promotion of Ministerial staff of Education Department are hereby ordered in the interest of public service with effect from the dates of their taking over charge.

S.No.	Name & Designation.	Adjusted at.	Remarks.
1.	Mr. Amir Jalal, ASDEO(Acctt:) at SDEO(M), Saidu Sharif, Swat.	Asstt: Divl: Edu: Officer at Divl: Directorate of Edu: (S), D. I. Khan Division, D. I. Khan.	On his own pay and grade against the vacant post.
2.	Qazi Abdul Malik, Supdt: Govt. College, Abbottabad.	A.S.D.E.O(Acctt:) at SDEO(M), Banda-Daud Shah(Karak).	Against vacant post vice A.R. Bukhari Transferred.
3.	Mr. Ghulam Sarwar, Supdt: at DDE(S), Hazara Divn: Abbottabad.	A.S.D.E.O(Acctt:) at SDEO(M), Saidu-Sharif, Swat.	Vice Sr.No.1.
4.	Mr. Ahmad Ali, Supdt: O/O the Inspector of Phy: Edu: & Sports(Colleges), NWFP., Peshawar.	Budget & Accounts Officer at DDE(S), Kohat Divn: Kohat.	Vice Nazir Hussain B&AO proceeded on L.P.R.
5.	Mr. Mohammad Afsar, Supdt: Govt. College, Mardan.	A.S.D.E.O(Acctt:) at SDEO(M), Wari (Dir).	Vice Mohammad Akram, ASDEO(Acctt:) proceeded on LPR.
6.	Mr. Wazir Mohammad, Asstt: at DDE(S), Pesh: Divn: Peshawar.	Supdt: at O/O the Inspector of Phy: Edu: & Sports(Colleges), NWFP, Peshawar.	Vice Sr.No.4.
7.	Mr. Bakht Zada, Asstt: at DDE(S), Malakand Divn: Saidu Sharif, Swat.	Supdt: at DDE(S), Hazara Divn: Abbottabad.	Vice Sr.No.3.
8.	Mr. Sardar Mohammad, Asstt: at DEO(F), Mardan.	Supdt: at Govt. College, Abbottabad.	Vice Sr. No.2.
9.	Sardar Hussain, Asstt: Govt. College, Mardan.	Supdt: at Govt. College, Mardan.	Vice Sr.No.5.

- Notes:-
1. Charge reports should be sent to all concerned.
 2. The promotion of officers at S.No.2 to 9 has been approved by the Departmental Promotion Committee of Education Department. Their promotion is purely on temporary ~~and~~ basis and liable to reversion without assigning any reasons.
 3. All of them should take over charge against their new assignments on or before 2.11.1988 positively.

(MOHAMMAD IDRIS KHAN)
DIRECTOR OF EDUCATION(SCHOOLS),
N.W.F. PROVINCE, PESHAWAR.

29-08-200
11-01-1988
18-07-86

88
14
64

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR.

ANNEXURE-D

NOTIFICATION.

Final List of Budget & Accounts Officer (BPS-16) working in and under the Directorate Elementary & Secondary Education, DCTE, FATA & PITE, Khyber Pakhtunkhwa, as stood on 31-08-2013 is hereby approved.

The said seniority list was hereby notified for the information of all concerned to lodge appeal/objection (if any).

The above seniority list can be seen/checked on the website of E&SE Department Khyber Pakhtunkhwa given below: -

<http://kpsc.gov.pk>

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Endst No 3638-59/F.No.A-23/S.List/B&AO/DD(F&A) Dated Pesh the 28/2/2014.

Copy of the above is forwarded for information

and u/action to the:-

1. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
2. Director PITE Peshawar.
3. Director of Education (FATA) Peshawar.
4. All District Education Officers (M&F) in Khyber Pakhtunkhwa.
5. Cashier Local Directorate.
6. P/S to Secretary to Government of Khyber Pakhtunkhwa E&SE Department Peshawar.
7. Deputy Director EMIS Govt of Khyber Pakhtunkhwa E&SE Department with the request to up-load the attached Seniority List of Assistants and Senior Scale Stenographer on web page of E&SE Department.
8. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.

Adm.

Deputy Director (F&A)
(E&SE) Khyber Pakhtunkhwa Peshawar.

For information
and do the
needful 1/3/014

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.
FINAL SENIORITY LIST OF BUDGET & ACCOUNT OFFICERS (B/16) IN AND UNDER THE DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA PREPARED UPTO 31.3.2013

S/#	Name of Officer	Father's Name	Place of present Posting	Academic Qualification	Date of Birth	Domicile	Date of 1st entry into Govt- Service	Regular Promotion to the Present Post	Remarks
1	Ghulam Sarwar	Muhammad Suleman	DEO (M) A/Abad	BA	06-03-1956	Abbottabad	01-02-1979	11-01-1988	By Promotion
2	Sherullah	Karim Ullah	DEO (F) Mardan	BA	13-11-1955	Mardan	20-04-1980	01-06-1992	By Promotion
3	Umar Nawaz	Muhammad Salim Khan	DEO (M) Bannu	M.com	01-01-1961	Bannu	13-10-1984	25-01-2001	By Promotion
4	Musharaf Ali	Murtaza Ali	DE & SE Khyber Pakhtunkhwa Peshawar	BA	22-07-1962	Peshawar	04-03-1985	25-01-2001	By Promotion
5	Nasir Khan	Aminullah	DEO (M) NSR	BA	10-05-1960	Swabi	19-02-1979	31-07-2013	By Promotion
6	Muhammad Azam	Khalil-ur-Rehman	D C TE A/Abad	MA	01-01-1961	Mansehra	08-08-1979	31-07-2013	By Promotion
7	Inamullah	Muhammad Sakhsh	DEO (M) D/I/Khan	M/BA	01-01-1956	D/I/Khan	11-07-1974	31-07-2013	By Promotion
8	Muhammad Ayub	Munir Khan	DEO (M) Haripur	BA	04-03-1954	Haripur	12-08-1973	31-07-2013	By Promotion
9	Sadiqullah	Amanullah	DEO (M) Chitral	Matric	06-01-1960	Chitral	25-08-1987	31-07-2013	By Promotion
10	Karim Shah	Wadan Shah	DEO (M) Mardan	BA	20-02-1958	Mardan	01-09-1987	31-07-2013	By Promotion
11	Adalat Khan	Mehbaran Shah	DEO (F) Charsadda	BA	02-01-1964	Peshawar	01-09-1987	31-07-2013	By Promotion
12	Taza Khan	Sargand Khan	DEO (F) Dir Lower	BA	15-06-1955	Dir	20-10-1979	31-07-2013	By Promotion
13	Ghulam Sarwar	Misri Khan	DCTE Abbottabad	MA	16-11-1956	Abbottabad	04-11-1979	31-07-2013	By Promotion
14	Zakir Khan	Faqir Khan	DEO (F) Abbottabad	Matric	03-01-1957	Abbottabad	21-03-1979	31-07-2013	By Promotion
15	Fazal Shah	Fazali Karim	DEO (F) Hangu	Matric	20-05-1957	Peshawar	05-02-1981	31-07-2013	By Promotion
16	Munirullah Shah	Mian Dilbar	DEO (F) Peshawar	BA	06-01-1964	Peshawar	20-12-1989	31-07-2013	By Promotion
17	Muhammad Ali	Lal Sardar	DEO (M) Hangu	BA	02-12-1966	Karak	20-12-1989	31-07-2013	By Promotion
18	Waliullah	Abdul Qahar	DEO (M) Swabi	MA	01-04-1954	Swabi	31-05-1973	31-07-2013	By Promotion
19	Mr. Sultan Ahmad	Rab Nawaz	DEO (F) DIK	FA	04-05-1954	D.I.Khan	03-05-1973	31-07-2013	By Promotion
20	Amin Jan	Saadullah Jan	DEO (M) Peshawar	BA	03-01-1966	Peshawar	22-12-1990	31-07-2013	By Promotion
21	Shamsul Islam	Sher Aziz	DEO (F) Dir Upper	Matric	19-04-1954	Chitral	20-01-1974	31-07-2013	By Promotion
22	Rehmatullah	Niamat Ullah	DEO (F) Tank	Matric	01-05-1954	D/I/Khan	01-06-1974	31-07-2013	By Promotion

A. H. Khan
1/1/13
Sd/-

23	Zarif Khan	Muhammad Usman	DE (FATA)	Matric	21-01-1955	Peshawar	01-06-1974	31-07-2013	By Promotion
24	Muhammad Zahoor	Abdul Ghaffar	DEO (F) Malakand	Matric	04-03-1955	Malakand	17-07-1974	31-07-2013	By Promotion
25	Latifur Rehman	Hamayun	DEO (F) Chitral	Matric	15-05-1954	Chitral	10-01-1974	31-07-2013	By Promotion
26	Shafiqat Malik	Gulistan	DEO (F) Haripur	Matric	01-01-1956	Abbottabad	10-06-1974	31-07-2013	By Promotion
27	Liaqat Ali	Nousher Khan	DEO (M) Buner	Matric	09-05-1954	Mardan	15-10-1974	31-07-2013	By Promotion
28	Muhammad Ali	Fateh Muhammad	DEO (F) Battagram	Matric	04-09-1954	Mardan	11-01-1974	31-07-2013	By Promotion
29	Muhammad Amin	Rehmani Gul	DEO (M) Swat	Matric	25-11-1954	Swat	11-04-1974	31-07-2013	By Promotion
30	Abdul Majeed	Muhammad Khan	DEO (F) Kohat	Matric	12-04-1956	Kohat	12-04-1974	31-07-2013	By Promotion
31	Abdur Rashid	Mudasir Shah	DEO (F) NSR	Matric	12-01-1956	Mardan	01-02-1974	31-07-2013	By Promotion
32	Zahoor Ali	Habib Khan	DEO (M) Karak	Matric	06-01-1955	Peshawar	15-01-1975	31-07-2013	By Promotion
33	Khog Badshah	Abdul Mutalib	DEO (M) Shangla	Matric	16-02-1955	Malakand	03-01-1975	31-07-2013	By Promotion
34	Haroonur Rashid	Maqbulur Rehman	DEO (M) Battagram	Matric	11-04-1957	Haripur	29-06-1975	31-07-2013	By Promotion
35	Fazali Rehman	Ainul Qazat	DEO (F) Lakki	Matric	05-10-1955	Chitral	07-01-1975	31-07-2013	By Promotion
36	Ubaidullah	Abdullah Jan	DEO (M) Kohat	Matric	07-01-1956	Kohat	07-12-1975	31-07-2013	By Promotion
37	Walayat Khan	Baz Muhammad	DEO (M) Mansehra	Matric	15-01-1956	Peshawar	09-11-1975	31-07-2013	By Promotion
38	Faridullah	Fatehullah	DE FATA Peshawar	Matric	06-12-1956	Peshawar	13-09-1975	31-07-2013	By Promotion
39	Ihsanullah	Hanimullah	DEO (F) Buner	Matric	03-03-1958	Mardan	18-09-1975	31-07-2013	By Promotion
40	Abdul Sattar	Abdul Rashid	DEO (F) Shangla	Matric	04-01-1957	Swat	15-10-1975	31-07-2013	By Promotion
41	Adam Sher	Juma Gul	DEO (M) Dir	Matric	02-12-1953	Dir	17-11-1975	31-07-2013	By Promotion
42	Jamilur Rehman	Khalilur Rehman	DEO (F) Mansehra	Matric	15-04-1956	Mansehra	17-11-1975	31-07-2013	By Promotion
43	Ghulam Muhammad	Muhammad Umer	DEO (M) Torgar	Matric	15-12-1955	Malakand	10-11-1975	31-07-2013	By Promotion
44	Jehan Zeb	Abdur Rehman	DEO (F) Swabi	BA	02-03-1961	Swabi	08-10-1981	31-07-2013	By Promotion
45	Mukhtiar Khan	Ghulam Sarwar	DEO (M) Charsadda	BA	16-10-1962	Peshawar	17-10-1981	31-07-2013	By Promotion

Director Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Dated Peshawar the 29-08-2014

Annex E

NOTIFICATION

No. SO(PE)/2-6/DPC Meeting/ B&AO from BS-16 TO BS 17/2014: On the recommendation of the Departmental Promotion Committee meeting held on 02-07-2014, the competent authority is pleased to promote the following Budget & Accounts Officers (BS-16) to the posts of Assistant Director (BS-17) on regular basis with immediate effect:-

S.No.	Name of officer/ Designation	Promoted as:
1.	Ghulam Sarwar B&AO (BS-16) office of DEO (M) Abbottabad.	Assistant Director (BS-17).
2.	Sherullah B&AO(BS-16) office of DEO (F) Mardan.	Assistant Director (BS-17).

2 They will be on probation for a period of one year, extendable for another term of one year as specified in Rule-15 of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

3 Consequent upon their promotion to the post mentioned above they are posted / adjusted as under:

S.No.	Name of officer/ Designation	Place of posting.
1.	Ghulam Sarwar B&AO (BS-16) DEO (M) Abbottabad.	Assistant Director (Administration) (BS-17) in the Directorate of E&SE, Peshawar against the vacant post.
2.	Sherullah B&AO(BS-16) DEO (F) Mardan.	Assistant Director (Finance & Accounts) (BS-17) in the Directorate of E&SE, Peshawar against the vacant post.

Endst. No. & date as above.

SECRETARY

Copy forwarded to:

1. The Secretary to Govt. of Khyber Pakhtunkhwa; Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Accountant General Khyber Pakhtunkhwa, Peshawar.
4. PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
5. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
6. District Accounts Officers Abbottabad/ Mardan.
7. PS to Secretary E&SE Department.
8. Officers concerned.
9. Office File.

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Peshawar, dated the 28th January, 2013

Annex - G-I

NOTIFICATION

No. SO/PE/4-10/SSRC/Ministerial Staff/2013. In pursuance of the provisions contained in sub rule (2.) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all rules issued in this behalf to the extent of the Elementary and Secondary Education Department the (E&SE Department) in consultation with the Establishment Department and Finance Department hereby lays down the method of recruitment, qualifications and other conditions specified in Column 3 to 5. of the Appendix to this Notification which shall be applicable to the posts borne on the Ministerial establishment in the Elementary and Secondary Education Department specified in Column No.2 of the said Appendix.

APPENDIX

S. NO	NOMENCLATURE	MINIMUM QUALIFICATION AND EXPERIENCE FOR INITIAL APPOINTMENT OR BY TRANSFER	AGE LIMIT	METHOD OF RECRUITMENT (EXISTING)
1.	Deputy Director (Finance and Accounts) / Deputy Director (Administration) (BPS-18)		4	5 By promotion on the basis of seniority cum fitness from amongst the Assistant Directors (Finance and Accounts) & Assistant Directors (Administration) with at least five years service as such.
2.	Assistant Director (Finance and Accounts) / Assistant Director (Administration) (BPS-17)			By promotion on the basis of seniority cum fitness from amongst the Budget and Accounts Officers with at least two years service as such.
3.	Budget and Accounts Officer. (BPS-16)			By promotion on the basis of seniority cum fitness from amongst the Superintendents with at least two years service as such.
4.	Superintendent (BPS-16)			By promotion on the basis of seniority cum fitness amongst the holders of the posts of Assistants and Senior Scale Stenographers with at least five years service as such.
5.	Senior Scale	(i) At least Second Class Bachelor's Degree or equivalent	20 to 30	By promotion on the basis of seniority cum

	Stenographers (BPS-16)	<p>qualification from a recognized University;</p> <p>(ii) Speed of Seventy words per minute in shorthand in English and Forty Five words per minute in typing; and</p> <p>(iii) Knowledge of Computer in using MS words and MS Excel.</p>	Years	fitness from amongst the Junior Scale Stenographers (BPS-14) with at least five years service as such.
6.	Assistant (BPS-14)	At least Second Class Bachelor's Degree from a recognized University.	20 to 30 Years	<p>(a) Seventy five per cent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least five years service as such; and</p> <p>(b) Twenty five per cent by initial recruitment</p>
7.	Junior Scale Stenographers (BPS-14)	<p>(i) Intermediate or equivalent qualifications from a recognized Board;</p> <p>(ii) Speed of Fifty words per minute in shorthand in English and Thirty Five words per minute in typing; and</p> <p>(iii) Knowledge of Computer in using MS words and MS Excel.</p>	18 to 30 Years	By Initial recruitment
8.	Senior Clerks (BPS-09)			By promotion on the basis of seniority cum fitness from amongst the Junior Clerks, Assistant Store Keepers and Laboratory Assistants with at least two years service as such.
9.	Junior Clerk/Assistant Store Keeper/ Laboratory Assistant (BPS-07)	<p>(i) For Junior Clerk / Assistant Store Keepers having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board and a speed of twenty five words per minute in typing;</p> <p>(ii) For Laboratory Assistants having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board with Science.</p>	18 to 30 Years	<p>(a) Thirty Three per cent by promotion, on the basis of seniority-cum-fitness from amongst the Daftaries, G/Operators, Qasids and Naib Qasids including other equivalent posts in the attached department /offices/institutions with at least Two years service as such and having qualification mentioned in column No. 3.</p> <p>(b) Sixty Seven per cent by initial recruitment</p> <p>Note: - For the purpose of promotion, there shall be maintained a joint seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids etc including other equivalent posts in the attached department /offices/institutions with reference to the dates of their regular appointment or acquiring Secondary School Certificate whichever is later.</p>

Annex - II

Amal G-III

10.	Driver (BPS-04) -	Having valid Driving License and preferably Literate.	18 to 32 Years	By Initial recruitment
11.	Naib Qasid / Chowkidar / Behshti / Cook / Bearer / Shop Attendant / Laboratory Attendant etc	Preferably Literate	18 to 30 Years	By Initial recruitment

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education-Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA.
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa Peshawar.
22. Master file

7-2-2013
SECTION OFFICER (Primary)

19.10.2013



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Amna **G**

No.SO (Lit)E&SED/1-3/SA#1263/2015.
Dated. Peshawar the, March 22, 2021

Order

WHEREAS Mr. Ghulam Sarwar, was promoted from the post of Budget & Accounts Officer (BS-16) to post of Assistant Director BS-17 on regular basis on the recommendations of the Departmental Promotion Committee vide notification dated 29.08.2014.

2. AND WHEREAS In terms of Rule 15 (2) of Khyber Pakhtunkhwa Government Servants Appointment, Promotion & Transfer (APT) Rules 1989(in-vogue by then), he was on probation for a period of one year extendable for another year. Hence he was on probation upto 28.08.2016.

3. AND WHEREAS final seniority list of Assistant Director was issued on 31.08.2015.

4. AND WHEREAS his date of birth being 06.03.1956, he proceeded on retirement on 05.03.2016 on the basis of superannuation. Hence he retired from service before completion of his probation period on i.e 28.08.2016.

4. AND WHEREAS promotion to next higher grade/post is not considered during probation period as contained in clause-IV (f) of promotion policy 2009 of provincial Government.

5. NOW THEREFORE this departmental appeal has been considered on the above grounds and dismissed, being devoid of merit.

00 ✓

SECRETARY

Endst: Even No. & Date:

Copy of the above is forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to judgement dated 09.04.2019 in Service Appeal No 1263 of 2015 and appeal No. 1067/2015.
2. The Director, E & S E Department Khyber Pakhtunkhwa, Peshawar.
3. Director, Curriculum & Teachers Education Abbottabad.
4. Section Officer (Lit-II), E&SE Department.
5. Mr. Ghulam Sarwar, Ex-Assistant Director (Administration) (BS-17) Directorate of Curriculum & Teachers Education Abbottabad.
6. PS to Secretary, E & S E Department Khyber Pakhtunkhwa, Peshawar.
7. Office Order File.

Certified to be true copy
M. ANWER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mujeeb-ur-Rehman
(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Date of Presentation of Application 23-4-2021

Number of Words 2000

Copying Fee 22

Urgent 4

Total 26

Name of Applicant [Signature]

Date of Completion of Copy 23-4-2021

Date of Delivery of Copy 23-4-2021

Annex - H

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 1067/2015</p> <p>Date of Institution 29.09.2015 Date of Decision 09.04.2019</p> <p>Ghulam Sarwar Assistant Director (Admn) working as Deputy Director (Admn) DCTE, Khyber Pakhtunkhwa, Abbottabad. Appellant</p> <p style="text-align: center;">Versus</p> <p>1. The Chief Secretary Khyber Pakhtunkhwa Peshawar. 2. The Secretary Elementary & Secondary Education, Peshawar. 3. The Director Elementary & Secondary Education Peshawar.</p> <p style="text-align: right;">Respondents</p> <p>09.04.2019 Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah -----Member(J)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 being aggrieved against the promotion order dated 29.08.2014 whereby he was promoted from the post of Budget & Account Officer (BS-16) to the post of Assistant Director (BS-17) with immediate effect. Prayer of the appellant is that the respondents may be directed to promote the appellant to the post of Assistant Director (BS-17) from the date of</p>		
<p style="text-align: center;">ATTESTED</p> <p style="text-align: center;">EXAMINER Khyber Pakhtunkhwa Service Tribunal Peshawar</p>		

9.4.2019

availability of vacancy instead of 29.08.2014.

3. Learned counsel for the appellant argued that under the promotion criteria dated 28.01.2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BS-17 has to be filled up out of Budget & Account Officers through promotion on the basis of seniority cum fitness. Further argued that the posts of Assistant Director (Admn) & Assistant Director (F&A) remained occupied by the junior most superintendents and other officers of the department hence the appellant's promotion to the post of Assistant Director was due from the date of availability of vacancy but the appellant was promoted to the said post w.e.f 29.08.2014 instead of from the date of availability of vacancy which is against law and norms of justice; that the departmental appeal of the appellant went un-responded.

4. As against that learned Deputy District Attorney argued that the appellant has not filed any departmental appeal against the promotion order dated 29.08.2014; that the appellant was not entitled for the grant of antedated promotion; that as and when the vacancy was available, the competent authority promoted the appellant vide impugned promotion order dated 29.08.2014.

5. Arguments heard. File perused.

6. It is also to be seen that whether under the promotion criteria which was in field prior to the promotion criteria dated 28.01.2013, the appellant was also entitled to promotion to the post of Assistant Director (BS-17) or otherwise.

ATTESTED

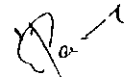
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

29.4.2019

7. Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case is remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed of in the above terms. Copy of the departmental appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.



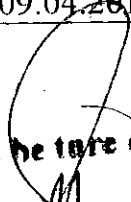
(Hussain Shah)
Member




(Muhammad Hamid Mughal)
Member

ANNOUNCED
09.04.2019

Certified to be true copy


MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application: 23-4-2021
 Number of Words: 2000
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 Date of Completion of Copy: 23-4-2021
 Date of Delivery of Copy: 23-4-2021

**BEFORE THE HONOURABLE KPK SERVICES
TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO. 4981/2021.

SHER ULLAH EX AD (ADMN) EDU.....APPELLANT.

VERSUS

CHIEF SECRETARY GOVT OF KPK & OTHERS... RESPONDENTS

**REJOINDER TO THE COMMENTS FILED BY
RESPONDENTS 1.2.3 ON BEHALF OF THE
APPELLANT**

Respected sir,

The appellant submits as under:-

PRELIMINARY OBJECTIONS

Para No.1 to 15 are incorrect, irrelevant, based on surmise and conjunctures and malafied intentions.

FACTS

- 1. para No.1 of the comments of the respondents is incorrect while that of the appeal of the appellant is correct .*
- 2. Para NO.02 of the comments of the respondents is incorrect while that of the appeal of the appellant is correct.*
- 3. Para No. 03 of the comments is correct.*
- 4. Para No. 04 of the comments of the respondents is incorrect while that of the appeal of the appellant is correct.*
- 5. Para No. 05 of the comments of the respontends to the extent that appellant's promotion order was issued wef 29.08.2014 is correct while rest of the para is incorrect*

- because the post of AD (Admn) was vacant wef 09.03.2006 from which the appellant has sought antedate promotion.
6. Comments of the respondents in para 06 are incorrect while that of the appeal of the appellant is correct and based on cogent reasons. More over the appellant has filed his appeal during his service before retirement.
 7. Comments of the respondents to para 07 are correct to the extent that the appellant got retired on attaining the age of superannuation on 13-11-2015. It is clarified that the appellant filed service appeal No. 1068 / 2015 while in service which is subsequently yet under process in the shape of present appeal before this Honourable Court. While rest of the comments of the instant para are totally incorrect.
 8. Incorrect. More over the judgment of the Honourable Tribunal have admitted by the respondents, the copy of the judgment and appeal No. 1068/2015 of the appellant was send to the respondents for compliance.
 9. Para 09 of the comments of the respondents is correct to the extent that the copy of judgment/appeal were sent to them but rest of the para is incorrect because the dismissal order of the respondent department is not based on the point raised in the appeal or in the judgment of this Honourable Tribunal but is based on something else and just beating about the bushes and not coming to the point.
 10. Reply of the respondents to para -10 is incorrect while that to the appeal of appellant is correct.
 11. Para No-11 of the comments of the respondents is incorrect while that of the appeal of the appellant is correct.

GROUNDS

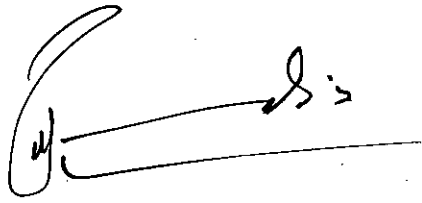
1. Comments of the respondents from grounds A to G are incorrect, irrelevant and baseless.

It is therefor requested that the comments of the respondents may graciously be rejected and appeal of the appellant being based on cogent reasons may kindly be accepted as prayed for , with cost.

Dated: 14/9/2020.

Appellant


Through


Mehboob Ali Khan Dajai

Advocates High Court Of Peshawar.

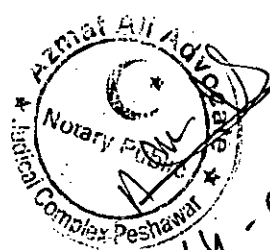
AFFIDAVTE:

I,do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed OR withheld from this Honorable Court.

 Appellant
(sher ullah)

Ex Ad (Admn)Edu

ATTESTED



14-09-2022



جناب کلیم ارشد صاحب صاحب چیرمین سروسز ٹریبونل صوبہ خیبر پختونخوا پشاور

مضمون! حصول انصاف برائے Early Hearing

مودبانہ گزارش ہے کہ سب سے پہلے میں معافی چاہتا ہوں کہ اگر میری یہ درخواست آپ کی خدمت میں ناگوار گزرے تو مجھے معاف کریں۔ کیونکہ یہ نہایت مجبوری اور کافی تکالیف اور اخراجات گزارنے کے بعد لکھا۔

2015 میں دوران ملازمت میں نے محکمہ کے ظلم اور اترابہ پروری کے خلاف اس عدالت سے بحوالہ اپیل نمبر 1067/2015 سے رجوع کیا۔ مگر حسب عادت محکمہ نے بروقت عدالت میں Comments نہ بھیجے اور دوسری طرف چیرمین کا عہدہ بھی کافی عرصہ خالی رہا۔ ساتھ ساتھ کرونا کی وجہ سے عدالت بھی کچھ عرصہ بند رہا اس لیے 4 سالوں کے بعد 2019 میں عدالت نے حکمانہ فیصلے کیلئے میرا کیس محکمہ کو بھیجا۔ مگر افسوس کہ محکمہ نے 2 سال یعنی 2021 تک کوئی کارروائی نہ کی تو مجبوراً اس عدالت میں ایک اور کیس برائے Implenentation دائر کیا۔ تو پھر محکمہ نے صرف خانہ پڑی کر کے کیس کی اصلی روح سے ہٹ کر ادھر ادھر کی غیر ضروری وضاحت و اعتراضات کے ساتھ کیس حکمانہ طور پر Reject کیا۔ جس کے خلاف میں نے ایک اور کیس بحوالہ نمبر 4981/2021 اس عدالت میں دائر کیا ہے۔ جسے عدالت نے محکمہ کو جون 2021 میں 10 دن کے اندر محکمہ کے Comments کیلئے بھیجا۔ مگر 29/05/2022 یعنی 11 مہینے کا وقت ضائع کرنے کے باوجود Comments نہیں بھیجے۔ اور عدالت نے مجھے آج 30/05/2022 کو بغیر کسی کارروائی کے اگلی پیشی 04/08/2022 دیا ہے۔ جناب عالی! اس کیس کے دوران میں ملازمت سے ریٹائرڈ بھی ہو گیا اور 2015 سے لیکر 2022 یعنی 8 سال سے عدالت کے دروازے پر حصول انصاف کیلئے ٹھوکریں کھا رہا ہوں۔ دوران کیس جو حالات وقوع پذیر ہوئے:

- (1) میں نے Open Heart سرجری کی ہے۔ اور ڈاکٹر نے ٹینشن اور جسمانی مشقت سے پرہیز کا کہا ہے۔
 - (2) اس دوران میرے بیوی 7 مہینے ہسپتال میں داخل رہی اور فوت ہو گئی۔
 - (3) اس دوران میری بیٹی ایک مہینہ ہسپتال میں داخل رہی اور فوت ہو گئی۔
 - (4) اس دوران میری بہن کرونا کے وجہ سے زیر علاج رہی اور فوت ہو گئی۔
 - (5) اس دوران میں خود کرونا کا شکار ہوا اور تین مختلف ہسپتالوں سے علاج کرا کر شکر ہے صحت یاب ہو گیا ہوں۔ مگر بد قسمتی سے عدالتی پیشی سے واپسی پر موٹر سائیکل نے ٹکر ماری اور 2 ماہ بستر پر پڑا رہا۔ اب بھی نماز کرسی میں ادا کرتا ہوں۔
- میں ہر پیشی کیلئے صبح 6 بجے ضلع مردان اور ضلع بونیر کے دامن سے ٹیکسی میں لکھتا ہوں پھر مردان سے پشاور کوچ میں آتا ہوں اور پیشی کے بعد پھر اسی طرح شام گئے واپس گھر جاتا ہوں۔ اور تقریباً ہر پیشی پر میرے 1800 سو روپے لگتے ہیں۔ اس دوران مجھے حصول انصاف کیلئے 4 وکیلوں کے باری اخراجات ادا کرنے پڑے اور تاحال انصاف کا منتظر ہوں مالی، ذہنی، اور جسمانی طور پر تباہ ہو چکا ہوں اور زندگی کے آخری ایام میں بلاوجہ ٹھوکریں کھا رہا ہوں۔ اسلئے آپ سے عاجزانہ اپیل کرتا ہوں کہ براہ کرام میرے کیس کو Early Hearing کیلئے رکھیں کیونکہ 04/8/2022 بہت دور ہے اور میں 2015 سے مسلسل آ رہا ہوں۔ انصاف کا تقاضہ ہے کہ محکمہ کی مجرمانہ اور قسداً تاخیری حربوں کے مقابلے میں Early Hearing پر احسان مند فرمائیں۔ اور میرا کیس 4981/2021 کو اکیلے Early hearing میں رکھیں کیونکہ میرے کیس کا بنیادی نوعیت الگ ہے۔ اور DB NO. 2 کے سامنے رکھیں کیونکہ DB No. 2 نے 80% میرے کیس پر بحث کی ہے۔ عمر بھر دعاگوں رہوں گا۔

آپکا فرمان بردار شیراللہ (ریٹائرڈ اسٹنٹ ڈائریکٹر)

محکمہ تعلیم ضلع مردان

موبائل نمبر: 0332-7220633

اپیل نمبر 1067/2015

موجودہ زیر سماعت اپیل نمبر 4981 / 2021

04/08/2022 اور اگلی پیشی (Last Hearing 30/05/2022)

Regist. No. 1310722

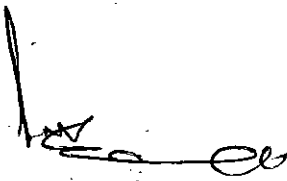
Assistant Registrar

Reason for last adjournment was, either to
to may submit rejoinder & come up for argument
on the date fixed. This office has available date
on 18/07/2022. The case may be fixed on mentioned
date, please & notices be issued for the said date.
Submitted for approval, Please.

mi
17/06/22

Registrar.

Approved


20/6/2022