

07.1.2019

Miss Naila Jan, Advocate has submitted Wakalatnama on behalf of the petitioner. Addl. AG for the respondents present.

At the outset learned counsel for the petitioner submitted copy of notification dated 09.08.2018 which is placed on file. It is noted in the notification that in compliance with the directions of this Tribunal judgment dated 10.08.2017 passed in service appeal No. 1562/2013 the petitioner is promoted as Senior Clerk (BPS-14) with immediate effect. This notification is accompanied by a corrigendum dated 10.09.2018, wherein, it is corrected that the petitioner is promoted as Senior Clerk BPS-14 from the date of his junior colleagues were promoted with consequential benefits. All the documents are placed on the record.

Learned counsel for petitioner states that as grievance of petitioner has been redressed in accordance with judgment under implementation, instant Execution Petition be consigned to record room having been completed.

Order accordingly.


Chairman

ANNOUNCED

07.1.2019

PESHAWAR

Ph: 091-9210545 Fax: 091-9210927 Email: OSEstbV@gmail.com



No. 1 /E-V, dated, Peshawar the, 10/09.2018.

To: - The District Police Officer,
Bannu.

Subject: - CORRIGENDUM.

Memo:-
Please refer to your Office memo No. 11100, dated 15.08.2018 and this Office Promotion Notification No.3642-50/E-V, dated 09.08.2018.

In order to implement the Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa, vide Judgment dated 10.08.2017 in service appeal No. 1562/2013, necessary amendment in this office Promotion Notification under reference is hereby made as:-

"Mr. Farman Ullah Junior Clerk (BPS11) is hereby promoted as Senior Clerk (BPS-14) from the date of his junior colleagues were promoted with consequential benefits."

(ZAIB ULLAH KHAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 4122-26 /E-V, dated Peshawar the 10 /09/2018.

Copy is forwarded to the:-

1. Regional Police Officer, Bannu.
2. Assistant Inspector General of Police Legal, CPO Peshawar.
3. Registrar Service Tribunal Khyber Pakhtunkhwa.
4. Office Supdtt: Secret & CP Branch, CPO Peshawar.

DPD/BNU
For information &
further n/a.

(ZAIB ULLAH KHAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

1 RPO/BNU
13/9/18



FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA
POLICE GAZETTE PART-II, ORDERS BY THE INSPECTOR
GENERAL OF POLICE KHYBER
PAKHTUNKHWA PESHAWAR

14

Dated Peshawar 9/08/2018

NOTIFICATION.

No. 3642-50/E-V. PROMOTION :- In compliance with the directions of the Honcrable Service Tribunal Khyber Pakhtunkhwa, Peshawar vide judgment dated 10.8.2017 in service appeal No. 1562/2013, Mr. Farman Ullah Junlor Clerk (BPS-11) is hereby promoted as Senior Clerk (BPS-14) with Immediate effect.

The terms and conditions of his promotion will be as under:-

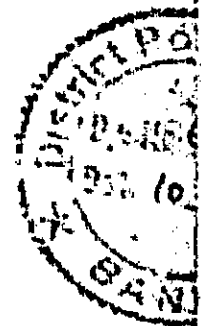
1. He will be on probation for a period of one year and also extendable for another one year in terms of Section-6 (02) of Khyber Pakhtunkhwa, Civil Servant Act-1973 read with Rules-15 (01) of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.
2. His promotion will take effect from the date he actually assumes the charges of higher responsibilities:-

Sd/
MUHAMMAD TAHIR
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

Endst: No. and dated even.

Copy forwarded to the:-

1. Addl: Inspector General of Police: HQrs Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police: HQrs, Khyber Pakhtunkhwa Peshawar.
3. Assistant Inspector General of Police: Legal CPO Peshawar.
4. PSO to the worthy Inspector General of Police Khyber Pakhtunkhwa.
5. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
6. PA to the Assistant Inspector General of Police: Estt: CPO Peshawar.
7. Registrar, CPO, Peshawar.
8. Office Supdt: Secret and Career Planning Branch CPO, Peshawar.



SRL

For information &

action.

District Police Officer

BANNU

09/08/18

(IRFAN ULLAH KHAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

بعدالت

صنعتی کونسل

مورخہ

مقدمہ

دعویٰ

جرم

Execution

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سٹیٹ لکچر کے لیے سٹیٹ لکچر اور اس کے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2019

ماہ صومری

7

المرقوم

العہد گواہ العہد

کے لئے منظور ہے۔

Attested

Accepted

شکریہ

مقام

02.10.2018

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Farooq, Inspector (legal) for the respondents present. Implementation report submitted. Learned counsel for the petitioner want to examine the same. Adjourned. To come up for further proceedings on 19.11.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member





19.11.2018

Neither petitioner nor his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice be issued to petitioner and his counsel for attendance for 07.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

FORM OF ORDER SHEET

Execution Petition No. 140 /2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	14.05.2018	<p>The Execution Petition of Mr. Farmanullah Khan submitted to-day by Roeeda Khan 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-	18/05/18.	<p>This Execution Petition be put up before S. Bench on <u>28/05/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	28.05.2018	<p>Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for implementation report for 08.08.2018 before S.B</p> <p style="text-align: right;"> Member</p>
	08.08.2018	<p>Learned counsel for the petitioner and learned AAG for the respondents present. Implementation report not submitted. Adjournment requested. Adjourned. To come up for further proceedings on 02.10.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Executive Petition No. 140 /2108

In Service Appeal No. 1562/2013

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 543

Dated 14/05/2018

Farman Ullah Khan Junior clerk District Police Officer,
Bannu.

.....*Petitioner*

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General Police Bannu.
3. The District Police Officer Bannu.
4. Kifayat Ullah S/o Shah Sawar DPO Officer Bannu.
5. Muhammad Shoaib on of Muhammad Saif Ullah DPO Officer Lakki Marwat.
6. Jala Uddin S/o Mir Khjir Khan DPO Officer Lakki Marwat.
7. Irfan Ullah S/o Ghulam Muhammad DPO Officer Lakki Marwat.
8. Farooq Shah S/o Farman Ullah DPO Officer Charsadda.

.....*Respondents*

EXECUTION PETITION FOR
DIRECTING THE RESPONDENTS
TO IMPLEMENT THE JUDGMENT
OF THIS HON'BLE TRIBUNAL IN
LETTER AND SPIRIT

Respectfully Sheweth,

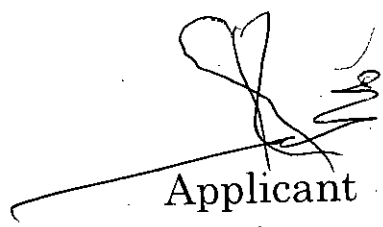
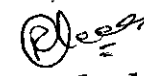

1. That the applicant/appellant filed Service Appeal No.1562/2013 in this August Tribunal against the order dated 25/07/2013, where the respondents/departments refused to promote the appellant to the post of senior Clerk from the date when his junior were promoted.

Advocates
Peshawar

2. That this Hon'ble tribunal was pleased to accept the appeal of the appellant and set aside the impugned order dated 25/07/2013 and directed the Respondent Department to consider the appellant for promotion of junior Clerk to the post of Senior Clerk from the date his Junior Colleagues were promoted, with consequential benefits.
3. That the appellant submitted the judgment/order dated 10/08/2017 to the respondent/department. (copy of judgment is attached)
4. That the respondent/department is legally bound to implement the judgment and this Hon'ble Tribunal in its true sense.
5. That according to the orders issued by the Respondent Department the case of this appellant has not fit for filling of appeal/CPLA in the Supreme Court of Pakistan. (Copy of order are attached).
6. That the petitioner has no remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment of this Hon'ble Tribunal in letter and spirit.

Dated: 11/05/2018


Applicant
Through 
Roeda Khan
&
 **Afshan manzoor**
Advocates
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive Petition No. _____/2018

In Service Appeal No. 1562/2013

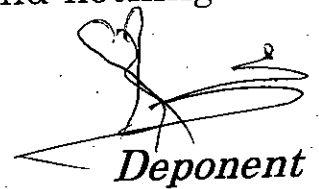
Farman Ullah

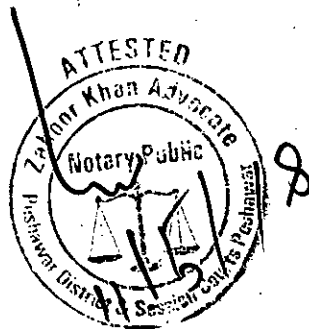
V E R S U S

The Government of Khyber Pakhtunkhwa through Chief
Secretary Govt. KPK and others

Affidavit

I, Farman Ullah Khan Junior clerk District Police Officer,
Bannu, do hereby solemnly affirm and declare on oath that all
the contents of the instant Execution Petition are true and
correct to the best of my knowledge and belief and nothing has
been concealed from this Hon'ble Court.


Deponent



Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1.	2	3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 1562//2013

Farman Ullah Khan Junior Clerk District Police Officer, Bannu..... **Appellant**

VERSUS

- 1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
- 2. The Deputy Inspector General Police Bannu.
- 3. The District Police Officer Bannu.
- 4. Kifayat Ullah Son of Shah Sawar DPO Officer Baanu.
- 5. Muhammad Shohaib on of Muhammad Saif Ullah DPO Officer Lakki Marwat.
- 6. Jalal Uddin Son of Mir Kajir Khan DPO Office Lakki Marwat.
- 7. Irfan Ullah Son of Ghulam Muhammad DPO Officer Lakki Marwat.
- 8. Farooq Shah Son of Farman Ullah DPO Office Charsadda..... **Respondents**

D. Farman

10.08.2017


JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER:- Appellant

and Learned Deputy District Attorney for the respondents present.

- 2. Appellant has filed the present appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.
- 3. In the present appeal the appellant (Junior Clerk) has made impugned promotion notification dated 25.7.2013 issued on behalf of respondent No. 1.

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

4. Learned counsel for the appellant contended that vide impugned promotion notification while ignoring the appellant, his five colleagues junior to him (respondent No. 4 to 8) were also promoted as Senior Clerks and as such the appellant has not been treated in accordance with law. Further contended that the impugned promotion notification is discriminatory. Learned counsel of the appellant vehemently stressed that the appellant is entitled for promotion to the post of senior clerk from the date when his junior colleagues were promoted.

5. Learned Deputy District attorney argued that since the ACR Dossiers of the appellant were missing, hence the appellant was not considered by the departmental promotion committee.

6. Argument heard. Filed perused.

7. Respondent department in its reply/para wise comments has taken the plea that the appellant has not been superseded rather he was deferred for the reason that ACR Dossiers of the appellant were missing and hence the appellant was not discriminated.

8. Perusal of the impugned promotion notification particularly the column with heading "remarks" would show that complete ACR Dossiers of majority of the promotees were not available but they were conditionally promoted subject to the provision of good ACRs within three months. In this view of the matter the reason given by the respondent department for not considering the appellant for promotion was not found genuine. As such the appellant is also found entitled to promotion as Senior Clerk like

Dr. S. V.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

his junior colleagues (respondent No. 4 to 8).

9. As a sequel to above the present appeal is accepted and the official respondents are directed to also consider the appellant for promotion from the post of junior clerk to the post of senior clerk from the date his junior colleagues were promoted, with consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

*Edl. M. Hamid Mughal,
Member*

*Edl. M. Amin Khan Kundli,
Member*

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

Date of Presentation of Application 29-08-17
Number of Words 1200
Copying Fee 8-
Agent —
Cost —
Number of Copies —
Date of Completion of Copy 31-08-17
Date of Delivery of Copy 31-08-17

OFFICE OF THE INSPECTOR GENERAL OF POLICE, KPK
PESHAWAR.

No 2198 /Legal Dated Peshawar the, 04/10 /2017.

Copy of the letter No. SO(Lit)/LD/9-13(78)Home/2017/26705-09
W/E dated 03.10.2017 of Law department and decision of the scrutiny
committee is endorsed to District Police Officer, Bannu, in continuation of
this office Endst: No. 2056/Legal dated 14.09.2017. The Scrutiny
committee did not approve the case for lodging CPLA.


AIG/Legal,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

03.10.2017



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

No.SO(Lit)/LD/9-13(78)Home/2017/26705-09W
Dated Peshawar the 3/10 2017

To

1. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

Subject:

SERVICE APPEAL NO.1562/2013 TITLED FARMAN UALLH KHAN
JUNIOR CLERK VS INSPECTOR GENERAL OF POLICE KHYBER
PAKHTUNKHWA AND OTHERS.

Dear Sir,

I am directed to refer to Government of Home & Tribal Affairs Department letter No.SO(Courts)/HD/4-313/2016, dated 15-09-2017 on the subject noted above and to forward herewith minutes of the meeting held on 29-09-2017 under the Chairmanship of Secretary Law Department (which are self explanatory) for perusal and further necessary action, please.

Yours faithfully,

(ALAM ZEB)
SECTION OFFICER (Lit)

Endst: No.& Date Even.

Copy alongwith copy of minutes is forwarded to the:

1. AIG / Legal for Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Law Department Khyber Pakhtunkhwa.
3. PA to Deputy Solicitor Law Department.

Agh
SECTION OFFICER (Lit)

3-10-17

SERVICE APPEAL NO.1562/2013 TITLED FARMAN ULLAH KHAN JUNIOR
CLERK VS INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA
AND OTHERS.

A meeting of the Scrutiny Committee was held on 29-09-2017 at 14:00 hours in the office of Secretary Law Department under his Chairmanship being Convener of the Committee in order to determine the fitness of the subject case for filing of appeal / CPLA in the proper forum. Assistant Advocate General (Mr. M. Sohail) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa. List of participants is annexed.

2. The meeting started with the recitation from the Holy Quran and thereafter Convener of the Committee invited the representative of Home Department to apprise the Committee about the background of the case which he did accordingly.

3. The main ground put forward by the representative of IGP was that the appeal of the appellant is hit by Section "4" (b)(i) of Khyber Pakhtunkhwa Service Tribunal Act, 1974 which envisages that no appeal shall lie against an order or decision of departmental authority determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade. On a query from the Scrutiny Committee that the case is remitted to the Department with the direction to consider the appellant for promotion and it was not directed to promote the appellant therefore the bar contain in the above Section is not applied. The representative informed that the department will consider the appellant for promotion.

DECISION:-

4. Hence in view of above explained legal and factual position of the case it was decided with consensus that the subject case is not a fit case for filing of appeal / CPLA in the Supreme Court of Pakistan.

5. The representative of Home Department was directed to implement the judgment accordingly.


(Deputy Solicitor)

From: - The District Police Officer, Bannu.

To: - The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. 16071 /Dated Bannu the 7/11/2017.

Subject: SERVICE APPEAL NO.1562/2013 TITLED FARMAN ULLAH KHAN JUNIOR
CLERK VS INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA &
OTHERS

Memo:-

Kindly refer to CPO Peshawar Endst; No.2198/Legal dated 04.10.2017, on the subject noted above.

It is submitted that the subject Service Appeal was decided on 10.08.2017 by Honourable Service Tribunal, Khyber Pakhtunkhwa in favour of the appellant with the directions that;


“The present appeal is accepted & the official respondents are directed to also consider the appellant for promotion from the post of junior clerk to the post of senior clerk from the date his junior colleagues were promoted with consequential benefits.”

Consequently, this office has been approached to your good office for loading CPLA vide this office Memo; No.12832-33 dated 05.09.2017 which was forwarded to Home & TAs Department, Khyber Pakhtunkhwa for further legal process. The Law Department, Khyber Pakhtunkhwa returned the case to CPO Peshawar with the decision that;

“The subject case is not fit for filling of appeal/CPLA in the Supreme Court of Pakistan & the representative of Home Department was directed to implement the judgment accordingly.”

In view of the above, it is requested that the judgment of Honourable Tribunal may kindly be implemented please.

Encls: (As above)


(SADIQ HUSSAIN) PSP
District Police Officer,
Bannu.



موردہ
مقدمہ
دعویٰ
جرم

2018ء منجانب

فہمنا بنام لودھی کے لئے

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کے لئے لودھی کے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ پر عرضی دعویٰ اور درخواست ہر قسم کی تصدیق۔ زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے، اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا و دران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Accepted by
P

2018

5

ماہ

الرقوم

العبد العواہ

کے لئے منظور ہے۔

سندھ

مقام



OFFICE OF THE INSPECTOR GENERAL OF POLICE
 KHYBER PAKHTUNKHWA, CENTRAL POLICE OFFICE
 PESHAWAR

Ph: 091-9210545 Fax: 091-9210927 Email: QSEstabV@gmail.com

No. /E-V, dated, Peshawar the 10/09.2018.

To: - The District Police Officer,
 Bannu.

Subject: - CORRIGENDUM.

Memò:- Please refer to your Office memo No. 11100, dated 15-8-2018 and this Office Promotion Notification No.3642-50/E-V, dated 09.08.2018.

In order to implement the Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa, vide Judgment dated 10.08-2017 in service appeal No. 1562/2013, necessary amendment in this office ~~Promotion~~ Notification under reference is hereby made as:-

"Mr. Farman Ullah Junior Clerk (BPS11) is hereby promoted as Senior Clerk (BPS-14) from the date of his junior colleagues ~~who~~ promoted with consequential benefits."

(ZAIB ULLAH KHAN)
 AIG/Establishment
 For Inspector General of Police
 Khyber Pakhtunkhwa
 Peshawar.

No. 4122-26 /E-V, dated Peshawar the 10/09/2018.

Copy is forwarded to the:-

1. Regional Police Officer, Bannu.
2. Assistant Inspector General of Police Legal, CPO Peshawar.
3. Registrar Service Tribunal Khyber Pakhtunkhwa.
4. Office Supdt: Secret & CP Branch, CPO Peshawar.

Attested

 Inspector
 Incharge Legal Branch
 DPO Office Bannu

No. 2634 /EC, dt 10/9/18
DPO/Bannu.

For information &
 Compliance.

(ZAIB ULLAH KHAN)
 AIG/Establishment
 For Inspector General of Police
 Khyber Pakhtunkhwa
 Peshawar.

10/09/18
 12/19