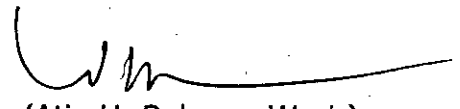


25.03.2021

Learned counsel for the petitioner present. Mr. Kabirullah Khattak learned Addl. AG alongwith Iqbal Superintendent for respondents present.

Representative of respondents submitted copy of notification dated 08.02.2021 which is placed on file. Copy of the said notification is handed over to the learned counsel for the petitioner. Learned counsel for the petitioner requested for adjournment.

Adjourned to 31.05.2021 for further proceedings before S.B.



(Atiq Ur Rehman Wazir)
Member (E)

31.05.2021

None for the petitioner. Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

On last date copy of notification dated 08.02.2021 was produced before the Bench and its copy was handed over to counsel for petitioner. The matter was adjourned for today on the request of petitioner's counsel. As far as judgment of the Tribunal is concerned, its operative part reflects about partial acceptance of the appeal with direction to the respondents to consider the appellant (present petitioner) for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. The notification dated 08.02.2021 as produced on the last date is compatible with the operative part of the judgment. Therefore, judgment of the Tribunal stands complied with. The execution petition is disposed of accordingly.

File be consigned to the record room.



Chairman

E.P. No. 116/2018
M. Shoaib vs Govt

08.10.2020

Counsel for the petitioner and Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

Representative of respondents has submitted memo. dated 07.10.2020 which reflects that the case of petitioner has been referred to the Establishment Department for placing before the Provincial Selection Board for its consideration. To come up for further proceedings on 03.12.2020 before S.B.

03.12.2020

Junior to counsel for the appellant and Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents.

Request for adjournment is made as learned senior counsel for the petitioner is not available today.

The representative of respondents states that the meeting of PSB has not been held as-yet.

Adjourned to 26.01.2021 before S.B.

Chairman

26.01.2021

Mr. Arbab Saif-ul-Kamal, Advocate, for petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Iqbal, Superintendent, for the respondents are also present.

Learned counsel for the petitioner seeks adjournment. Adjourned to 25.03.2021 for further proceedings before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)



692

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

Dated Peshawar, February 8, 2021

/1567-77

NOTIFICATION

No. SO (E)/MDD/2-4/2019 The Competent Authority, on the recommendations of the Provincial Selection Board, is pleased to grant proforma promotion in favour of Muhammad Shoaib, Deputy Director Exploration (BS-18) to the post of Director (Exploration) (BPS-19) in the Directorate General Mines and Minerals Khyber Pakhtunkhwa Peshawar, on notional basis, w.e.f 07.12.2015 i.e one day before his retirement on notional basis subject to the final outcome of the CPLA in the instant case in the Hon'ble Supreme Court of Pakistan .

2. The said officer has already proceeded on premature retirement from service on his own request, vide this Department Notification No. SOE (MDD)/1-5/2009/3815-18 dated 08.12.2014.

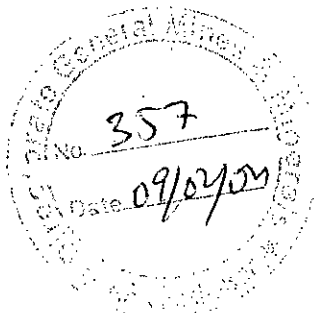
**Secretary to Govt: of Khyber Pakhtunkhwa,
Minerals Development Department**

No. SO (E)/MDD/2-4/2019

Dated Peshawar, February 8, 2021

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Directorate General of Mines, Khyber Pakhtunkhwa, Peshawar.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
4. PS to Special Assistant to Chief Minister for Mines & Minerals, Khyber Pakhtunkhwa.
5. Deputy Director (Litigation), Directorate of Mines & Minerals, Khyber Pakhtunkhwa .
6. PS to Secretary Establishment Department Khyber Pakhtunkhwa.
7. PS to Secretary Minerals Dev: Department Khyber Pakhtunkhwa.
8. Officer Concerned.
9. Manager, Government Printing Press, Khyber Pakhtunkhwa.
10. Personal Files.
11. Office Order file.



MS
9/2/21

(Hafiz Abdul Jalil)
Section Officer (Estt.) 08/02/21

DD(Admin),
09-2-21.

23.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 16.07.2020 for the same. To come up for the same as before S.B.

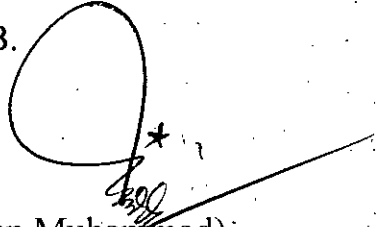

Reader

16.07.2020

Counsel for the petitioner and Addl: AG alongwith Mr. Muhammad Iqbal, Supdt for respondents present.

Implementation report not submitted despite last opportunities. Representative of the respondents requested for further time. Adjournment granted subject to payment of cost of Rs. 3000/- which shall be borne by respondents from their own pockets.

Adjourned to 18.08.2020 before S.B.

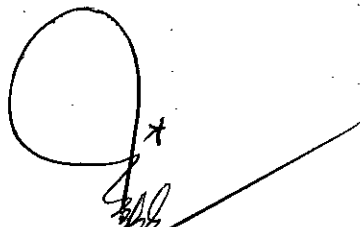

(Mian Muhammad)
Member(E)

18.08.2020

Counsel for the petitioner present. Mr. Ziaullah, DDA alongwith Mr. Muhammad Iqbal, Supdt for respondents present.

Learned counsel for the petitioner seeks adjournment.

Adjourned to 05.10.2020 before S.B.


(Mian Muhammad)
Member(E)

EP 110/18

18.12.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

The representative of respondents has provided copy of letter dated 13.11.2019 and states that the matter is pending with the Law Department Government of Khyber Pakhtunkhwa for furnishing its opinion towards implementation of the judgment. The copy placed on file. To come up for further proceedings on 03.02.2020 before S.B.


Chairman

04.02.2020

Counsel for the petitioner present. Addl: AG for respondents present. Learned AAG seeks adjournment. Adjourned. To come up for further proceedings on 17.03.2020 before S.B.


Member

17.03.2020

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Iqbal Superintendent for the respondents present and requested for adjournment on the ground that implementation report is under process. Adjourned. To come up for further proceedings on 23.04.2020 before S.B.


Member

25.09.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

Representative of respondents No. 1 & 2 states that in pursuance to the last order of this Tribunal the case for proforma^s promotion of petitioner^{is} processed and the Secretary Establishment has been sent the relevant documents for the purpose.

It appears appropriate to adjourn the proceedings in order to avail the outcome of the process so initiated. Adjourned to 07.11.2019 for further proceedings.


Chairman

07.11.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

The representative of respondents has submitted copies of relevant correspondence between the Khyber Pakhtunkhwa Minerals Development Department and the Establishment Department. Placed on record. He also states that objections of Establishment Department have been replied to and action on the part of the said department is awaited. Learned counsel also seeks time to go through the documents submitted today.

Adjourned for further proceedings to 18.12.2019 before S.B.


Chairman

EP 110/2018

19.08.2019

Counsel for the petitioner and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

The representative of respondents has submitted copy of letter dated 11.07.2019 addressed to the Section Officer (Establishment), Minerals Development Department, Khyber Pakhtunkhwa Peshawar wherein it has been reiterated that the Director General Mines and Minerals is ready to implement the judgment, under execution. The implementation will however be subject to the condition that the petitioner shall have to submit an affidavit to the effect that he will honour the decision of Apex Court whenever passed in CPLA No. 167-P/2018 and will return the amount, if any, drawn in light of the judgment under execution.

Learned counsel for the petitioner states that such affidavit/undertaking would be submitted within one week from today.

The respondents shall process the case and complete the implementation phase within a fortnight after submission of requisite undertaking by the petitioner. To come up for implementation report on 25.09.2019 before S.B.


Chairman

08.05.2019

Counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Mr. Said Muhammad, Superintendent for the respondents present. Implementation report not submitted. Representative of the department seeks further time. Adjourned to 25.06.2019 for implementation report before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

25.06.2019

Counsel for the petitioner and Addl: AG for respondents present. Learned counsel for the petitioner seeks adjournment. Adjourned. Case to further proceedings on 19.08.2019 before S.B.


(Ahmad Hassan)
Member

22.01.2019 Learned counsel for the petitioner and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Said Muhammad Superintendent present. Adjournment requested. Adjourn. To come up for submission of implementation report otherwise parawise comments on 01.03.2019 before S.B.


Member

01.03.2019 DBA is on strike. Implementation report not submitted. Said Muhammad Superintendent representative of the respondent department absent. He be summoned with the direction to furnish implementation report. Adjourn. To come up for further proceedings/implementation report on 04.04.2019 before S.B.


Member

04.04.2019 None for the petitioner present. Addl: AG for respondents present. Due to general strike of the bar, the case is adjourned. Case to come up for further proceedings on 08.05.2019 before S.B.


(Ahmad Hassan)
Member

04.09.2018

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Said Muhammad, Superintendent for the respondents present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 22.10.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member

22.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 06.12.2018.



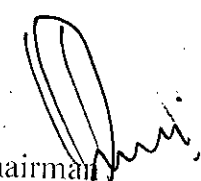
Refder

06.12.2018

Counsel for the petitioner and Addl. AG alongwith Said Muhammad Superintendent for the respondents present.

Representative of the respondents states that a CPLA has been preferred before the apex court, however, he is not in possession of any order of suspension of judgment under implementation.

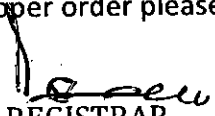



The instant matter is adjourned to 22.1.2019 for submission of implementation report or any order/judgment of the apex court suspending or setting aside the judgment under implementation.



Chairman

FORM OF ORDER SHEET

Execution Petition No. 110/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	10.04.2018	<p>The Execution Petition of Mr. Muhammad Shoaib submitted today by Mr. Saadullah Khan Marwat 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-	11/04/18.	<p>This Execution Petition be put up before S. Bench on- <u>26/04/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	26.04.2018	<p>Clerk of the counsel for appellant present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on <u>19.07.2018</u> before S.B.</p> <p style="text-align: right;"> Reader</p>
19.07.2018		<p>Counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for further proceedings on <u>04.09.2018</u> before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR*Execution Petition No. 110/2018*

Misc Pett: No. _____ /2018

Muhammad Shoab

versus

Secretary & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Misc Petition		1-2
2.	Memo of A. No 449/16	"A"	3-6
3.	judgment dated, 17-01-2018	"B"	7-9
4.	Date of retirement of Shakir Ullah, Director Exploration		10
5.	LPR order of appellant dated 08-12-2014		11
6.	Seniority list dated 27-01-2016		12

Applicant

Through

Saadullah Khan

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

0311-9266609

Dated 19-03-2018

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR*Execution Petition No. 110/2018*

Misc Pett: No. _____ /2018

IN

S.A. No. 449 / 2016

Khyber Pakhtukhwa
Service TribunalDiary No. 398Dated 10/04/2018

Muhammad Shoaib,
 Ex-Deputy Director Exploration,
 Director General, Mines & Mineral, KP Appellant

VERSUS

1. Secretary, Govt. of KP, Mineral
Development Department, Peshawar.
2. Director General, Mines & Mineral,
KP, Peshawar.
3. Chief Secretary, KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPLICATION FOR DIRECTION TO RESPONDENTS TO
 IMPLEMENT THE ORDER DATED 17-01-2018 OF THE
 HON'BLE TRIBUNAL PASSED IN APPEAL NO 449/2016
 AND TO INITIATE CONTEMPT OF COURT PROCEEDINGS
 AGAINST THE RESPONDENTS FOR NOT HONORING THE
 ORDER OF THE HON'BLE TRIBUNAL:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 26-04-2016, applicant filed Appeal No. 449/2016 before the hon'ble Tribunal for restoration on his original post of Deputy Director Exploration. (Copy as Annex "A")
2. That the said Appeal came up, after thorough probe, for hearing on 17-01-2018 and then the hon'ble Tribunal was pleased to accept the appeal partially and directed respondents to consider him for proforma

promotion to next higher post in case any post available for his promotion in the duration of his LPR period. (Copy as Annex "B")

That the said judgment was remitted to the respondents by the appellant as well as by the Registrar of the Tribunal for compliance and implementation in letter and spirit.

4. That respondents are not honoring the judgment of the hon'ble Service Tribunal.

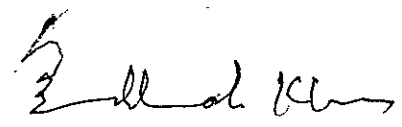
It is, therefore, most humbly requested that judgment dated 17-01-2018 of the hon'ble Tribunal be implemented in letter and spirit hence forthwith and appellant be reinstated along with all service benefits.

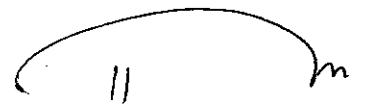
OR

In the alternate, contempt of court proceedings be initiated against the respondents for non compliance of the judgment of the hon'ble Tribunal and they be punished under contempt of Court Law.


Applicant

Through


Saadullah Khan Marwat


Arbab Saif-ul-Kamal
Advocates

Dated 19-03-2018

promotion to next higher post in case any post available for his promotion in the duration of his LPR period. (Copy as Annex "B")

3. That the said judgment was remitted to the respondents by the appellant as well as by the Registrar of the Tribunal for compliance and implementation in letter and spirit.
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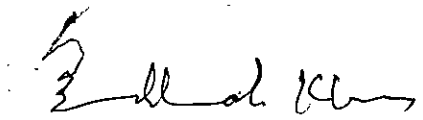
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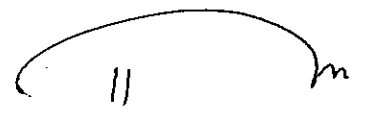
OR

In the alternate, contempt of court proceedings be initiated against the respondents for non compliance of the judgment of the hon'ble Tribunal and they be punished under contempt of Court Law.


Applicant

Through


Saadullah Khan Marwat


Arbab Saif-ul-Kamal
Advocates

Dated 19-03-2018

A 3

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 449 /2016

Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, KPK Appellant

Versus

1. Secretary, Govt. of KP, Mineral Development Department, Peshawar.
2. Director General, Mines & Mineral, KP, Peshawar.
3. Chief Secretary, KP, Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 29.03.2016 OF R. NO. 2 WHEREBY REPRESENTATION/APPLICATION DATED 04.12.2015 FOR WITHDRAWAL OF LPR/OPTION FOR EARLY RETIREMENT WAS REFUSED FOR NO LEGAL REASON.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 28.01.2009, Govt. of KPK issued policy known as NWFP Civil Servants Promotion Policy, 2009. In the said policy, amendment was brought on 17.03.2014 regarding promotion during LPR which is as under:-

"LPR is one the types of leave to which a Govt. Servant is entitled. As he continues to be Govt. Servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR." (Copy as annex "A")

2. That one Shakir Ullah, Director Exploration B-19 of the Minerals Development Department was accorded/granted of 312 days

Shakir Ullah


BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 449 /2016

Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, KPK Appellant

Versus

1. Secretary, Govt. of KP, Mineral Development Department, Peshawar.
2. Director General, Mines & Mineral, KP, Peshawar.
3. Chief Secretary, KP, Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 29.03.2016 OF R. NO. 2 WHEREBY REPRESENTATION/APPLICATION DATED 04.12.2015 FOR WITHDRAWAL OF LPR/OPTION FOR EARLY RETIREMENT WAS REFUSED FOR NO LEGAL REASON.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 28.01.2009, Govt. of KPK issued policy known as NWFP Civil Servants Promotion Policy, 2009. In the said policy, amendment was brought on 17.03.2014 regarding promotion during LPR which is as under:-

"LPR is one the types of leave to which a Govt. Servant is entitled. As he continues to be Govt. Servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR." (Copy as annex "A")

2. That one Shakir Ullah, Director Exploration B-19 of the Minerals Development Department was accorded/granted of 312 days

leave as leave preparatory to retirement in respect of the said incumbent after attaining the age of superannuation i.e. retirement from Govt. service with effect from 27.04.2015 vide notification dated 19.06.2014 issued by R. No. 1. (Copy as annex "B")

3. That on 10.11.2014, appellant submitted application for grant of LPR since 08.12.2014 to 07.12.2015. This was voluntary retirement while in fact, he was to be retired from service on 28.01.2018 on attaining the age of superannuation. (Copy as annex "C")
4. That on 08.12.2014, sanction of LPR was accorded/granted of 365 days in respect of appellant by R. No. 1. (Copy as annex "D")
5. That the Govt. of Pakistan Finance Division, Islamabad has issued Office Memorandum on 06.10.2015, that a Govt. Servant can withdraw option of voluntary retirement during the period for which encashment has been applied/granted, subject to following conditions:-
 - i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
 - ii. It is binding on a Govt. Servant to return any amount of leave pay received by him/her. In lieu of encashment of LPR for that period;
 - iii. Later on, on attaining the age of superannuation, if he/she again ops for the 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he/she will be allow encashment of LPR in toto. (Copy as annex "E")
6. That on 04.12.2015, appellant submitted representation before R. No. 1 for withdrawal of LPR option of voluntary retirement and simultaneously submitted arrival report on the said date to the authority. (Copies as annex "F")
- 7.1 That on 25.1.2016, Finance Department issued circular regarding withdrawal of LPR/option for voluntary retirement which states as under:-

"If a Govt. Servant withdraw his application for premature retirement or modified the date of retirement before its acceptance by the competent

authority, the application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be".

Meaning thereby that the request of appellant was not acceded to. (Copy as annex "G")

8. That on 31.05.2015, the department issued final seniority list of the Deputy Directors Exploration B-18 vide notification dated 27.01.2016. Appellant was shown at Serial No. 1 and Aurang Zeb at Serial No. 2 of the said seniority list. (Copy as annex "H")
9. That on 25.02.2016, Finance Department wrote letter to R. No. 1 to examine/decide the case of appellant in light of the said circular which is quite clear on the subject issue. (Copy as annex "I")
10. That the aforesaid order was conveyed by the authority on 07.03.2016 to R. No. 1 and then to the appellant on 29.03.2016. (Copies as annex "J" & "K")

Hence this appeal, inter alia, on the following grounds:-

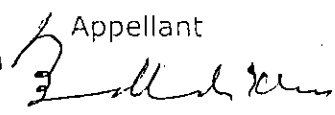
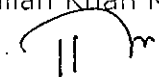
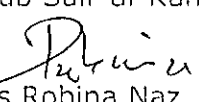
GROUND S:


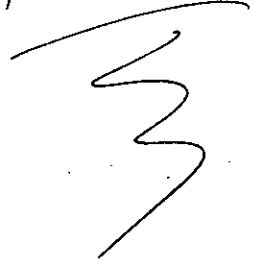
- a. That application for withdrawal of appellant was quite in accordance with law and its none acceptance is violation of rules.
- b. That the appellant normal date of retirement is 28.01.2018.
- c. That malafide of the respondents is apparent from the record as case of Aurang Zeb, who is junior to appellant in spite of the fact that the post of Director BPS-19 became vacant on 27.04.2015 and the appellant was supposed to be promoted as Director BPS-19 as appellant is at Serial No. 1 of the seniority list and is quite senior to the said incumbent.
- d. That by not accepting the representation/application dated 04.12.2015 of appellant, the appellant has been put in financial crises and his school going children would suffer in near future due to the in action of the respondents.
- e. That when office memorandum of Federal Govt. is clear on the subject, then there is no need of depriving the appellant of his legitimate right of service and promotion.

- f. That when similarly placed person (Aurang Zeb) who was also on LPR is going to be promoted to the post of Director General B-19 of the department, then appellant has also equal right for promotion to the said post.
- g. That similarly and equally placed person be treated similarly and equally to avoid discrimination. Such act of the respondents is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 25.02.2016 and 29.03.2016 of R. No. 1 may kindly be set aside and appellant be allowed to perform his duties on his original post of Deputy Director (Exploration) till his retirement date i.e. 28.01.2018, with such other relief as may be deemed proper and just in circumstances of the case.

Dated: .04.2016

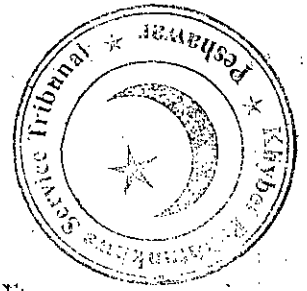
Through  Appellant
 Saadullah Khan Marwat

 Arbab Saif-ul-Kamal
 &

 Miss Robina Naz,
 Advocates,

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.449/2016

Date of Institution ... 26.04.2016
Date of Decision ... 17.01.2018



Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

The Secretary Government of Khyber Pakhtunkhwa, Mines & Mineral
Development Department, Peshawar & 02 others.

... (Respondents)

Mr. Saad Ullah Khan Marwat,
Advocate

--- For appellant.

Mr. Muhammad Jan
Deputy District Attorney

... For respondents.

MR. GUL ZIEB KHAN
MR. MUHAMMAD HAMID MUGHAL

... MEMBER
... MEMBER

JUDGMENT

GUL ZIEB KHAN, MEMBER. The aforesaid appeal dated 26.04.2016 has been lodged by Muhammad Shoaib, Ex-Deputy Director Exploration, hereinafter referred to as the appellant, under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein the appellant has impugned the office order dated 29.03.2015 pertaining to cancellation/withdrawal of LPR and voluntary/pre-mature retirement.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

3. Learned counsel for the appellant argued that the appellant submitted application for grant of 365 days leave as Leave Preparatory Retirement (LPR) w.e.f 8.12.2014 to 7.12.2015 and for allowing to proceed on premature retirement, which was allowed vide notification dated 08.12.2014. That subsequently the appellant submitted another application on 4.12.2015 for withdrawal of the said notification by converting the availed portion of LPR into normal leave on full pay and for cancellation of the remaining period as well as to allow him to resume duty till attaining the age of superannuation. That the said option of the appellant was turned down by the respondent which is violation of the Finance Department notification dated 6.10.2015, as well as Establishment Department Khyber Pakhtunkhwa circular dated 17.3.2014. That the appellant is also eligible for promotion to B-19 during the LPR as admissible under the promotion policy of 2009 as amended vide letter dated 17.3.2014. That similarly one Shakir Ullah, of the Minerals Development Department was previously accorded/granted 312 days leave as LPR with effect from 27.04.2015 vide notification dated 19.06.2014 who was promoted to the post of Director B-19 in the duration of the LPR period and that on the same analogy the appellant also be promoted to the said post in the duration of LPR period, so as to meet justice.

4. On the other side learned Deputy District Attorney argued that the appellant submitted representation to the Secretary Minerals Development Department (respondent No. 1) for withdrawal of LPR as well as acceptance of arrival report on 04.12.2015. That in light of the Finance Department circular dated 25.01.2016. That the Competent Authority informed appellant that the option once accepted for LPR, shall be final and shall not be allowed to be modified or withdrawn. That as per date of birth of the appellant, his retirement date is 18.04.2018 and that he had himself submitted the application for premature retirement, which was accepted accordingly. That his LPR has matured on 07.12.2015(AN). Further argued that the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

matter was taken up with the Finance Department and Establishment Department and was ultimately regretted and the appellant was informed accordingly.

5. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

6. It is an admitted fact that under the rules, the option for Leave Preparatory Retirement/Voluntary/Premature Retirement attains finality the moment when it is accepted by the competent authority and that it can only be withdrawn/cancelled altered; through another application, well before its formal acceptance by the competent authority. In the instant case, the appellant has applied for its cancellation/withdrawal on 4.12.2015 i.e only when four days were left to maturity/completion of the LPR period, which is not covered under the rules. However in such an eventually, the incumbent can avail the chance of getting promotion to next higher post in case of availability of post.

7. As a sequence to above, the present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.01.2018

Muhammad Hamid Mughal

(Muhammad Hamid Mughal)
MEMBER

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

Gul Zeb Khan
(Gul Zeb Khan)
MEMBER

Signature
3



10
19-6-14

B

GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 19th June, 2014.

NOTIFICATION

No.SOE(MDD)/1-12/2003 - Sanction is hereby accorded to the grant of 312 days leave as Leave Preparatory to Retirement in respect of Mr. Shakirullah, Director Exploration (BPS-19), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 19.06.2014 to 26.04.2015.

2. The date of birth of the officer is 28.04.1955 as such he will retire from government service w.e.f 27.04.2015 (F.N).

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

Ends: No.SOE(MDD)/1-12/2003

Dated Peshawar the, 19th June, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister for Minerals Development, Khyber Pakhtunkhwa.
4. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
5. The officer concerned.


(SAKILUR REHMAN)
Section Officer (Estt:)



19 " 8-12-14



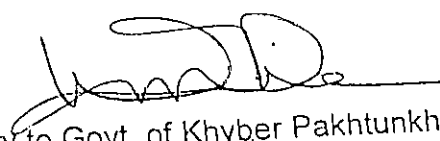
GOVERNMENT OF,
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 8th December, 2014.

NOTIFICATION

No.SOE(MDD)/1-5/2009.- Sanction is hereby accorded to the grant of 365 days leave as Leave Preparatory to Retirement (LPR) in respect of Mr. Muhammad Shoaib, Deputy Director Exploration (BPS-18), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 08.12.2014 to 07.12.2015 (AN).

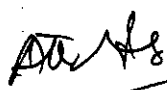

2. The officer has completed the qualifying service for pension and as such he is allowed to proceed on premature retirement.

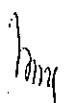

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department


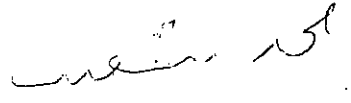
Ends: No.SOE(MDD)/1-5/2009 ³⁸¹⁵⁻¹⁸ Dated Peshawar the, 8th December, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w/r to his letter No14465/9-PF-8(24)DGMM/Admn dated 04.12.2014.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
4. The officer concerned.


(SAKHUR REHMAN)
Section Officer (Estt:)



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated: 27th January, 2016

NOTIFICATION

No. SO (E)/MDD/2-3/ 2015: In pursuance of Section 8(5) of the Khyber Pakhtunkhwa Civil Servants Act 1973, the final seniority of the Deputy Directors (Exploration) (BPS-18) of the Directorate General of Mines and Mineral Khyber Pakhtunkhwa as stood on 31.05.2015 is notified as detailed below.

Seniority No	Name	Academic Qualification	Date of birth	Domicile	Date of 1st Entry into Government service.	Date of appointment/ promotion to their present grade.	Remarks
1.	Muhammad Shoait	B.Sc (Mining Engineering)	28.01.1958	Peshawar	27.09.1982	07.05.2013	
2.	Mr. Arangzeb	B.Sc (Mining Engineering)	11.10.1956	Swabi	07.04.1984	23.02.2010	

Secretary to,
Govt. of Khyber Pakhtunkhwa,
Minerals Dev. Department

Endst: No & Date even:

Copy forwarded to:

1. Secretary to Governor Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
3. P.S to Minister for Minerals Development Department.
4. P.S to Chief Secretary, Khyber Pakhtunkhwa.
5. P.S to Secretary Minerals Development Department.
6. Director General Mines & Minerals, Khyber Pakhtunkhwa Peshawar.
7. Officers concerned.

Sakhi Ur Rehman

27-1-16

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Adnan M

یوکرلٹ جناب سرسٹریٹس ٹریبیونل سوپر سٹریٹس پشاور

متجناب املاٹ

محمد شیب نام
دعوی اپیل / Implementations

باعضرت شریک اینٹیکہ

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آل مقام پشاور کیسٹم سٹند اٹالس خان سرور سے ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب محوصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر عطف اپنے جواب دہی اور اقبال دعویٰ اور بھرتی ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تعلدین اور اس پر دستخط کرنے کا اختیار ہوگا نیز بھرتی عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور سوسوئی اینڈ راز کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مندرجہ کے کل یا اجزائی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور احید مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظرہ قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب محوصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درودہ پڑ ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔
لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم

التعبید

التعبید

التعبید

M. A. J. J.

پشاور ۱۱

سیدہ اللہ خان مرقت
ایڈوکیٹ

من روپیہ تاریخ
ایڈوکیٹ

Submitted by Respondent.

25/06/19.

392

397



DIRECTORATE GENERAL OF MINES AND MINERALS

KHYBER PAKHTUNKHWA

Attached Departments Complex Khyber Road Peshawar

Phone: & Fax # 091-9210236

No. 10787 /3/496/DGMM/Admn/court case

Dated. 29/05/2019

To

The Section Officer (Establishment),
Mineral Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: JUDGEMENT DATED: 17-01-2018.

I am directed to enclose herewith copy of application alongwith Judgement dated: 17-01-2018 of Service Tribunal in respect of Muhammad Shoaib Ex-Deputy Director (Exploration) of this Directorate v/s Govt of Khyber Pakhtunkhwa in Service Appeal No. 449/2016 with the request that his proforma promotion case be considered in light of Judgment dated: 17.01.2018 of Khyber Pakhtunkhwa Service Tribunal. Further that proforma promotion can be granted conditionally as there is already CPLA filed in Supreme Court (copy attached).

The case is submitted for further necessary action please.

Endst: As above.

Received
H.S.D.
29/05/19

Assistant Director (Administration)
For Director General

Endst: No/10788 /3/496/DGMM/Admn/court case

Dated. 29/05/2019

Copy is forwarded to:

PA to Director General Mines and Minerals, Khyber Pakhtunkhwa, Peshawar.

Assistant Director (Administration)
For Director General



DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA

Attached Departments Complex Khyber Road Peshawar
Phone: & Fax # 091-9210236

No. 14322/3/496/DGMM/Admn/court case

Dated. 11 /07/2019

To

The Section Officer (Establishment),
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: **JUDGEMENT DATED: 17-01-2018.**

Kindly refer to your letter No. SO (E)/ MDD/1-2/P.F/2009/7361, dated: 10-07-2019 and to state that CPLA No. 167-P/2018 has been filed in the Honorable Supreme Court of Pakistan against the judgment dated: 17-01-2018, passed by the Court of Service Tribunal Peshawar. CPLA No. 167-P/2018 is still lying pending for the fixation of date.

However, on the directives of the Court of Service Tribunal Peshawar, this Directorate is ready to implement the judgment dated: 17-01-2018, subject to the condition that the officer concerned will submit an affidavit on judicial stamp paper that he will honour the decision/ order of Honorable Supreme Court of Pakistan in CPLA No. 167-P/2018, if decided in favour of the Government and will bound to return/ refund the excessive amount drawn in light of decision of the Court of Service Tribunal decision dated: 17-01-2018.

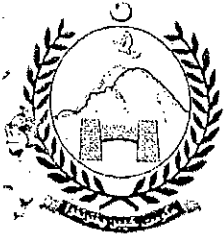
Encls: - one.

Received

H. Khan
11/07/19

o/c
my
Assistant Director (Admin)
For Director General

232



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No: SO(E)/MDD/1-2/P.F/2009
Peshawar, the August 26, 2019

19902-03

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Subject: REQUEST FOR PROFORMA PROMOTION.

Dear Sir,

I am directed to refer to the subject noted above and to state that one Mr. Muhammad Shoaib, while working as Deputy Director (BPS-18) in Directorate General (Mines & Minerals), had proceeded on LPR w.e.f 08.12.2014 to 17.12.2015 and Pre-mature retirement vide Notification dated 08.12.2014 (**Annex-I**). However, before expiry of the period of LPR, he submitted an application to the Secretary Minerals Development Department requesting therein that Notification of his LPR and Pre-mature retirement may be withdrawn (**Annex-II**) supporting his request by the instructions contained in the Finance Division's Government of Pakistan circular dated 06.10.2015 (**Annex-III**).

2. The case was previously referred to Establishment Department for advice as to whether request of the officer was acceptable (**Annex-IV**) and the Establishment Department informed that the matter may be taken up with the Finance Department (**Annex-V**). Accordingly, on the request of this Department, the Finance Department advised that the case may be decided in light of Finance Department's circular letter dated 01.10.1981 (**Annex-VI**). Aggrieved with this, Mr. Muhammad Shoaib filed Service appeal No.449/2016 in the Khyber Pakhtunkhwa Service Tribunal, this time requesting for grant of promotion to BPS-19 in light of the instructions contained in the Establishment Department's Circular Letter No. SOR-VI/E&AD/16/2014 dated 17.03.2014 (**Annex-VII**), The Khyber Pakhtunkhwa Service Tribunal accepted appeal partially in favor of the appellant, operating part of the judgment is as under (**Annex-VIII**):

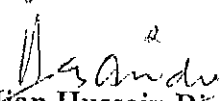
"The present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period."

3. The Department has filed CPLA in the Supreme Court of Pakistan against the said judgment of the Service Tribunal and the same is pending for the fixation of date for hearing.

4. It is further stated that the post of Director (Exploration) BPS-19 (against which promotion has been sought) had fallen vacant on 27-04-2015 on the retirement of its incumbent i.e. during the period of LPR of the applicant (w.e.f 08-12-2014 to 17-12-2015).

5. In view of the above, it is requested that the Establishment Department may tender advice as to whether Mr. Muhammad Shoaib, Ex-Deputy Director (BPS-18), Directorate General, Mines & Minerals can be considered for proforma promotion to BPS-19 in light of the judgment of the Service Tribunal and instructions contained in the Establishment Department Circular No.SOR-VI/E&AD/1-16/ 201, dated 17.03.2014 at this stage.

Yours faithfully,

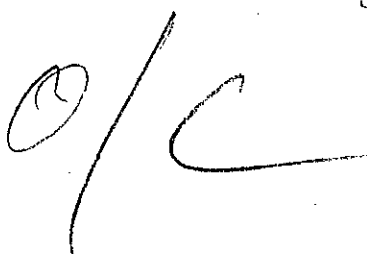

(Mian Hussain Din)
SECTION OFFICER (ESTT)

Encls: as Above:

Endst: No & Date Even:

Copy is forwarded for information to P.S to Secretary, Minerals Development Department.

SECTION OFFICER (ESTT)





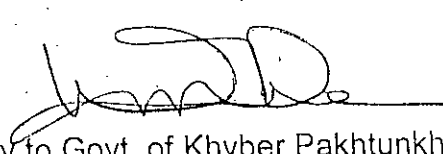
GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 8th December, 2014.

NOTIFICATION

No.SOE(MDD)/1-5/2009.- Sanction is hereby accorded to the grant of 365 days leave as Leave Preparatory to Retirement (LPR) in respect of Mr. Muhammad Shoalb, Deputy Director Exploration (BPS-18), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 08.12.2014 to 07.12.2015 (AN).

2. The officer has completed the qualifying service for pension and as such he is allowed to proceed on premature retirement.



Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

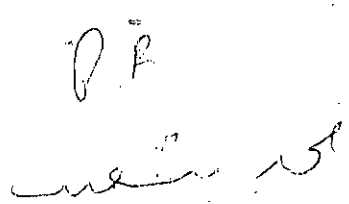
Ends: No.SOE(MDD)/1-5/2009

^{3-8/15-18} Dated Peshawar the, 8th December, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w/r to his letter.No14465/9-PF-8(24)DGMM/Admn dated 04.12.2014.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
4. The officer concerned.


(SAKHI UR REHMAN)
Section Officer (Estt:)



11 Anex-2
112

The Secretary,
Mineral Development Department,
Government of Khyberpakhtunkhwa,
Peshawar.

(through proper channel)

Subject: Application for withdrawal of leave preparatory to retirement (LPR)/ option for voluntary retirement

Sir,

I had applied for premature retirement after availing the LPR for one year w.e.f. 08-12-2014 to 07-12-2015. The application was approved and notification was issued accordingly.

2. It is submitted that the reason for applying LPR was to attend to some domestic problems requiring my urgent attention. Now I intend to withdraw the application for LPR followed by voluntary retirement. **Under the Government instructions, option to voluntary retirement/ LPR can be withdrawn before the date of proposed retirement (copy attached).**

3. It is therefore humbly requested that my request for voluntary retirement as well as availing of LPR may be treated as withdrawn and consequently, the LPR already availed by me may kindly be converted into normal leave on full pay while the remaining period of leave may be cancelled, allowing me to resume my position and perform duties till attaining the age of superannuation.

Dated: 04-12-2015

M. Shoaib 04-12-2015
(Muhammad Shoaib)
Deputy Director (Exploration)
D. G. M. M.

Copy is forwarded to the worthy
Mineral Development Department.

Secretary to Govt. of Khyber Pakhtunkhwa

M. Shoaib
(Muhammad Shoaib)
Deputy Director (Exploration)
D. G. M. M.

No.F.1(1)R-4/2007-Vol-II(Pt)

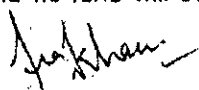
Islamabad October 6, 2015.

OFFICE MEMORANDUM

Subject: CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/
RETIREMENT AFTER SANCTION/NOTIFICATION.

The undersigned is directed to refer to Finance Division's O.M.No.F.1(1)R-4/2007- (Vol.II) dated 17-11-2011 on the above subject and to state that it has been decided in consultation with Establishment Division that a Government Servant can withdraw option of voluntary retirement, during the period for which encashment has been applied/granted, subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period;
- iii. Later on, on attaining the age of superannuation, if he /she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he /she will be allowed encashment of LPR in toto.


(Myra Javid Khan)
Section Officer (R-4)
Tel:9245872

All Ministries/Division,

Office of the Military Accountant General
Mr. Maqbool Hussain Raja,
Accounts Officer,
Government of Pakistan,
Islamabad.

w.r.t their U.O.No.492/AT/PC/4890
XVIII/Part dated 20-11-2014.

✓
Copy to Web-master Mr. Faheem Anwar, Finance Division.



GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT
Attached Departments Complex Khyber Road Peshawar Cantt

Dir-4
115

No.SO(Estt)/MDD/1-2/2009/4073
Dated Peshawar, the December 08, 2015

The Secretary,
Govt: of Khyber Pakhtunkhwa,
Establishment Deptt: Peshawar.

Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR)/OPTION FOR VOLUNTARY RETIREMENT.

I am directed to refer to the subject noted above and to enclose herewith copy of an application of Mr. Muhammad Shoaib Deputy Director (BPS-18) Directorate General Mines and Minerals Khyber Pakhtunkhwa and to state that the officer was appointed as Assistant Director (BPS-17 on 13.10.1982. He after rendering 32 years one month and 24 days service requested for the grant of 145 days LPR w.e.f 08.12.2014 to 07.12.2015) which was accordingly sanctioned (Copy enclosed). The officer before expiry of LPR (four days before expiry of LPR) requested on 04.12.2015 for withdrawal of his application and intimated that LPR already availed by him may be converted into leave with full pay and allow him to resume his duties till attaining the age of superannuation i.e 27.01.2018.

In view of above, it is requested that this department may please be favoured with advice of the Establishment Department as to whether an officer can opt for cancellation of his LPR or the Govt: alone has the discretion to recall someone from LPR.

An early advice in the matter would be deeply appreciated.

Yours faithfully

(Sakhi-Ur Rehman)
SECTION OFFICER (E)

[Handwritten signature]
14/12

SOE
[Handwritten signature]



V. 5
Anx - 121

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO (E)/MDD/1-2/ 2009 / 6094
Dated Peshawar, 17th February, 2015

To,

The Secretary to Govt of,
Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Subject: **APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.**

R/Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of an application of Mr. Muhammad Shoaib Deputy Director (BPS-18) Directorate General Mines & Minerals, Khyber Pakhtunkhwa and to state that the officer was appointed as Assistant Director (BPS-17) on 13-10-1982. He after rendering 32 years one month and 24 days service requested for the grant of 365 days LPR w.e.f 08-12-2014 to 07-12-2015) which was accordingly sanctioned (copy enclosed). The officer before expiry of LPR (four days before expiry of LPR) requested on 04-12-2015 for withdrawal of his application and intimated that LPR already availed by him may be converted to into leave with full pay and allow him to resume his duties till attaining the age of superannuation i.e. 27-01-2018. The case was accordingly taken up with the Establishment Department for advice. The advice of Establishment Department contained in their letter-No. SO (O&M)E&AD/10-1/2015 dated 10-02-2016 is enclosed.

In view of above it is requested that this department may please be favoured with advice of the Finance Department as to whether an officer can opt for cancellation of his LPR or the Govt. alone has the discretion to recall someone from LPR.

An early advice in the matter would be deeply appreciated.

Yours Faithfully


Sakhi Ur Rehman
Section Officer (Estt :)
Minerals Dev. Department

4-0 And - 6 (21) 138

No. PD-SOSP. III/3-92/81
Dated Peshawar, the 1st October, 1981

GOVERNMENT OF NWFP,
FINANCE DEPARTMENT.

The Secretary to Government,
Finance Department, Peshawar.

1. All Administrative Secretaries to Govt. of NWFP.
2. All Heads of Attached Departments NWFP.
3. All Commissioners of Divisions in N.W.F.P.
4. All Deputy Commissioners/Political Agents in NWFP.
5. All District and Session Judges in NWFP.
6. The Registrar, Peshawar High Court, Peshawar.
7. The Chairman, NWFP Public Service Commission, Peshawar.
8. The Chairman, NWFP Service Tribunal, Peshawar.

WITHDRAWAL OF APPLICATION FOR VOLUNTARY RETIREMENT
FROM GOVERNMENT SERVICE AFTER COMPLETING 25 YEARS
OF ELIGIBLE SERVICE FOR PENSION.

I am directed to refer to the subject noted above and to inform that according to paragraph 6 of the former Government of West Pakistan Finance Department letter No. SC(SR)-V-257/67, dated 27.4.1967 subject to the provisions of the Essential Service Maintenance Act, all Government Servants shall have the right to retire on a retiring pension after completing 25 years qualifying service; provided that a Government servant who intends to retire before attaining the age of 60 years shall, at least three months before the date on which he intends to retire, submit a written intimation to the authority which appointed him, indicating the date on which he intends to retire. Such an intimation, once submitted, shall be final and shall not be allowed to be modified or withdrawn.

In pursuance of Establishment Division, O.M.No. 25/1/81 CV dated 12th April, 1981 as adopted by the Government of N.W.F.P. Services and General Administration Department vide letter No. SOR, II (SOPD) 5-1/79 (Vol: II), dated 12th August, 1981 it has been decided that the words "Such an intimation once submitted, shall be final and shall not be allowed to be modified or withdrawn" occurring in paragraph 6 of above mentioned letter shall be deleted and substituted by the following words:-

"If a Government servant withdraws his application for premature retirement or modifies the date of retirement, before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be."

Your obedient servant,
(Signature)
DIRECTORIAL SECRETARY-I,
FINANCE DEPARTMENT.

(Handwritten notes and signatures)
A. Khan
Errooy
A. Khan

A

5

Anex-7

15

204

Government of Khyber Pakhtunkhwa
Establishment Department
(Regulation Wing)
No. SOR-VI/E&AD/1-16/2011
Dated Peshawar, the, 17th March, 2014

To

1. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject:- AMENDMENT IN KHYBER PAKHTUNKHWA CIVIL SERVANTS PROMOTION POLICY (PROMOTION DURING LPR).

Dear Sir,

I am directed to refer to the subject noted above and to state that under the existing policy, there is no provision for promotion of officer/officials who are on LPR. The promotion policy has been reviewed and the competent authority has been pleased to direct to add the following provision therein:-

"LPR is one the types of leave which a government servant is entitled. As he continues to be government servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR".

These changes will take immediate effect and past cases under existing policy shall not be re-opened.

Yours faithfully
SD/-
(QURBAT-UL-AIN)
Section Officer (REG-VI)

Endst No. & date even.

Copy forwarded to:

1. The Registrar Peshawar High Court, Peshawar.
2. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
4. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department

Annex - B

F
229

THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.449/2016

Date of Institution ... 26.04.2016
Date of Decision ... 17.01.2018



Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

The Secretary Government of Khyber Pakhtunkhwa, Mines & Mineral
Development Department, Peshawar & 02 others.

.... (Respondents)

Mr. Saad Ullah Khan Marwat,
Advocate

For appellant.

Mr. Muhammad Jan
Deputy District Attorney

For respondents.

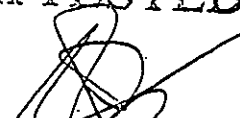
MR. GUL ZEB KHAN
MR. MUHAMMAD HAMID MUGHAL

MEMBER
MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER. The aforesaid appeal dated 26.04.2016 has been lodged by Muhammad Shoaib, Ex-Deputy Director Exploration, hereinafter referred to as the appellant, under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein the appellant has impugned the office order dated 29.03.2015 pertaining to cancellation/withdrawal of LPR and voluntary/pre-mature retirement.

ATTESTED


MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

matter was taken up with the Finance Department and Establishment Department and was ultimately regretted and the appellant was informed accordingly.

5. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

6. It is an admitted fact that under the rules, the option for Leave Preparatory Retirement/Voluntary/Premature Retirement attains finality the moment when it is accepted by the competent authority and that it can only be withdrawn/cancelled/ altered through another application, well before its formal acceptance by the competent authority. In the instant case, the appellant has applied for its cancellation/withdrawal on 4.12.2015 i.e only when four days were left to maturity/completion of the LPR period, which is not covered under the rules. However in such an eventually, the incumbent can avail the chance of getting promotion to next higher post in case of availability of post.

7. As a sequence to above, the present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.01.2018

Hamid

(Muhammad Hamid Mughal)
MEMBER

Copy
[Signature]
copy

[Signature]
(Gul Zeb Khan)
MEMBER

DS (Admn) M.M.D

D. No. 276
Date 12/2/2016



DS (Admn) M.

D.No.....

Date.....

120

GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SO(O&M)E&AD/10-1/2015

Dated Peshawar, the 10th February, 2016

To

The Secretary to Govt. Khyber Pakhtunkhwa,
Minerals Development Department.

Mineral Dev: Deptt: (KPK)

Sacy: Diary No: 373

Date: 12/2/16

Subject:

APPLICATION FOR WITHDRAWAL OF LPR/OPTION FOR VOLUNTARY
RETIREMENT.

Dear Sir,

I am directed to refer to your department letter No. SO(Estt)MDD/
1-5/2009/4073 dated 08.12.2015 on the subject captioned above and to say that the LPR
is covered under Revised Leave Rules, 1981, which is the domain of Finance Department,
it is, therefore, requested that the subject case may be taken with Finance Department,
please.

Yours faithfully,

SECTION OFFICER (O&M)

Copy to:-

PS to Secretary, Establishment Department.

SECTION OFFICER (O&M)

2724
12-02-2016



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO (E)/MDD/1-2/2009 / 6488
Dated Peshawar, the 7th March, 2016

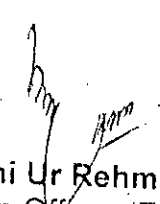
To,

The Director General,
Mines & Minerals,
Khyber Pakhtunkhwa
Peshawar.

Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.

I am directed to refer to your letter No. 591/9-P-8(24) DGMM/Admn dated 19-01-2016 on the subject noted above and to enclose herewith a copy of Finance Department letter No. SO (FR)/FD /5-92/2015/Vol-I dated 25-02-2016 alongwith its enclosure for information and further necessary action.

Encls: As above.


Sakhi Ur Rehman
Section Officer (Estt :)
Minerals Dev: Department



16

205

GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 19th June, 2014.

NOTIFICATION

No. SOE(MDD)/1-12/2003.- Sanction is hereby accorded to the grant of 312 days leave as Leave Preparatory to Retirement in respect of Mr. Shakirullah, Director Exploration (BPS-19), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 19.06.2014 to 26.04.2015.

2. The date of birth of the officer is 28.04.1955 as such he will retire from government service w.e.f 27.04.2015 (F.N).

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

Ends: No. SOE(MDD)/1-12/2003


Dated Peshawar the, 19th June, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister for Minerals Development, Khyber Pakhtunkhwa.
4. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
5. The officer concerned.

(SAKHI ULLAH REHMAN)
Section Officer (Estt.)

Attested by

// 



DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA

Attached Departments Complex Khyber Road Peshawar
Phone: & Fax # 091-9210236

No. 18548 /9-PF-8(24)DGMM/Admn

Dated. /08/2019

To

The Section Officer (Establishment),
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:

JUDGMENT DATED: 17-01-2018 AND ORDER SHEET COPY
DATED: 19-08-2019 UNDER EXECUTION PETITION NO.
110/2018 ON SERVICE APPEAL NO. 449/2016 TITLED
MUHAMMAD SHOAIB EX-DEPUTY DIRECTOR
EXPLORATION OF DIRECTORATE GENERAL MINES &
MINERAL VS SECRETARY MINES AND OTHERS

I am directed to refer to your letter No. SO(E)/MDD/1-2/PF/2009/8814-15, dated: 08-08-2019 on the subject noted above and to enclose herewith copy of the judgment dated: 17-01-2018 passed by the Honorable Service Tribunal Court Khyber Pakhtunkhwa and copy of order sheet dated: 19-08-2019 in the instant case for further necessary action, please.

Encl: as above.

Endst: No. 18549-53 /13/496/DGMM/Admn/court case

o/c Assistant Director (Admin)
For Director General

Dated. 26 /08/2019

Copy is forwarded to:

1. PA to Director General Mines and Minerals Khyber Pakhtunkhwa.
2. The Section Officer () Minerals Development Department Khyber Pakhtunkhwa.
3. The Section Officer (Litigation), Minerals Development Department Khyber Pakhtunkhwa.
4. The Deputy Director (Litigation) H/Q Office Peshawar.
5. Master File/DGMM/Admn/2019.

o/c Assistant Director (Admin)
For Director General

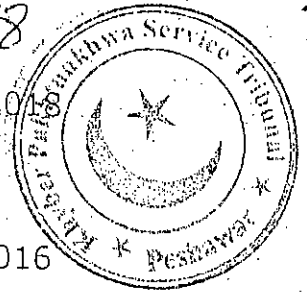
BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 110/2018

Misc Pett: No. _____ / 2018

IN

S.A. No. 449 / 2016



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 398

Dated 10/04/2018
Appellant

Muhammad Shoaib,
Ex-Deputy Director Exploration,
Director General, Mines & Mineral, KP Appellant

VERSUS

1. Secretary, Govt. of KP, Mineral Development Department, Peshawar.
2. Director General, Mines & Mineral, KP, Peshawar.
3. Chief Secretary, KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPLICATION FOR DIRECTION TO RESPONDENTS TO IMPLEMENT THE ORDER DATED 17-01-2018 OF THE HON'BLE TRIBUNAL PASSED IN APPEAL NO 449/2016 AND TO INITIATE CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS FOR NOT HONORING THE ORDER OF THE HON'BLE TRIBUNAL:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 26-04-2016, applicant filed Appeal-No. 449/2016 before the hon'ble Tribunal for restoration on his original post of Deputy Director Exploration. (Copy as Annex "A")
2. That the said Appeal came up, after thorough probe, for hearing on 17-01-2018 and then the hon'ble Tribunal was pleased to accept the appeal partially and directed respondents to consider him for proforma

ATTESTED

[Signature]
Secretary,
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

EP 110/2018

19.08.2019




Counsel for the petitioner and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Muhammad Iqbal, Superintendent for the respondents present.

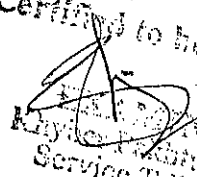
The representative of respondents has submitted copy of letter dated 11.07.2019 addressed to the Section Officer (Establishment), Minerals Development Department, Khyber Pakhtunkhwa Peshawar wherein it has been reiterated that the Director General Mines and Minerals is ready to implement the judgment under execution. The implementation will however be subject to the condition that the petitioner shall have to submit an affidavit to the effect that he will honour the decision of Apex Court whenever passed in CPLA No. 167-P/2018 and will return the amount, if any, drawn in light of the judgment under execution.

Learned counsel for the petitioner states that such affidavit/undertaking would be submitted within one week from today.

The respondents shall process the case and complete the implementation phase within a fortnight after submission of requisite undertaking by the petitioner. To come up for implementation report on 25.09.2019 before S.B.


Chairman

Date of Presentation 21-8-19
Number of Words 800
Copying Fee 12-00
Urgent _____
Total 12-00
Name of Copyist _____
Date of Completion of Copy 22-8-19
Date of Delivery of Copy 22-8-19

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

B 7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.449/2016

Date of Institution ... 26.04.2016
Date of Decision ... 17.01.2018



Muhammad Shoab, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

The Secretary, Government of Khyber Pakhtunkhwa, Mines & Mineral
Development Department, Peshawar & 02 others.

... (Respondents)

Mr. Saad Ullah Khan Marwat,
Advocate

... For appellant.

Mr. Muhammad Jan
Deputy District Attorney

... For respondents.

MR. GUL ZEB KHAN
MR. MUHAMMAD HAMID MUGHAL

MEMBER
MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER. The aforesaid appeal dated 26.04.2016 has been lodged by Muhammad Shoab, Ex-Deputy Director Exploration, hereinafter referred to as the appellant, under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein the appellant has impugned the office order dated 29.03.2015 pertaining to cancellation/withdrawal of LPR and voluntary/pre-mature retirement.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

3. Learned counsel for the appellant argued that the appellant submitted application for grant of 365 days leave as Leave Preparatory Retirement (LPR) w.e.f. 8.12.2014 to 7.12.2015 and for allowing to proceed on premature retirement, which was allowed vide notification dated 08.12.2014. That subsequently the appellant submitted another application on 4.12.2015 for withdrawal of the said notification by converting the availed portion of LPR into normal leave on full pay and for cancellation of the remaining period as well as to allow him to resume duty till attaining the age of superannuation. That the said option of the appellant was turned down by the respondent which is violation of the Finance Department notification dated 6.10.2015, as well as Establishment Department Khyber Pakhtunkhwa circular dated 17.3.2014. That the appellant is also eligible for promotion to B-19 during the LPR as admissible under the promotion policy of 2009 as amended vide letter dated 17.3.2014. That similarly one Shakir Ullah, of the Minerals Development Department was previously accorded/granted 12 days leave as LPR with effect from 27.04.2015 vide notification dated 19.06.2014, who was promoted to the post of Director B-19 in the duration of the LPR period and that on the same analogy the appellant also be promoted to the said post in the duration of LPR period, so as to meet justice.

4. On the other side learned Deputy District Attorney argued that the appellant submitted representation to the Secretary Minerals Development Department (respondent No. 1) for withdrawal of LPR as well as acceptance of arrival report on 04.12.2015. That in light of the Finance Department circular dated 25.01.2016. That the Competent Authority informed appellant that the option once accepted for LPR shall be final and shall not be allowed to be modified or withdrawn. That as per date of birth of the appellant, his retirement date is 18.04.2018 and that he had himself submitted the application for premature retirement, which was accepted accordingly. That his LPR has matured on 07.12.2015 (A.N). Further argued that the

ATTESTED

EXA
Khyber
Service
Peshawar

matter was taken up with the Finance Department and Establishment Department and was ultimately regretted and the appellant was informed accordingly.

5. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

6. It is an admitted fact that under the rules, the option for Leave Preparatory Retirement/Voluntary/Premature Retirement attains finality the moment when it is accepted by the competent authority and that it can only be withdrawn/cancelled/ altered, through another application, well before its formal acceptance by the competent authority. In the instant case, the appellant has applied for its cancellation/withdrawal on 4.12.2015 i.e only when four days were left to maturity/completion of the LPR period, which is not covered under the rules. However in such an eventually, the incumbent can avail the chance of getting promotion to next higher post in case of availability of post.

7. As a sequence to above, the present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.01.2018

(Signature)
(Muhammad Hamid Mughal)
MEMBER

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(Signature)
(Gul Zeb Khan)
MEMBER

(Signature)

IMMEDIATE/ COURT CASE

451



**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SOE/MDD/P.F/1-2/2009
Dated Peshawar, October 3rd, 2019

/11097-98

To

The Director General,
Mines & Minerals,
Khyber Pakhtunkhwa.

Subject: REQUEST FOR PROFORMA PROMOTION.

I am directed to refer to your letter No.18548/9-PF-8 (24)/DGMM/Admn/Court Case, dated 26-08-2019 on the subject noted above and to enclose herewith a copy of letter No.SO(O&M)E&AD/10-1/2019, dated 02-10-2019 received from Establishment Department, Khyber Pakhtunkhwa with the request to furnish requisite information by tomorrow positively for onward submission to Establishment Department.

(Signature)
(Mian Hussain Din)
Section Officer (Estt.)

Encl: as above
Endst: No & Date Even:

Copy is forwarded for information to P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.



Section Officer (Estt.)

ADG

AD

(Handwritten scribble)

4-10-19
MF
4-10-19

IMMEDIATE



452

GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SO (O&M)/E&AD/10-1/2019
Dated Peshawar, the 2nd October, 2019

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department.

Minerals Development Dept (KPK)

File No. 7629...

Date: 03.10.2019...

Subject: - REQUEST FOR PROFORMA PROMOTION.

Dear Sir,

I am directed to refer to your department letter No. SO(E)/MDD/1-2/P-1/2019/9402-03 dated 26.08.2019 on the subject cited above and to state that the following information may be furnished to this department within three (03) days positively to proceed further in the matter:-

- i. Has the competent authority accepted the request of the officer concerned for premature retirement?
- ii. Why the officer concerned requested for withdrawal of LPR when he had already availed the LPR period w.e.f 08.12.2014 to 07.12.2015 and merely before 03 days of the culmination of the LPR period i.e. 04.12.2015.
- iii. Was the inter-se-seniority of the officer concerned maintained during his LPR period?
- iv. Was his case submitted to PSB for promotion during his LPR?
- v. Has any junior officer(s) from his cadre in the seniority been promoted during his LPR period or afterwards?

Yours faithfully,

(WAJID ALI KHAN)
SECTION OFFICER (O&M)

Copy to:-

1. PA to Additional Secretary (Regulation-II), Establishment Department.
2. PA to Deputy Secretary (Policy), Establishment Department.

SECTION OFFICER (O&M)

SO(E)
PAI up
3/10/19

275



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO(E)/MDD/1-2/P.F/2009
Peshawar, the October 21, 2019

11987-88

To
The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Subject: **REQUEST FOR PROFORMA PROMOTION.**

Dear Sir,

I am directed to refer to Establishment Department letter No.SO(O&M)/E&AD/10-1/2019 dated 11.10.2019 on the subject noted above and to submit Para-wise comments/information as under:

- i. The ex-officer was allowed to proceed on Leave Preparatory to Retirement (LPR) w.e.f 08-12-2014 to 07-12-2015 and premature retirement from service vide this Department's Notification No.SO(E)/MDD/1-5/2009 dated 08-12-2014 (**Annex-I**).
- ii. On 04.12.2015 the ex-officer requested for withdrawal of Leave Preparatory to Retirement (**Annex-II**) stating that he had requested for grant of Leave Preparatory to Retirement due to some domestic reason and now he intends to withdraw the same. However, his case was returned to the Directorate General, Mines & Minerals, Khyber Pakhtunkhwa for necessary action in light of Finance Department's Notifications No.F-1/(1)-R-4/2007/Vol-I/ dated 06.10.2015 and No. SO(FR) FD/5-92/2015/Vol-I, dated 25.02.2016.
- iii. Yes. the seniority list, stood on 31-05-2015, notified on 27-01-2016, contained the name of the applicant at S.No.1 (**Annex-III**).
- iv. Since, request of the ex-officer for withdrawal of his Leave Preparatory to Retirement, was returned to Directorate General, Mines & Minerals, Khyber Pakhtunkhwa for further necessary action in light of Finance Department's Notifications quoted above, therefore, his case for promotion was not submitted to PSB during his LPR period.
- v. The applicant had proceeded on LPR w.e.f 08-12-2014 to 07-12-2015 for premature retirement and one Mr. Aurangzeb, Ex-Deputy Director Exploration, who was junior to the applicant in the seniority list was promoted to BS-19 on 03-08-2016 i.e. after the expiry of the LPR period of the applicant (**Annex-IV**).

Yours faithfully.

ofc

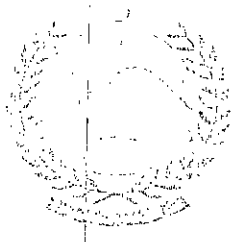
Mian Hussain Din
(Mian Hussain Din)
SECTION OFFICER (ESTT)

Encls: as Above:
Endst: No & Date Even:

Copy is forwarded for information to P.S to Secretary, Minerals Development Department.

Mian Hussain Din
SECTION OFFICER (ESTT)

Ann - J 247
(16)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 8th December, 2014.

NOTIFICATION

No.SOE(MDD)/1-5/2009.- Sanction is hereby accorded to the grant of 365 days leave as Leave Preparatory to Retirement (LPR) in respect of Mr. Muhammad Shoab, Deputy Director Exploration (BPS-18), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 08.12.2014 to 07.12.2015 (AN).

2. The officer has completed the qualifying service for pension and as such he is allowed to proceed on premature retirement.

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

Encls: No.SOE(MDD)/1-5/2009 ^{22/15} Dated Peshawar the, 8th December, 2014.

Copy is forwarded to :-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w/r to his letter No14465/9-PF-8(24)DGMM/Admn dated 04.12.2014.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
4. The officer concerned.

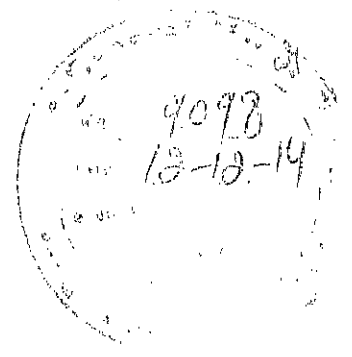
12/12/14

ADA

12/12/14

EA/114

(SAKHI UR REHMAN)
Section Officer (Estt.)



The Secretary,
Mineral Development Department,
Government of Khyberpakhtunkhwa,
Peshawar.

(through proper channel)

Subject: Application for withdrawal of leave preparatory to retirement (LPR)/ option for voluntary retirement

Sir,

I had applied for premature retirement after availing the LPR for one year w.e.f. 08-12-2014 to 07-12-2015. The application was approved and notification was issued accordingly.

2. It is submitted that the reason for applying LPR was to attend to some domestic problems requiring my urgent attention. Now I intend to withdraw the application for LPR followed by voluntary retirement. Under the Government instructions, option to voluntary retirement/ LPR can be withdrawn before the date of proposed retirement (copy attached).

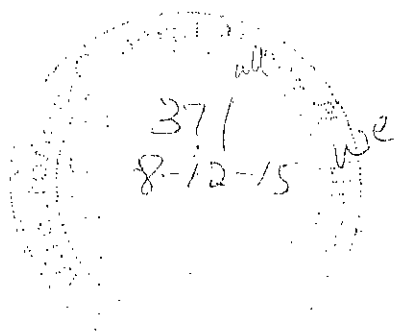
3. It is therefore humbly requested that my request for voluntary retirement as well as availing of LPR may be treated as withdrawn and consequently, the LPR already availed by me may kindly be converted into normal leave on full pay while the remaining period of leave may be cancelled, allowing me to resume my position and perform duties till attaining the age of superannuation.

Dated: 04-12-2015

M-360 04-12-2015
(Muhammad Shouib)
Deputy Director (Exploration)
D.G.M.M

AD Act
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AD Act
AD Act

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AD Act





Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated: 27th January, 2016

NOTIFICATION

No. SO (E)/MDD/2-3/ 2015: In pursuance of Section 8(5) of the Khyber Pakhtunkhwa Civil Servants Act 1973, the final seniority of the Deputy Directors (Exploration) (BPS-18) of the Directorate General of Mines and Mineral Khyber Pakhtunkhwa as stood on 31.05.2015 is notified as detailed below

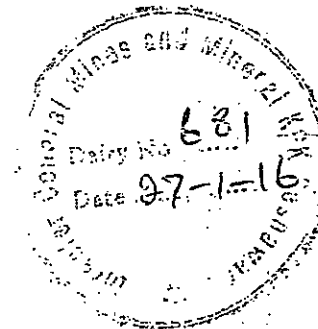
Seniority No.	Name	Academic Qualification	Date of birth	Domicile	Date of 1st Entry into Government service	Date of appointment/promotion to their present grade	Remarks
✓ 1	Muhammad Shoaib	B.Sc (Mining Engineering)	28.01.1953	Peshawar	27.09.1982	07.05.2013	
2.	Mr. Aurangzeb	B.Sc (Mining Engineering)	11.10.1955	Swabi	07.04.1984	23.02.2010	

Secretary to,
Govt. of Khyber Pakhtunkhwa,
Minerals Dev. Department

Endst: No & Date even: /5004-10

Copy forwarded to:

1. Secretary to Governor Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
3. P.S to Minister for Minerals Development Department.
4. P.S to Chief Secretary, Khyber Pakhtunkhwa.
5. P.S to Secretary Minerals Development Department.
6. Director General Mines & Minerals, Khyber Pakhtunkhwa Peshawar.
- ✓ 7. Officers concerned.



Sakhi Ur Rehman
Section Officer (Estt.)

... judgment/order dated 14...
... vide order
... your representative to get...
... and other relevant records



274
18
IV

Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated Peshawar, 03rd August, 2016

NOTIFICATION

No. SO (E)/MDD/1-5/ The Competent Authority, on the recommendations of the Provincial Selection Board, is pleased to promote Mr. Aurang Zeb, Deputy Director Exploration (BPS-18) (Presently on LPR) to the post of Director Exploration (Minerals) (BPS-19) in the Directorate General Mines and Minerals Khyber Pakhtunkhwa Peshawar, on regular basis, with immediate effect.

The officer, on promotion will remain on probation till his retirement from service w.e.f 10-10-2016 in terms of Section 6 (2) of Khyber Pakhtunkhwa, Civil servant, Act 1973 read with Rule-15 (1) of Khyber Pakhtunkhwa Civil servant (Appointment, Promotion and Transfer) Rules, 1989.

/

SECRETARY

Ends: No. SO (E)/MDD/1-5 /2439

Dated Peshawar the, 3rd August, 2016.

Copy forwarded for information and necessary action to:

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Director General Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
3. PS to Secretary Minerals Development Department Peshawar.
4. The Manager Government Printing Press for publication in next issue of Government Gazette.
5. Officer Concerned
6. Office order/ personal file

T. M. S. F.

Rehan Gul Khattak
Section Officer (Estt :)

IMMEDIATE

279

Add. Secy. D. No. 23/6
Dated 15-11-2019
Minerals Dev. Department



**GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)**

No. SO (O&M)/E&AD/10-1/2019
Dated Peshawar, the 13th November, 2019

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department.

Mineral Dev: Deptt: (KPK)

Secy: Diary No. 8217.....

Date 14.11.2019.....

Subject: - **REQUEST FOR PROFORMA PROMOTION.**

Dear Sir,

I am directed to refer to your department letter No. SO(E)/MDD/1-2/P-F/200/11987-88 dated 21.10.2019 on the subject cited above and to state that the subject case is sub-judice in the Supreme Court of Pakistan and interpretation of Court judgment is involved, therefore, the instant case may be taken up with Law Department for opinion, please.

→ P-878/c

Yours faithfully,

(WAJID ALI KHAN)
SECTION OFFICER (O&M)

Copy to:-

1. PA to Additional Secretary (Regulation-II), Establishment Department.
2. PA to Deputy Secretary (Policy), Establishment Department.

SECTION OFFICER (O&M)

AS
14/11

SO(E)
15/11/19
P.U.
SA
18/11



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO(E)/MDD/1-2/P.F/2009
Peshawar, the November 19, 2019

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department.

113549-50

→ P-289/c

Subject: **REQUEST FOR PROFORMA PROMOTION.**

Dear Sir,

I am directed to refer to the subject noted above and to state that one Mr. Muhammad Shoaib, while working as Deputy Director (BPS-18) in Directorate General (Mines & Minerals), had proceeded on LPR w.e.f 08.12.2014 to 17.12.2015 and Pre-mature retirement vide Notification dated 08.12.2014 (**Annex-I**). However, before expiry of the period of LPR, he submitted an application to the Secretary Minerals Development Department requesting therein that Notification of his LPR and Pre-mature retirement may be withdrawn (**Annex-II**) supporting his request by the instructions contained in the Finance Division's Government of Pakistan circular dated 06.10.2015 (**Annex-III**).

2. The case was previously referred to Establishment Department for advice as to whether request of the officer was acceptable (**Annex-IV**) and the Establishment Department informed that the matter may be taken up with the Finance Department (**Annex-V**). Accordingly, on the request of this Department, the Finance Department advised that the case may be decided in light of Finance Department's circular letter dated 01.10.1981 (**Annex-VI**). Aggrieved with this, Mr. Muhammad Shoaib filed Service appeal No.449/2016 in the Khyber Pakhtunkhwa Service Tribunal, this time requesting for grant of promotion to BPS-19 in light of the instructions contained in the Establishment Department's Circular Letter No. SOR-VI/E&AD/1-16/2011 dated 17.03.2014 (**Annex-VII**), The Khyber Pakhtunkhwa Service Tribunal accepted appeal partially in favor of the appellant, operating part of the judgment is as under (**Annex-VIII**):

"The present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period."

3. The Department has filed CPLA in the Supreme Court of Pakistan against the said judgment of the Service Tribunal and the same is pending for the fixation of date for hearing.

4. It is further stated that the post of Director (Exploration) BPS-19 (against which promotion has been sought) had fallen vacant on 27-04-2015 on the retirement of its incumbent i.e. during the period of LPR of the applicant (w.e.f 08-12-2014 to 17-12-2015).

5. In view of the above, it is requested that the Law Department may tender advice as to whether Mr. Muhammad Shoaib, Ex-Deputy Director (BPS-18), Directorate General, Mines & Minerals can be considered for proforma promotion to BPS-19 in light of the judgment of the Service Tribunal and instructions contained in the Establishment Department Circular No.SOR-VI/E&AD/1-16/ 201, dated 17.03.2014 at this stage.

6. A copy of Establishment Department letter No.SO(O&M)/E&AD/10-1/2019, dated 13th November, 2019 is also enclosed as (Annex-IX), advising this Department that the case may be taken up with Law Department.

Yours faithfully,

Mian Hussain Din
(Mian Hussain Din)
SECTION OFFICER (ESTT)

Encls: as Above:
Endst: No & Date Even:

Copy is forwarded for information to P.S to Secretary, Minerals Development Department.

Danish
SECTION OFFICER (ESTT)



Government of Khyber Pakhtunkhwa
Law, Parliamentary Affairs &
Human Rights Department

282

No. SO(OP-I)/LD/5-6/2012-VOL-VI/21023-25
Dated: Pesh: the 25 November, 2019

To

The Secretary to Government of Khyber Pakhtunkhwa,
Mineral Development Department.

Mineral Dev. Deptt: (KPK)

Attention: Section Officer (Estt)

Secy: Diary No. 8359..

Date.. 26.11.2019.....

Subject: REQUEST FOR PROFORMA PROMOTION

Dear Sir,

I am directed to refer to your department's letter No. SO(E)/MDD/1-2/P.F/2009 dated 19.11.2019 on the subject noted above and to state that the Administrative Department has asked for interpretation of judgment of Service Tribunal in Service Appeal No. 449/2016 while enclosed the judgment of Service Appeal No. 1147/2013.

2. It is, therefore, requested that the Administrative Department may provide the following information in order to proceed further in the matter:-

- i. Departmental proposition involved in the matter;
- ii. Copy of Service Appeal No. 449/2016;
- iii. Copy of Judgment in Service Appeal No. 449/2016.

Yours faithfully,

Section Officer (Opinion-I)

Endst: of even No. & date.

Copy forwarded for information to the:-

1. PS to Secretary, Law Department.
2. PA to Additional Secretary (Opinion).

Section Officer (Opinion-I)

Add. Secy. D. No. 2435
Dated 29-11-2019
Minerals Dev. Department

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27/11/19

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S.O (B)
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records to date on
priority
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25-11-19

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SA
26/11



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO(E)/MDD/1-2/P.F/2009
Peshawar, the December 05, 2019

14614-15

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department.

Subject: **REQUEST FOR PROFORMA PROMOTION.**


Dear Sir,

I am directed to refer to the Law Department's letter No.SO(OP-I)/LD/5-6/2012-VOL-VI/21023-25 dated 25.11.2019, on the subject noted above and to enclose copies of the following documents for further necessary action as desired, please.

- i. Service Appeal No. 449/2016.
- ii. Judgment in Service Appeal No. 449/2016.

2. Moreover, request of the ex-officer for promotion seems to be covered under the instructions contained in the Establishment Department Circular Letter No. SOR-VI/E&AD/1-16/2011 dated 17.03.2014 (copy enclosed).

Yours faithfully,


(Mian Hussain Din)
SECTION OFFICER (ESTT)

Encls: as Above:
Endst: No & Date Even:

Copy is forwarded for information to P.S to Secretary, Minerals Development Department.

SECTION OFFICER (ESTT)

o/c



232

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO(E)/MDD/1-2/P.F/2009
Peshawar, the August 26, 2019

/ 9902-03

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Subject: **REQUEST FOR PROFORMA PROMOTION.**

Dear Sir,

I am directed to refer to the subject noted above and to state that one Mr. Muhammad Shoaib, while working as Deputy Director (BPS-18) in Directorate General (Mines & Minerals), had proceeded on LPR w.e.f 08.12.2014 to 17.12.2015 and Pre-mature retirement vide Notification dated 08.12.2014 (**Annex-I**). However, before expiry of the period of LPR, he submitted an application to the Secretary Minerals Development Department requesting therein that Notification of his LPR and Pre-mature retirement may be withdrawn (**Annex-II**) supporting his request by the instructions contained in the Finance Division's Government of Pakistan circular dated 06.10.2015 (**Annex-III**).

2. The case was previously referred to Establishment Department for advice as to whether request of the officer was acceptable (**Annex-IV**) and the Establishment Department informed that the matter may be taken up with the Finance Department (**Annex-V**). Accordingly, on the request of this Department, the Finance Department advised that the case may be decided in light of Finance Department's circular letter dated 01.10.1981 (**Annex-VI**). Aggrieved with this, Mr. Muhammad Shoaib filed Service appeal No.449/2016 in the Khyber Pakhtunkhwa Service Tribunal, this time requesting for grant of promotion to BPS-19 in light of the instructions contained in the Establishment Department's Circular Letter No. SOR-VI/E&AD/1-16/2014 dated 17.03.2014 (**Annex-VII**), The Khyber Pakhtunkhwa Service Tribunal accepted appeal partially in favor of the appellant, operating part of the judgment is as under (**Annex-VIII**):

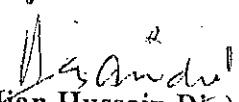
"The present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period."

3. The Department has filed CPLA in the Supreme Court of Pakistan against the said judgment of the Service Tribunal and the same is pending for the fixation of date for hearing.

4. It is further stated that the post of Director (Exploration) BPS-19 (against which promotion has been sought) had fallen vacant on 27-04-2015 on the retirement of its incumbent i.e. during the period of LPR of the applicant (w.e.f 08-12-2014 to 17-12-2015).

5. In view of the above, it is requested that the Establishment Department may tender advice as to whether Mr. Muhammad Shoaib, Ex-Deputy Director (BPS-18), Directorate General, Mines & Minerals can be considered for proforma promotion to BPS-19 in light of the judgment of the Service Tribunal and instructions contained in the Establishment Department Circular No.SOR-VI/E&AD/1-16/ 201, dated 17.03.2014 at this stage.

Yours faithfully,


(Mian Hussain Din)
SECTION OFFICER (ESTT)

Encls: as Above:

Endst: No & Date Even:

Copy is forwarded for information to P.S to Secretary, Minerals Development Department.

SECTION OFFICER (ESTT)





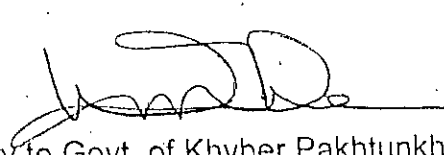
GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 8th December, 2014.

NOTIFICATION

No.SOE(MDD)/1-5/2009.- Sanction is hereby accorded to the grant of 365 days leave as Leave Preparatory to Retirement (LPR) in respect of Mr. Muhammad Shoab, Deputy Director Exploration (BPS-18), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 08.12.2014 to 07.12.2015 (AN).

2. The officer has completed the qualifying service for pension and as such he is allowed to proceed on premature retirement.

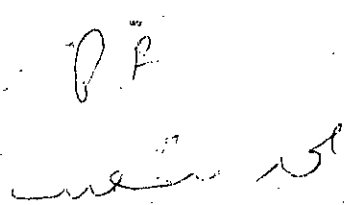

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

Ends: No.SOE(MDD)/1-5/2009 ³⁸¹⁵⁻¹⁸ Dated Peshawar the, 8th December, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w/r to his letter No14465/9-PF-8(24)DGMM/Admn dated 04.12.2014.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
4. The officer concerned.


(SAKHI UR REHMAN)
Section Officer (Estt.)



11 Annex-2
112

The Secretary,
Mineral Development Department,
Government of Khyberpakhtunkhwa,
Peshawar.

(through proper channel)

Subject: Application for withdrawal of leave preparatory to retirement (LPR)/ option for voluntary retirement

Sir,

I had applied for premature retirement after availing the LPR for one year w.e.f. 08-12-2014 to 07-12-2015. The application was approved and notification was issued accordingly.

2. It is submitted that the reason for applying LPR was to attend to some domestic problems requiring my urgent attention. Now I intend to withdraw the application for LPR followed by voluntary retirement. Under the Government instructions, option to voluntary retirement/ LPR can be withdrawn before the date of proposed retirement (copy attached).

3. It is therefore humbly requested that my request for voluntary retirement as well as availing of LPR may be treated as withdrawn and consequently, the LPR already availed by me may kindly be converted into normal leave on full pay while the remaining period of leave may be cancelled, allowing me to resume my position and perform duties till attaining the age of superannuation.

Dated: 04-12-2015

M. Shoib 04-12-2015
(Muhammad Shoib)
Deputy Director (Exploration)
D.G.M.M.

Copy is forwarded to the worthy
Mineral Development Department.

Secretary to Govt. of Khyber Pakhtunkhwa

M. Shoib
(Muhammad Shoib)
Deputy Director (Exploration)
D.G.M.M.

No.F.1(1)R-4/2007-Vol-II(Pt)

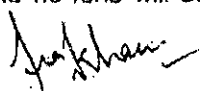
Islamabad October 6, 2015.

OFFICE MEMORANDUM

Subject: **CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/
RETIREMENT AFTER SANCTION/NOTIFICATION.**

The undersigned is directed to refer to Finance Division's O.M.No.F.1(1)R-4/2007- (Vol.II) dated 17-11-2011 on the above subject and to state that it has been decided in consultation with Establishment Division that a Government Servant can withdraw option of voluntary retirement, during the period for which encashment has been applied/granted, subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period;
- iii. Later on, on attaining the age of superannuation, if he /she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he /she will be allowed encashment of LPR in toto.

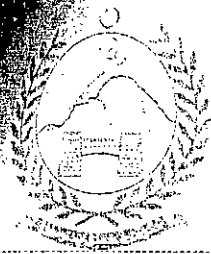

(Myra Javid Khan)
Section Officer (R-4)
Tel:9245872

All Ministries/Division,

Office of the Military Accountant General
Mr. Maqbool Hussain Raja,
Accounts Officer,
Government of Pakistan,
Islamabad.

w.r.t their U.O.No.492/AT/PC/4890
XVIII/Part dated 20-11-2014.

✓
Copy to Web-master Mr. Faheem Anwar, Finance Division.



GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT
Attached Departments Complex Khyber Road Peshawar Cantt

Ann-4
115

No.SO(Estt)/MDD/1-2/2009/4073.
Dated Peshawar, the December 08, 2015

The Secretary,
Govt: of Khyber Pakhtunkhwa,
Establishment Deptt: Peshawar.

Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR)/OPTION FOR VOLUNTARY RETIREMENT.

R/Sr.

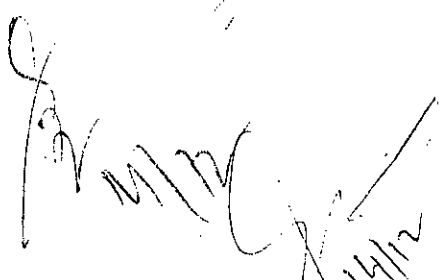
I am directed to refer to the subject noted above and to enclose herewith copy of an application of Mr. Muhammad Shoaib Deputy Director (BPS-18) Directorate General Mines and Minerals Khyber Pakhtunkhwa and to state that the officer was appointed as Assistant Director (BPS-17 on 13.10.1982. He after rendering 32 years one month and 24 days service requested for the grant of 65 days LPR w.e.f 03.12.2014 to 07.12.2015) which was accordingly sanctioned (Copy enclosed). The officer before expiry of LPR (four days before expiry of LPR) requested on 04.12.2015 for withdrawal of his application and intimated that LPR already availed by him may be converted into leave with full pay and allow him to resume his duties till attaining the age of superannuation i.e 27.01.2018.

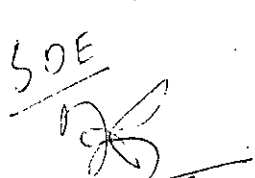
In view of above, it is requested that this department may please be bothered with advice of the Establishment Department as to whether an officer can opt for cancellation of his LPR or the Govt: alone has the discretion to recall someone from LPR.

An early advice in the matter would be deeply appreciated.

Yours faithfully


(Sakhi-Ur Rehman)
SECTION OFFICER (E)



SOE




Anx - 5
121

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO (E)/MDD/1-2/ 2009 / 6094
Dated Peshawar, 17th February, 2015

To,

The Secretary to Govt of,
Khyber Pakhtunkhwa,
Finance Department, Peshawar.

Subject: **APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.**

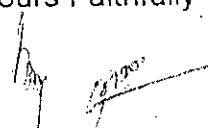
R/Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of an application of Mr. Muhammad Shoaib Deputy Director (BPS-18) Directorate General Mines & Minerals, Khyber Pakhtunkhwa and to state that the officer was appointed as Assistant Director (BPS-17) on 13-10-1982. He after rendering 32 years one month and 24 days service requested for the grant of 365 days LPR w.e.f 08-12-2014 to 07-12-2015) which was accordingly sanctioned (copy enclosed). The officer before expiry of LPR (four days before expiry of LPR) requested on 04-12-2015 for withdrawal of his application and intimated that LPR already availed by him may be converted to into leave with full pay and allow him to resume his duties till attaining the age of superannuation i.e. 27-01-2018. The case was accordingly taken up with the Establishment Department for advice. The advice of Establishment Department contained in their letter No. SO (O&M)E&AD/10-1/2015 dated 10-02-2016 is enclosed.

In view of above it is requested that this department may please be favoured with advice of the Finance Department as to whether an officer can opt for cancellation of his LPR or the Govt. alone has the discretion to recall someone from LPR.

An early advice in the matter would be deeply appreciated.

Yours Faithfully


Sakhi Ur Rehman
Section Officer (Estt :)
Minerals Dev. Department

V-8
Prd - 6 (21) - 138

No. PD-SOSH.III/3-02/81
Dated Peshawar, the 1st October, 1981

GOVERNMENT OF NWFP,
FINANCE DEPARTMENT.

The Secretary to Government,
Finance Department, Peshawar:

1. All Administrative Secretaries to Govt. of NWFP.
2. All Heads of Attached Departments NWFP.
3. All Commissioners of Divisions in N.W.F.P.
4. All Deputy Commissioners/Political Agents in NWFP.
5. All District and Session Judges in N.W.F.P.
6. The Registrar, Peshawar High Court, Peshawar.
7. The Chairman, NWFP Public Service Commission, Peshawar.
8. The Chairman, NWFP Service Tribunal, Peshawar.

WITHDRAWAL OF APPLICATION FOR VOLUNTARY RETIREMENT
FROM GOVERNMENT SERVICE AFTER COMPLETING 25 YEARS
QUALIFYING SERVICE FOR PENSION.

I am directed to refer to the subject noted above and to
state that according to paragraph 6 of the former Government of West
Pakistan Finance Department letter No. SO(SH)-V-257/67, dated 27.4.1967
subject to the provisions of the Essential Service Maintenance Act,
all Government Servants shall have the right to retire on a retiring
allowance after completing 25 years qualifying service; provided that a
Government Servant, who intends to retire before attaining the age of
superannuation shall, at least three months before the date on which
he intends to retire, submit a written intimation to the authority
which appointed him, indicating the date on which he intends to retire.
Such an intimation, once submitted, shall be final and shall not be
allowed to be modified or withdrawn.

In pursuance of Establishment Division, O.M.No. 25/2/81 CV
dated 12th April, 1981 as accepted by the Government of N.W.F.P.
Finance and General Administration Department vide letter No. SO(SH)
(25-2/79 (Vol:II), dated 12th August, 1981; it has been decided that
the words "Such an intimation once submitted, shall be final and shall
not be allowed to be modified or withdrawn" occurring in paragraph 6 of
above mentioned letter shall be deleted and substituted by the
following words:-

"If a Government servant withdraws his application for
premature retirement or modifies the date of retirement,
before its acceptance by the competent authority, the
application or the date of retirement shall be deemed to
have been withdrawn or modified as the case may be."

Your obedient servant,

(Signature)
REGIONAL SECRETARY-I
FINANCE DEPARTMENT

(Handwritten notes)
Attention
Er-rory
1/10/81

A

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Anex-7

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(15)

Government of Khyber Pakhtunkhwa
Establishment Department
(Regulation Wing)
No. SOR-VI/E&AD/1-16/2011
Dated Peshawar, the, 17th March, 2014

To

1. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject:- AMENDMENT IN KHYBER PAKHTUNKHWA CIVIL SERVANTS PROMOTION POLICY (PROMOTION DURING LPR).

Dear Sir,

I am directed to refer to the subject noted above and to state that under the existing policy, there is no provision for promotion of officer/officials who are on LPR. The promotion policy has been reviewed and the competent authority has been pleased to direct to add the following provision therein:-

"LPR is one of the types of leave which a government servant is entitled. As he continues to be government servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR".

These changes will take immediate effect and past cases under existing policy shall not be re-opened.

Yours faithfully
SD/-
(QURRAT-UL-AIN)
Section Officer (REG-VI)

Endst No. & date even.

Copy forwarded to:

1. The Registrar Peshawar High Court, Peshawar.
2. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
4. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.

Annex - B

F
229

THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.449/2016

Date of Institution ... 26.04.2016
Date of Decision ... 17.01.2018



Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, Khyber Pakhtunkhwa.

... (Appellant)

VERSUS

The Secretary Government of Khyber Pakhtunkhwa, Mines & Mineral
Development Department, Peshawar & 02 others.

(Respondents)

Mr. Saad Ullah Khan Marwat,
Advocate

For appellant.

Mr. Muhammad Jan
Deputy District Attorney

For respondents.

MR. GUL ZIAB KHAN

MEMBER

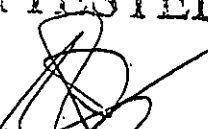
MR. MUHAMMAD HAMID MUGHAL

MEMBER

JUDGMENT

GUL ZIAB KHAN, MEMBER. The aforesaid appeal dated 26.04.2016 has been lodged by Muhammad Shoaib, Ex-Deputy Director Exploration, hereinafter referred to as the appellant, under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein the appellant has impugned the office order dated 29.03.2015 pertaining to cancellation/withdrawal of LPR and voluntary/pre-mature retirement.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

matter was taken up with the Finance Department and Establishment Department and was ultimately regretted and the appellant was informed accordingly.

5. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

6. It is an admitted fact that under the rules, the option for Leave Preparatory Retirement/Voluntary/Premature Retirement attains finality the moment when it is accepted by the competent authority and that it can only be withdrawn/cancelled/ altered through another application, well before its formal acceptance by the competent authority. In the instant case, the appellant has applied for its cancellation/withdrawal on 4.12.2015 i.e only when four days were left to maturity/completion of the LPR period, which is not covered under the rules. However in such an eventually, the incumbent can avail the chance of getting promotion to next higher post in case of availability of post.

7. As a sequence to above, the present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.01.2018

Muhammad Hamid Mughal

(Muhammad Hamid Mughal)
MEMBER

Copy
[Signature]
MEMBER

[Signature]
(Gul Zeb Khan)
MEMBER

DS (Admn) M.M.D

276

Date: 12/2/2016



DS (Admn) M.

D.No.....

Date.....

120

GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SO(O&M)E&AD/10-1/2015
Dated Peshawar, the 10th February, 2016

To

The Secretary to Govt. Khyber Pakhtunkhwa,
Minerals Development Department.

Mineral Dev: Deptt: (KPK)

Secy: Diary No: 313

Date: 12/2/16

Subject:

APPLICATION FOR WITHDRAWAL OF LPR/OPTION FOR VOLUNTARY
RETIREMENT.

Dear Sir,

I am directed to refer to your department letter No. SO(Estt)MDD/
1-5/2009/4073 dated 08.12.2015 on the subject captioned above and to say that the LPR
is covered under Revised Leave Rules, 1981, which is the domain of Finance Department,
it is, therefore, requested that the subject case may be taken with Finance Department,
please.

Yours faithfully,

[Signature]
SECTION OFFICER (O&M)

Copy to:-

PS to Secretary, Establishment Department.

[Signature]
SECTION OFFICER (O&M)

2724
12-02-076

[Handwritten signatures and initials]



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO (E)/MDD/1-2/2009 / 6488
Dated Peshawar, the 7th March, 2016

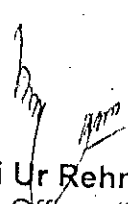
To,

The Director General,
Mines & Minerals,
Khyber Pakhtunkhwa
Peshawar.

**Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.**

I am directed to refer to your letter No. 591/9-P-8(24) DGMM/Admn dated 19-01-2016 on the subject noted above and to enclose herewith a copy of Finance Department letter No. SO (FR)/FD /5-92/2015/Vol-I dated 25-02-2016 alongwith its enclosure for information and further necessary action.

Encls: As above.


Sakhi Ur Rehman.
Section Officer (Estt :)
Minerals Dev: Department



16

205

GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 19th June, 2014.

NOTIFICATION

No.SOE(MDD)/1-12/2003. - Sanction is hereby accorded to the grant of 312 days leave as Leave Preparatory to Retirement in respect of Mr. Shakirullah, Director Exploration (BPS-19), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 19.06.2014 to 26.04.2015.

2. The date of birth of the officer is 28.04.1955 as such he will retire from government service w.e.f 27.04.2015 (F.N).

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

Ends: No.SOE(MDD)/1-12/2003


Dated Peshawar the, 19th June, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister for Minerals Development, Khyber Pakhtunkhwa.
4. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
5. The officer concerned.

(SAKHI ULLAH REHMAN)
Section Officer (Estt.)

Attested by

// 



GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

No. SO-Litigation (MMD)/1-750/2016
Dated Peshawar, the January 10, 2020

156-98

To,

The Director General,
Mines & Minerals,
Khyber Pakhtunkhwa Peshawar.

Subject:-

EXECUTION PETITION NO. 110/2018 IN SERVICE APPEAL NO. 449/2016
TITLED MUHAMMAD SHOAB V/S GOVT. OF KHYBER PAKHTUNKHWA.

Dear Sir,

I am directed to refer to your letter No. 467/DGMM/Admin EP No. 110/2018 dated 07.01.2020 on the subject noted above and to enclose here-with a copy of letter No. SO(OP-1)/LD/5-6/2012-Vol-VI dated 26.12.2019, received from Law, Parliamentary Affairs and Human Rights Department Khyber Pakhtunkhwa for presenting before the Khyber Pakhtunkhwa Service Tribunal on the next date of hearing.

Encls: as above

Supra-I supra DA-I R Peshawar 15/1/2020

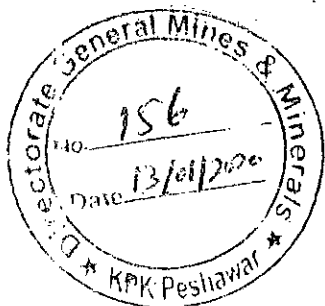
Yours faithfully,

[Signature]
Section Officer (Litigation)
Mineral Dev: Department

C.c:-

1. District Attorney Peshawar.
2. PS to the Secretary, Mines and Minerals Development Department.

Section Officer (Litigation)



ADG End 13/1

DD (Admin)

16-1-20

14-1-20

AD/AD

[Handwritten notes]



Government of Khyber Pakhtunkhwa
Law, Parliamentary Affairs &
Human Rights Department

72
284

No. SO(OP-I)/LD/5-6/2012-VOL-VI 22413-15
Dated: Pesh: the 26-12 December, 2019

2849
27-12-2019
Minerals Dev. Dept. Government

To

The Secretary to Government of Khyber Pakhtunkhwa,
Mineral Development Department.

Mineral Dev. Deptt: (KPK)
Secy: Diary No. 8781...
Date: 27.12.2019

Attention: Section Officer (Estt)
Subject: REQUEST FOR PROFORMA PROMOTION

Dear Sir,

→ P-283/C

I am directed to refer to your department's letter No. SO(E)/MDD/1-2/P.F/2009 dated 05.12.2019 on the subject noted above and to state that after examining the Service Tribunal judgment dated 17.01.2018 in Service Appeal No. 449/2016 wherein the Learned Service Tribunal directed the official respondents to consider the appellant for proforma promotion during the LPR period, if a post for promotion was available during the said period. Hence, in case of availability of promotion post during the period of LPR, the Promotion Selection Board (PSB) may consider the appellant for proforma promotion subject to final decision of Supreme Court of Pakistan.

2. Beside the above the Administrative Department may file an early hearing application in the Supreme Court and may endeavor to obtain the stay order.

Yours faithfully,

N Su
26.12.19

Section Officer (Opinion-I)

Endst: of even No. & date.

Copy forwarded for information to the:-

1. PS to Secretary, Law Department.
2. PA to Additional Secretary (Opinion).

Immediate
Accl. recd

SO (E)

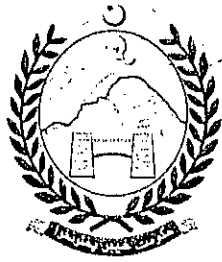
MS

27/12/19

Section Officer (Opinion-I)

Pa 30/12

Asst



**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO (E)/MDD/1-2/PF/ 2009
Dated Peshawar, June 25, 2020

To ✓
Director General, Mines & Minerals,
Khyber Pakhtunkhwa, Peshawar.

16037-38

Subject: PROFORMA PROMOTION OF MUHAMMAD SHOAIB, EX-DEPUTY DIRECTOR EXPLORATION (BPS-18) TO THE POST OF DIRECTOR EXPLORATION (BPS-19).

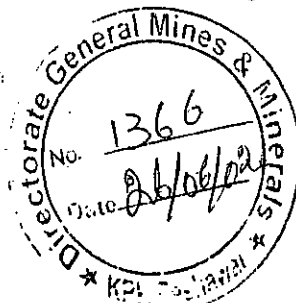
I am directed to refer to your letter No. 7453/9-pf-8(24)/DGMM/Admin dated 03/06/2020, on the subject noted above and to advice to prepare revised working paper by incorporating the following documents.

Please put in file
Smt. I D A I
01/7/20
AD(A)
ADS.

- i. An affidavit from Mr. Muhammad Shoaib, Ex-Deputy Director Exploring as per this department's letter dated 06.01.2020.
- ii. Synopsis of PER of the officer in BS-17 & 18 as well as quantification as per promotion policy 2009.
- iii. Seniority list of Deputy Director (Exploring: BS-18) of the year 2014-15.
- iv. Bio-data of the officer on the pattern of PSB-III.
- v. No disciplinary action certificate.
- vi. Present status of the CPLA in Supreme Court of Pakistan.
- vii. Pension Authority issued by Accountant General, Khyber Pakhtunkhwa, in favor of Mr. Muhammad Shoaib, Ex-Deputy Director Exploring documentary proof may attached with the working paper.
- viii. Eligible copies, duly attested, of Service Appeal, Service Tribunal Judgment, Minutes of the Scrutiny Committee in Law Department and CPLA in Supreme Court of Pakistan in the subject case may attach with working paper.
- ix. LPR/ retirement order of Shakirullah, Ex-Director Exploring and Muhammad Shoaib, Ex-Deputy Director Exploring may also annex.
- x. The working paper may also submit in hard copy and soft copy.

Moreover, if there is any doubt/ difficulty in the matter the dealing hand may be directed to attend the office of the undersigned for help and guideline, please.

Endst: No & Date even:



(Signature)
(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

Copy is forwarded to P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department for information.

R. To-day
Jabul
PA to ADG, 29/6/20

DD (Admin)

(Signature)
SECTION OFFICER (ESTT:)

SECTION OFFICER (ESTT:)



**DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA**

Attached Departments Complex Khyber Road Peshawar

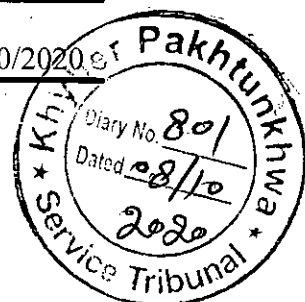
Phone: & Fax # 091-9210236

No/9124 /DGMM/Admin: EP No. 110/2018

dated: 07 /10/2020

To

✓ The Registrar, Service Tribunal,
Khyber Pakhtunkhwa, Peshawar.



Subject:

**IMPLEMENTATION REPORT IN EXECUTION PETITION NO. 110/2018
IN SERVICE APPEAL NO. 449/2016, TITLED MUHAMMAD SHOAI B V/S
GOVT: OF KHYBER PAKHTUNKHWA.**

I am directed to refer to the subject noted above and to enclose herewith "Implementation Report" (Annex-A) vide judgement of this Hon'ble Service Tribunal Court, Khyber Pakhtunkhwa, Peshawar dated: 16.07.2020 (Annex-B) for further necessary action please.

In this regard, it is stated that the instant case is pending with respondents on account of the deficiencies on behalf of petitioner, which has been fulfilled now and the case has been referred to Establishment Department for placing before the Provincial Selection Board (PSB) for its consideration vide letter No.SO(E)/MDD/1-2/PF/Muhammad Shoaib/ 9019-21 dated: 08.09.2020.

It is, therefore, requested that the fine of Rs.3,000/- may be waive off in the interest of justice as the delay is occurred in implementation of order on behalf of petitioner instead of respondents, please.

Encl: As Above.

**Assistant Director (Admin)
HQ Office Peshawar**

Endst. No. _____/DGMM/Admin: EP No. 110/2018

dated: /10/2020

Copy is forwarded to:

1. PA to Director General Mines and Minerals Khyber Pakhtunkhwa.
2. The Deputy Director Litigation H/Q Office Peshawar.
3. Section Officer (Estt:) Minerals Dev: Deptt: Khyber Pakhtunkhwa Peshawar.
4. Section Officer (Litigation) Minerals Dev: Deptt: Khyber Pakhtunkhwa Peshawar.
5. Master File/DGMM/Admn/2020.

**Assistant Director (Admin)
HQ Office Peshawar**

Put up to the court with relevant execution petition.

Reader

8/10/2020



673

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

No. SO (E)/MDD/1-2/PF/Muhammad Shoaib
Dated Peshawar, September 08, 2020

/ 90/19-21

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Attention:- Section Officer (PSB)

Subject: **PROFORMA PROMOTION OF MUHAMMAD SHOAIB, EX-DEPUTY
DIRECTOR EXPLORATION (BPS-18) TO THE POST OF DIRECTOR
EXPLORATION (BPS-19).**

Dear Sir,

I am directed to refer to the subject noted above and to state that there is one (01) post of Director Exploration Minerals (BPS-19) in the Directorate General of Mines & Minerals Department (**Annex-I of the Working Paper**), which had fallen vacant due to retirement of Mr. Shakirullah Director Exploration Minerals (BPS-19) with effect from 28.04.2015 (**Annex-II**).

2. It is submitted that One Muhammad Shoaib, Deputy Director Exploration (BS-18) had proceeded on LPR w.e.f 08-12-2014 to 07-12-2015 and retired from Govt. service w.e.f 08-12-2015 vide Notification dated 08-12-2014 (**Annex-III**). During his LPR period, the post of Director Exploration (Minerals) (BS-19) fell vacant and he applied for withdrawal of his LPR which was rejected being not covered under the rules / policy of the Provincial government at that time. Aggrieved by this, he filed a Service Appeal in Khyber Pakhtunkhwa, Service Tribunal for withdrawal of his LPR and his promotion to the post of Director Exploration (BS-19) (**Annex-IV**). The Tribunal decided the said Service Appeal with the directions that the appeal is partially accepted and respondents are directed to consider him for proforma promotion to the next higher post in case any post was available for his promotion during his LPR period, vide judgment dated 17-01-2018 (**Annex-V**). The post of Director Exploration (BS-19) was vacant w.e.f 28-04-2015 due to retirement of Mr. Shakirullah, Director Exploration (Minerals) (BS-19) vide Notification dated 19-06-2014 (**Annexure-II**) i.e. during the period of LPR of the appellant.

3. This Department approached Law Department for filing of CPLA in the Supreme Court of Pakistan against the Service Tribunal judgment and the Scrutiny Committee in Law Department decided that the subject case was a fit case for filing appeal / CPLA in Apex Court vide minutes dated 22-02-2018 (**Annex-VI**). Accordingly, this Department filed CPLA vide Power of Attorney signed by all respondents available at (**Annex-VII**). Meanwhile, the petitioner filed an Execution Petition No.110/2018 in Service Tribunal and the Tribunal directed to submit implementation report in light of Service Tribunal Judgment dated 17-01-2018 (**Annex-VIII**). Next date of hearing is fixed for 08-10-2020.

674

Moreover, Law Department also advised to file an early hearing application in the Supreme Court of Pakistan and consider the appellant for proforma promotion subject to final decision of Supreme Court of Pakistan vide letter dated 26-12-2019 (Annex-IX). The case was fixed for hearing in the Service Tribunal, Peshawar on 18.08.2020, and now it has been adjourned for 08.10.2020. In this connection an affidavit has been obtained from the petitioner to the effect that if the decision of the Apex Court is arrived against him, he will have to return all the benefits on account of the said proforma promotion (Annex-X).

5. I am further directed to to enclose herewith seven (07) sets of Working Paper for Proforma Promotion of Muhammad Shoaib Ex-Deputy Director Exploration (BS-18) to the post of Director Exploration (BS-19) in the Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, for placing the same before the Provincial Selection Board for its consideration, after vetting from the Regulation Wing of Establishment Department, please.

Yours faithfully,

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT:)

Encls: as Above:

Endst: No & Date even:

Copy forwarded for information to:

1. P.S to Secretary Minerals Development Department.
2. The Director General Mines & Minerals Khyber Pakhtunkhwa w.r.t letter No.7453/9-PF-8(24)DGMM/Admn dated 03.06.2020.

SECTION OFFICER (ESTT:)

ADP

ADP
24.9.20
09/09/20

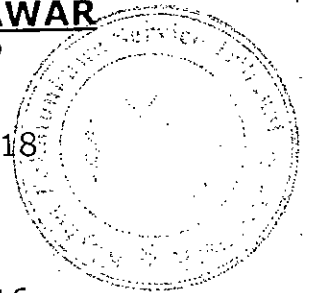
DD (Admin)



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 110/2018

Misc Pett: No. _____ /2018



IN

S.A. No. 449 / 2016

Muhammad Shoaib,
Ex-Deputy Director Exploration,
Director General, Mines & Mineral, KP

398
Date: 10/04/2018
Appellant

VERSUS

1. Secretary, Govt. of KP, Mineral Development Department, Peshawar.
2. Director General, Mines & Mineral, KP, Peshawar.
3. Chief Secretary, KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPLICATION FOR DIRECTION TO RESPONDENTS TO IMPLEMENT THE ORDER DATED 17-01-2018 OF THE HON'BLE TRIBUNAL PASSED IN APPEAL NO 449/2016 AND TO INITIATE CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS FOR NOT HONORING THE ORDER OF THE HON'BLE TRIBUNAL:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

16.07.2020

Counsel for the petitioner and Addl: AG along with Mr. Muhammad Iqbal, Supdt for respondents present.

Implementation report not submitted despite last opportunities. Representative of the respondents requested for further time. Adjournment granted subject to payment of cost of Rs. 3000/- which shall be borne by respondents from their own pockets.

Certified to be a true copy
[Signature]
PESHAWAR

Adjourned to 18.08.2020 before S.B.

[Signature]



692

**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

Dated Peshawar, February 8, 2021

/ 1567-77

NOTIFICATION

No. SO (E)/MDD/2-4/2019 The Competent Authority, on the recommendations of the Provincial Selection Board, is pleased to grant proforma promotion in favour of Muhammad Shoaib, Deputy Director Exploration (BS-18) to the post of Director (Exploration) (BPS-19) in the Directorate General Mines and Minerals Khyber Pakhtunkhwa Peshawar, on notional basis, w.e.f 07.12.2015 i.e one day before his retirement on notional basis subject to the final outcome of the CPLA in the instant case in the Hon'ble Supreme Court of Pakistan .

2. The said officer has already proceeded on premature retirement from service on his own request, vide this Department Notification No. SOE (MDD)/1-5/2009/3815-18 dated 08.12.2014.

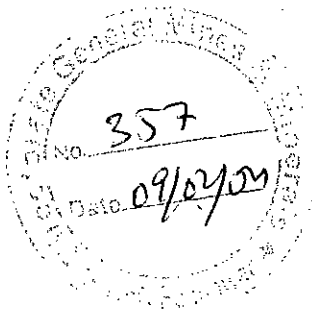
**Secretary to Govt: of Khyber Pakhtunkhwa,
Minerals Development Department**

No. SO (E)/MDD/2-4/2019

Dated Peshawar, February 8, 2021

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Directorate General of Mines, Khyber Pakhtunkhwa, Peshawar.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
4. PS to Special Assistant to Chief Minister for Mines & Minerals, Khyber Pakhtunkhwa.
5. Deputy Director (Litigation), Directorate of Mines & Minerals, Khyber Pakhtunkhwa .
6. PS to Secretary Establishment Department Khyber Pakhtunkhwa.
7. PS to Secretary Minerals Dev: Department Khyber Pakhtunkhwa.
8. Officer Concerned.
9. Manager, Government Printing Press, Khyber Pakhtunkhwa.
10. Personal Files.
11. Office Order file.



MDD
9/2/21

(Hafiz Abdul Jalil)
Section Officer (Estt.) 08/02/21

DD(Admin),
09-2-21.