

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal
Disty No. 4004
Dated 21/3/23

Service Appeal No. 471-P/2022

Fazli Rabi District Mohmand

..... Appellant

Versus

Govt: Khyber Pakhtunkhwa through secretary (E&S Deptt) Peshawar &
other

..... Respondents

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①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVECE
TRIBUNAL

Service Appeal No.471/2022

Fazli Rabi, A.T (BPS-15)

..... **Appellant**

Versus

Govt: Khyber Pakhtunkhwa and other

..... **Respondents**

Joint Parawise Comments on behalf of Respondents N.1.2 & 3

Respectfully Sheweth;

Preliminary objections

- i. That the Hon'ble Tribunal got has no jurisdiction to entertain the Appeal having factual controversy.
- ii. That the appellant has got no cause of action, locus standi to file the instant Appeal.
- iii. That the appellant has not come to this Tribunal with clean hands.
- iv. That the appellant has concealed material facts from the Hon'ble Tribunal.
- v. The appellant by his own conduct to file the present appeal.
- vi. That the appeal is barred by law and limitation.
- vii. That the appeal is barred for misjoinder and non-joinder of necessary parties.

ON FACTS

1. Pertains to the record.
2. Pertains to record.
3. Pertains to the record
4. Incorrect and denied: It is pertinent to mention here that there is 75% promotion quota for the post of S.S.T (General/Science).
5. Incorrect: Respondent No. 3 proposed total eight vacant posts of SST BPS (16) for promotion, Working paper was placed before the DPC for promotion to SST BPS (16) on 31.07.2021.it is pertinent to mention here that the appellant wants promotion to SST BPS.16 (Bio-Chem) while his appointment was made on

bachelor degree while he by himself submitted before his appointment. The Respondent No.3 recommended the appellant for promotion on the condition to provided NOC for pursuing B.Sc. Degree, but the appellant did not provided the NOC with in the stipulated time .copy of the working papers is attached (Annex-A)

6. Incorrect: Respondent No.3 revised the vacant posts and purposed total eighteen numbers of vacant posts of SST BPS-16 in the 75% quota for promotion of in service teachers at calculation of 4% quota for A.T. No seat was procured under the service rules whereas at the time meeting of DPC could also not held (copy of the relevant documents is annexure-B).
7. As explained in Para.6
8. Incorrect : The next DPC meeting was held on dated 26.10.2022 and the above mentioned revised total eighteen vacant posts of SST BPS (16) was proposed for promotion. According to the service rules of the subject teachers' 25 % quota for initial recruitment and 75% quota for the in-service teachers along with 4% share of Arabic teachers, for the subject above meeting was held on dated 03.12.2022 where zero percent share was granted to the cadre of Subject teachers on the available vacant post SST (BPS- 16). Copy of the Notification of promotion is attached as Annex .C
9. Incorrect: It is pertinent to mention here that the appellant has passed B.A exam from Peshawar University. The appellant did his BSc from Allama Iqbal University. The appellant was appointed on the basis of B.A qualification as an Arabic Teacher. Working papers were placed before the DPC meeting and proposed for promotion of SST BPS.16 (Bio-Chem) which was held on 3.12.2022. The Additional Director (Estab) Directorate of E&SE, KP explained the agenda items and briefed the forum regarding the issues raised in promotion cases

due to double degree holders' Additional subject of B.A and BSc, the representative of law and Establishment Department observed that the prescribed rules are reflects Bachelor Degree as prescribed qualification only. After threadbare discussion, the forum agreed to consider only the degree which is entered in the Service book of the teacher for the first time, for promotion. Appellant was not eligible for promotion and deferred. Copy of the decision about B.A-B.Sc. degree and Notification of promotion is attached Annex .D.E

10. Incorrect.

GROUND.

- A. incorrect: That the appellant is not eligible under the Govt Khyber Pakhtunkhwa service Rules 2012 for promotion to the post of SST BPS-16 (Bio-Chem) under 4% promotion quota of Arabic teachers cadre whereas under 4% quota of A.T no seat was procured after calculation.
- B. That the appellant has been treated by the respondent department in accordance with law and rules and not violated Article-4 and 25 of the constitution of Islamic republic of Pakistan 1973.
- C. That the appellant was not promoted to the post of SST (Bio-Chem) (BPS-16) under 4% promotion quota on the ground being in controversy of obtained the B.A degree before the appointment and B.SC degree after the appointment in his service period .
- D. That as per the seniority the appellant most senior in seniority list of (A.T) cadre for SST. BPS.16 (General) but the Appellant wants his promotion to SST.BPS.16 (Science) on the ground being in controversy to obtain the B.A degree before his appointment and B.Sc. degree after the


the ground being in controversy to obtain the B.A degree before his appointment and B.Sc. degree after the appointment in his service period, therefore the appellant was not promoted to SST.BPS.16 (Science).

- E. Its-stated in above Para.5
- F. That the appellant was not eligible for promotion to SST.BPS.16 in (General) 4% share of Arabic teachers under the teacher's promotion Govt of Khyber Pakhtunkhwa Service Rules 2012
- G. That respondent seeks permission to advance other ground and proof at the time of arguments.

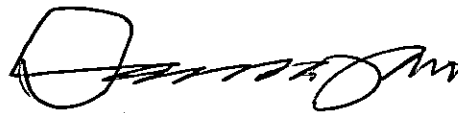
Pray

It is, therefore, most humbly prayed that the appeal of the appellant may be dismissed with cost.


Respondent No. 1


Secretary
Elementary & Secondary Education
Khyber Pakhtunkhwa

Respondent.2


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

Respondent.3


District Education Officer
Mohmand

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA f TRIBUNAL

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Service Appeal No.471/2022

Fazli Rabi, A.T (BPS-15)

..... Appellant

Versus

Govt: Khyber Pakhtunkhwa and other

..... Respondents

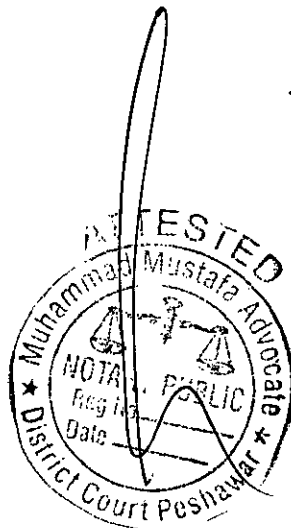
Affidavit

I am Mr. Noor Badshah, ADEO Litigation, District Education office (Male) Mohmand do hereby declare and affirm on oath that above comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon, rabble court.


Deponent

enric 2140775374585-3

cell 03419030936



02 MAR 2023

OFFICE OF THE DISTRICT EDUCATION OFFICER TRIBAL DISTRICT MOHMAND
(SST SCIENCE BIO/CHEMISTRY)

WORKING PAPERS FOR DEPARTMENTAL PROMOTION COMMITTEES FOR THE PROMOTION OF ^{SAT/AT} SOW/DX (MALE) POST TO SST B-16

Vacant SST (S) post s.e.f 31-07-2021 upto date	8
of initial recruitment 25%	2
of Promotion @75%	6
of promotion AT/SAT 4%	1
to be promoted	1
included for Promotion	1

LIST OF SAT/TT (M) FOR THE PROMOTION TO SST B-16

S.L No.	Name Official	Desig	BPS.No	Place of posting.	Date of birth.	D/O appointment as regular CT.	Qualification		Subject	Whether eligible for promotion.	Remarks
							Academic Qualification	Professional Qualification			
40	Fazli Rabi	AT	15	GMS Hashmali Aqrab Dag	1/9/1984	16/1/2016	B.Sc (Bio/Ch)	S.Alamia/M.Ed	Bio/Chemistry	Yes	Rejected due to no suitable leave certificate.

certificate.

It is certified that all the SAT/AT (Male Science) included in the panel for promotion to the posts of SST B-16.

held the posts on regular basis and none of them is holding the post on adhoc/acting charge basis/contract.

have completed the required minimum length of qualifying service and qualifications as required for promotion to the posts of SST B-16 under the rules.

None of them is on deputation to any organization under the federal/provincial/autonomous/semi autonomous/international organizations.

Neither any disciplinary/departmental proceedings/nor corruption/judicial enquiry is pending against them nor has any penalty been imposed upon any one of them in the last five years.

None of them is on long leave/Es-Pakistan leave.

Their AEs synopsis are free from adverse remarks.

They are all alive and serving.

Their service books are enclosed herewith.

Their 1st appointment order are attached herewith.

The seniority list of AT teachers is final, undisputed and not subjudice.

The departmental promotion committee is requested to determine the suitability of the above SAT/AT for promotion to the posts of SSTs B-16.

(1) Certified that Mr. Fazli Rabi AT has passed B.A Exam from Peshawar University obtaining marks 345/SSD & B.Sc (Bio/Ch) from Quid-e-Azam College obtaining marks 369/SSD in session 2019-2020.

(2) Certified that he has not been provided NOC from the DEO till now. For B.Sc.

Noted from DEO.
Recommend as per departmental permission provided.
P.S.L. B.Sc.

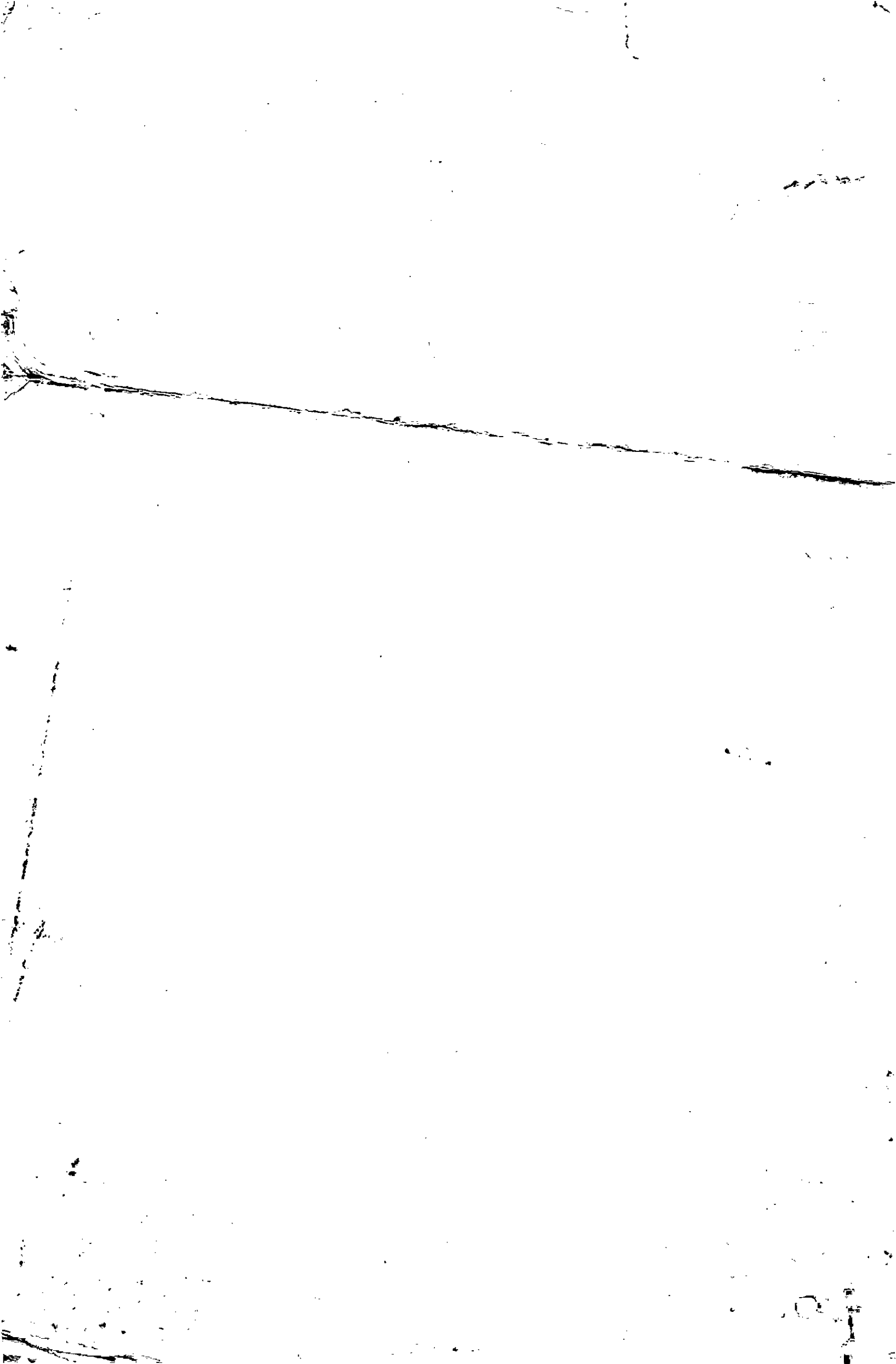
11/9/20

[Signature]
District Education Officer
Tribal District Mohmand

(10)

(A)

(B)



OFFICE OF THE DISTRICT EDUCATION OFFICER TRIBAL DISTRICT HORMAND
(SST SCIENCE BIO/CHEMISTRY) (Deferred Post)

B 7

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WORKING PAPERS OF DEFERRED CANDIDATE FOR DEPARTMENTAL PROMOTION COMMITTEES FOR THE PROMOTION OF -SAT/AT (MALE) - POST TO SST B-16

Initial Vacant (SST) Posts (as of 31/07/2021) upto date:	18
Share of initial recruitment 25%	4.5
Share of Promotion @75%	13
Share of promotion AT/SAT 4%	0.69
Not to be promoted	0.69
Proposed for Promotion	0.69

LIST OF SAT/AT (M) FOR THE PROMOTION TO SST B-16

S.No.	S.I. No.	Name Official	Desig	BPS.No	Place of posting.	Date of birth.	D/O appointment as regular CT.	Qualification			Whether eligible for promotion.	Remarks
								Academic Qualification	Profission alQualific ation	Subject		
1	40	Fazil Rabi	AT	15	GMS Hashmali Agrab Dag	1/9/1984	16/1/2016	B.Sc (Bio/Ch	S. Alamia/M .Ed	Bio/Chemis try	Yes/No	

ANNEX "F"

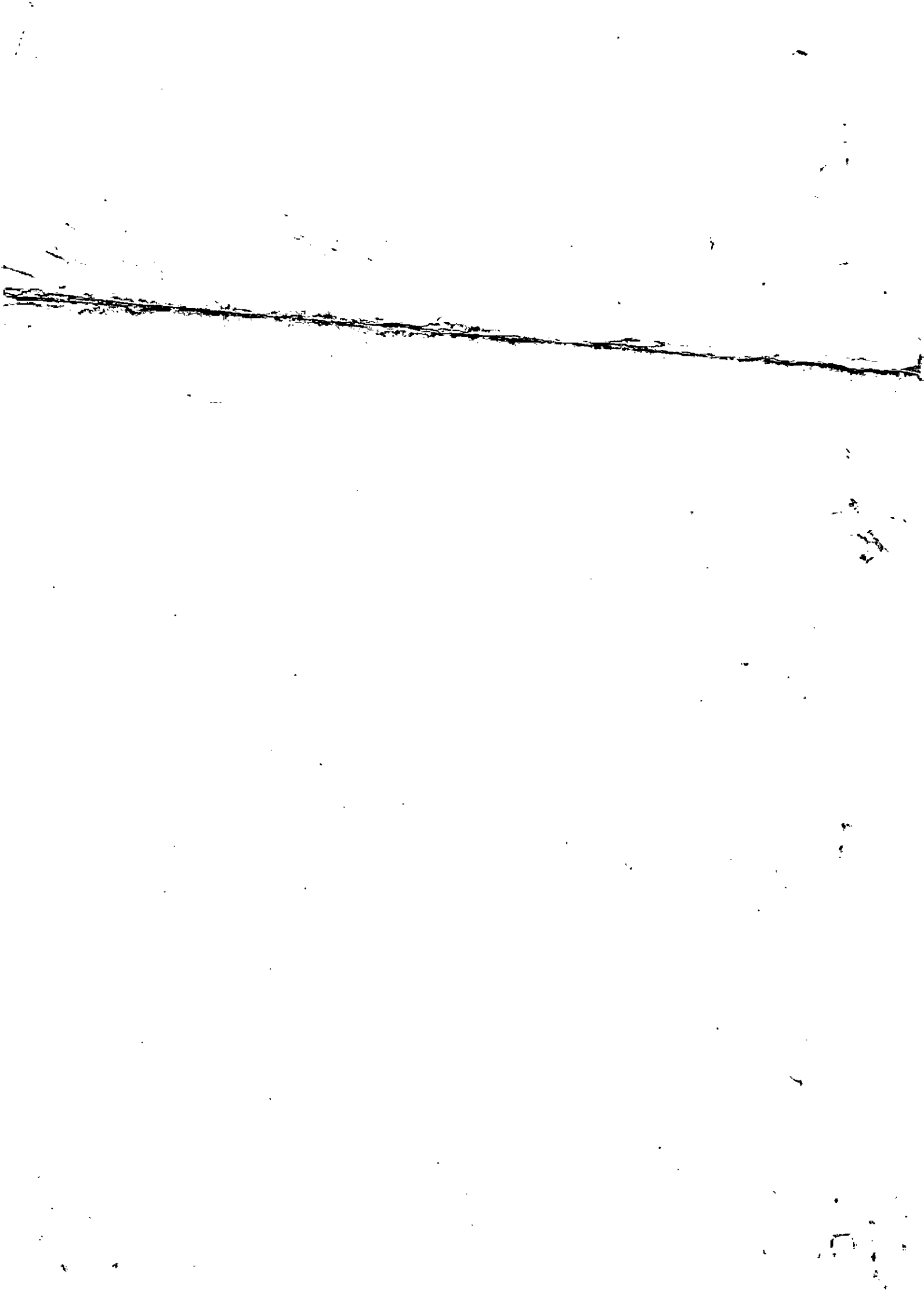
Certificate.

- It is certified that all the SAT/AT (Male Science) included in the panel for promotion to the posts of SST B-16.
 - Hold the posts on regular basis and none of them is holding the post on adhoc/acting charge basis/contract.
 - have completed the required minimum length of qualifying service and qualifications as required for promotion to the posts of SST B-16 under the rules.
 - None of them is on deputation to any organization under the federal/provincial/Autonomous/semi autonomous/interation Organizations.
 - Neither any disciplinary/departmental proceedings/Anti corruption/judical enquiry is pending against them nor has any penalty been imposed upon any one of them during the last five years.
 - No one is on long leave/Ex-Pakistan leave.
 - Their ACRs synopsis are free from adverse remarks.
 - They are all alive and serving.
 - Their service books are enclosed herewith.
 - Their 1st appointment order are attached herewith.
 - The seniority list of AT teachers is final, undisputed and not subjudice.
- The departmental promotion committee is requested to determine the suitability of the above SCT/CT for promotion to the posts of SSTs B-16.

District Education Officer
Tribal District Hormand

[Handwritten Signature]
MS

g/c





Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar

(18)

Notification

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification No SO(B&A)/1-18/E&SE/2012 dated 11.07.2012 and Finance Department Endorsement No SO(FR)/FD/10-22(E)/2010 dated 16.07.2012, the following CT/DM/TT and AT Male (BPS-15) are hereby promoted to the post of Senior CT/Senior DM/Senior TT and Senior AT (BPS-16) (Rs. 18910-1520-64510) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, as per terms and condition given below with immediate effect and further they will be posted in the Government High /Higher Secondary Schools by the District Education Officer concerned against the vacant post of Senior CT/Senior DM/Senior TT and Senior AT (BPS-16) respectively:

1. CT to Senior CTs (BPS-16)

S. No.	S.L. No.	Name of Official	Present Place of Posting	Date of Birth	Date of Apptt; as Regular CT	Remarks
1	66	Fazal Rahman	GHS Rahat Kore	01-03-1968	22-12-2005	Services placed at the disposal of District Education Officer (M) Mohmand for further posting
2	67	Mukhtar Ali	GHSS Prang Ghar	25-02-1969	30-03-2007	do
3	68	Sadiq Muhammad	GHS Lakoral	10-06-1962	30-03-2007	do
4	70	Muhammad Ayaz	GMS Muambri Kalai	25-05-1975	30-03-2007	do
5	71	Khushdil Khan	GHS Subhan Khwar	02-03-1972	30-03-2007	do
6	72	Raham Dill	GMS Chahari	19-05-1971	13-04-2007	do
7	73	Adnan Khan	GHS Lakoral	02-03-1974	11-05-2007	do
8	74	M. Nisar	GMS Musa Kore	15-01-1975	16-05-2007	do
9	76	Jehangir Khan	GHS Yousaf Khei	23-06-1974	20-09-2007	do
10	79	Javed Khan	GMS Knadi Issa Khei	03-08-1981	30-11-2009	do
11	80	Hamid Jan	GHS Hasham Kore	01-02-1981	15-12-2009	do
12	81	Fazli Manan	GHS Qamar Din Kore	04-01-1982	15-12-2009	do
13	82	Hayat Khah	GMS Musa Kore	02-03-1979	15-11-009	do
14	83	Imran	GMS Adin Khei	01-01-1985	15-12-2009	do
15	84	Fazal Hadi	GHS Navi Kalai Laman	11-01-1977	15-12-2009	do

(9)

		Zafar Ahmad	GMS Prang Ghar	09-04-1979	27-01-2010	-----do-----
		Itbar Jan	GHS Ghallani	07-10-1968	01-03-2012	-----do-----
18	89	Asfandyar	GMS Suren Dara	01-01-1984	04-09-2014	-----do-----
19	90	Arshad Khan	GHS Akhun Zadgan	12-12-1984	16-01-2016	-----do-----
20	93	Sartaj	GMS Ghazi Bai	28-01-1987	16-01-2016	-----do-----
21	94	Munir Khan	GMS Shawa	14-08-1983	16-01-2016	-----do-----
22	95	Muhammad Hashim Khan	GHS Ghallani	11-04-1983	16-01-2016	-----do-----
23	96	Akbar Khan	GMS Muslim Kore	18-02-1977	16-01-2016	-----do-----

2. DM TO SENIOR DM BPS-16

S. No.	S.L. No.	Name of Official	Present Place of Posting	Date of Birth	Date of Apptt; as Regular DM	Remarks
1	17	Bashir Gul	GMS Kandi Issa Khel	14-09-1974	12-09-2003	Services placed at the disposal of District Education Officer (M) Mohmand for further posting

3. TT TO SENIOR TT BPS-16

S. No.	S.L. No.	Name of Official	Present Place of Posting	Date of Birth	Date of Apptt; as Regular TT	Remarks
1	59	Abdullah	GPS Faiz Abad	15-02-1967	14-02-1995	Services placed at the disposal of District Education Officer (M) Mohmand for further posting
2	94	Hizbullah	GHS Lakarai	21-06-1982	22-11-2002	-----do-----
3	121	Abdul Sadq	GPS Njo Kalai (Prang Ghar)	15-05-1977	30-04-2007	-----do-----
4	146	Said Ali Shah	GPS Akhun Zadgan	04-11-1984	16-01-2016	-----do-----
5	147	Abdul Wahid	GHS Qamar Din	01-02-1988	16-01-2016	-----do-----

4. AT TO SENIOR AT BPS-16

S. No.	S.L. No.	Name of Official	Present Place of Posting	Date of Birth	Date of Apptt; as Regular AT	Remarks
1	34	Muhammad Zubair	GMS Navi Kalai	04-06-1975	24-04-2007	Services placed at the disposal of District Education Officer (M) Mohmand for further posting
2	37	Hameedullah	GHS Dab Kore	30-11-1982	12-12-2009	-----do-----

Terms and conditions: -

- 1 They would be on probation for a period of one year extendable for another one year.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARITE PESHAWAR
(PHONE NO. 091-9233582)**

Subject: MINUTES OF THE MEETING REGARDING ADDITIONAL SUBJECTS FOR PROMOTION OF SENIOR CADRE TO SST (GEN. MATH/PHY AND BIO/CH) HELD ON 26.10.2022

The subject meeting was held on 26-10-2022 at 11.00 AM under the Chairmanship of the Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa. The following attended the meeting:


1. Mr. Moasim Billah Shah Secretary E&SE Department..... (in chair)
2. Mr. Abdullah, Additional Secretary(Estab) E&SE Department
3. Mr. Sher Baz Khan Section Officer-I (Establishment Department)
4. Mrs. Hamsheeda Begum DLO-IV (Law Department)
5. Dr. Iqbal Khan Additional Director E&SE KPK
6. Ms. Naghmana Sardar Additional Director E&SE KPK
7. Mr. Fazle Wahid Deputy Director E&SE KPK
8. Mr. Muhammad Ishaq Section Officer (Primary) E&SED

2. The meeting started with the recitation from the Holy Quran. The Chair welcomed the participants. The Additional Director (Estab) Directorate of E&SE, KPK explained the agenda items and briefed the forum regarding the issues raised in promotion cases due to additional subjects and further elaborated the case in light of the Service Rules of SSTs.

3. It was clearly noted by all participants of the meeting that Column-03 of Secondary School Teacher Service Rules provides that "At least second class Bachelor Degree from a recognized University" means that additional subjects cannot be considered as Degree. The representative of Law and Establishment Department also observed that the prescribed rules are related to Bachelor Degree and there is no mention of word "additional subject" etc.

After threadbare discussion the participants of the meeting agreed to consider only the degree which is entered in the Service Book of the teachers for the first time, for promotion.


The meeting ended with a vote of thanks from the Chair.



(Mr. Muhammad Ishaq)
Section Officer (Primary)
E&SE Department


(Mr. Sher Baz Khan)
Section Officer (R-I)
Establishment Department


(Mrs. Hamsheeda Begum)
DLO-IV
Law Department


(Mr. Fazle Wahid)
Deputy Director (Estab)
E&SE KPK


(Ms. Naghmana Sardar)
Additional Director (Estab)
E&SE KPK


(Dr. Iqbal Khan)
Additional Director (Estab)
E&SE KPK


(Mr. Abdullah)
Additional Secretary (Estab)
E&SE Department


(Mr. Moasim Billah Shah)
Secretary
E&SE Department





Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar

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Notification

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification No.SO (PE)/4-5/SSRC/Meeting/2013/Teaching Cadre dated 24th July, 2014, the following SCTs/CTs and PSHTs/SPSTs/PSTs are hereby promoted to the post of SST (G), SST (B/C) and SST (P/M) in BPS-16 on regular basis under the existing policy, on the terms and conditions given below, with immediate effect

A. SST (General)

1. SCT/CT to SST (G)

S.No	S.L. No	Name of Official	Place of Posting	Date of Birth	Date of Appoint; as Regular CT	Qualification	Remarks
1	09	Munajib Khan	GHS Lakarai	15-01-1971	01-09-1999	BA/B.Ed	Services are placed at the disposal of District Education Officer (M) Mohmand for further posting against the vacant post of SST (G)

2. PSHT/SPST/PST

S.No	S.L. No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular PST	Qualification	Remarks
1	102	Muhammad Ishaq	GPS Banglow No.3	28-06-1975	25-10-1994	BA/B.Ed	Services are placed at the disposal of District Education Officer (M) Mohmand for further posting against the vacant post of SST (G)

B. SST (Bio/Chem)

1. SCT/CT to SST (B/C)

S. No	Sl. No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular CT	Qualification	Remarks
2	80	Muhammad Hashim Khan	GHSS Ghallani	11-04-1983	16-01-2016	BSc/B.Ed	Services are placed at the disposal of District Education Officer (M) Mohmand for further posting against the vacant post of SST (B/C)
3	83	Shakir Ullah	GHS Hashim Kore	20-03-1987	17-02-2016	BSc/B.Ed	-----do-----

C. SST (Phy-Maths)

1. PSHT/SPST/PST to SST (P/M)

S.No	S.L. No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular PST	Qualification	Remarks
1		Ali Haidar	GPS Naseem Kore	10-10-1987	01-09-2010	BSc/B.Ed	Services are placed at the disposal of District Education Officer (M) Mohmand for further posting against the vacant post of SST (P/M)

Terms and Conditions: -

- 1 They would be on probation for a period of one year extendable for further period of one year.
- 2 They will be governed by such rules and regulations as and when issued from time to time by the Govt.

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- 3 Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 No TA/DA is allowed for joining the duty.
- 6 They will give an under-taking to be recorded in their Service Book to the effect that if any over payment is made to them in the light of this order, will be recovered, and if they are wrongly promoted, they will be reverted.
- 7 Before handing over the charge, once again their documents may be checked and if they have not the prescribed qualifications as per rules, they may not be handed over charge of the post.
- 8 The prescribed qualifications/ documents may be verified from the concerned Universities/ Institutions by the DEO concerned.

(Hafiz Dr. Muhammad Ibrahim)
Director Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. 12693-200 /F.No. 06/Promotion to SSTs (Male) Mohmand
Dated Peshawar the 16/12 /2022

Copy forwarded for information and necessary action to the: -

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (M) Mohmand.
3. District Accounts Officer Mohmand.
4. Principals/Headmasters concerned.
5. Teachers concerned.
6. PS to Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
7. In-charge of EMIS Local Office with the request to uploadd the Notification on Official website.
8. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
9. M/File.


Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

2/3/23
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