

12.01.2022

Counsel for the appellant, Asif Masood Ali Shah, DDA alongwith Jamil Ahmad Qureshi, DDA for the official respondents and counsel for private respondents No. 6 to 9 present.

Learned counsel for the appellant has submitted an application seeking withdrawal of the appeal with permission to file fresh appeal.

Arguments on application have been heard and record perused.

The reason given in the application maintains that the appellant filed instant service appeal for promotion as well as preparing/framing the joint seniority on the basis of notification dated 31.12.2012. The respondent department has issued another notification dated 05.10.2021 during pendency of appeal which framed rules in violation of rights of the appellant. The copy of the notification dated 05.10.2021 was not annexed with the application but on direction, the same has been produced and placed on file. The said notification is meant to make certain amendment in appendix relating to method of recruitment and has been issued in exercise of powers conferred by sub rule (2) of Rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 by the department in consultation with the Establishment Department and the Finance Department. If the appellant is advised to challenge the said notification subject to his locus-standi and other legal requirements, he may do so on an independent legal advice but permission for filing of fresh appeal in continuation of the present appeal is not workable as interest of private respondents is also involved. Therefore, this appeal is dismissed as withdrawn. However, this order shall not be treated as impediment, if the appellant is advised to challenge the notification dated 05.10.2021 in case he is able to make out a case for fresh cause of action in accordance with the law. File be consigned to the record room.



(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

ANNOUNCED
12.01.2022

02.11.2021

Counsel for the appellant, Mr. Kabirullah Khattak,
Addl. AG for the respondents present.

The learned Member (Judicial) is on leave,
therefore, case is adjourned. To come up for arguments
on 01.12.2021 before the D.B.

01.12.2021 Due to non-availability of DB,
the case is adjourned to 07-01-2022.

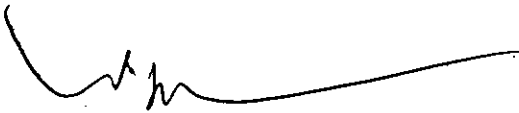

Chairman


Amir
Reader

07.01.2022

Mr. Noor Muhammad Khattak, Advocate for the appellant
present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith
Mr. Jamil Ahmed Quershi, A.D for official respondents No. 1 to 5 and
Mr. Bilal Ahmad Kakazai, Advocate for private respondents No. 6 to 09
present.

Arguments heard. To come up for order before the D.B on
12.01.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)

Chairman

06.09.2021

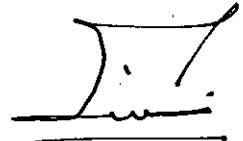
Mr. Said Khan, junior of learned counsel for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for official respondents present.

Junior of learned counsel for the appellant submitted rejoinder, copy of which handed over to learned Deputy District Attorney.

Junior of learned counsel for the appellant requested for adjournment for arguments on the ground that learned counsel for the appellant is not feeling well today. Adjourned. To come up for arguments before the D.B on 24.09.2021. In the meanwhile, the process of promotion shall not be finalized till the date fixed.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24.09.2021

Counsel for appellant present.

Muhamma Adeel Butt learned A.A.G for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 10.12.2021 before D.B. In the meanwhile, the process of promotion shall not be finalized till the date fixed.



(Rozina Rehman)
Member (J)



Chairman


08.07.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Jameel Ahmed Qurashi, Assistant Director alongwith Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 5 present. Mr. Bilal Ahmed Kakazai, Advocate, for private respondents No. 6 to 9 present.

Learned counsel for the appellant requested that time may be granted to him for submission of rejoinder. Learned counsel for private respondents No. 6 to 9 as well as learned Additional Advocate General for official respondents No. 1 to 5 are having no objection on adjournment. Adjourned. To come up for rejoinder as well as arguments before the D.B on 28.07.2021. In the meanwhile, the process of promotion shall not be finalized till the date fixed.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

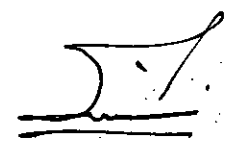
28.07.2021

Clerk of counsel for the appellant present. Mr. Jamil Ahmed Qurashi Assistant Director alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondent No. 1 to 5 for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B. on 06.09.2021. In the meanwhile, the process of promotion shall not be finalized till the date fixed.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 6747/2020

Yasir Masood VS

Govt: of KPK & others

REJOINDER ON BEHALF OF THE APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE RESPONDENTS

R/SHEWETH:
(A to J):

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Incorrect and not replied accordingly. That appellant is the employee of the respondent department since from the date of his initial appointment and is presently working as Inspector Weights and Measures in Directorate of Labour.
- 2- Not replied accordingly hence denied.
- 3- Not replied accordingly hence denied.
- 4- Incorrect and not replied accordingly. In service rules of 1989 the seniority of Assistant Director Labour and Assistant Controller Weights and Measures (BPS-17) was joint. Furthermore, the seniority of Deputy Director Labour and Deputy Controller Weights and Measures (BPS-18) was also joint. Therefore, it is clear cut discrimination and mala fide that only seniority of inspectors (W &M) and labour officers was separated. As per notification, Deputy Director Labours and Assistant Director Labours are notified as deputy and Assistant Controller Weights & Measures respectively. As per notification, Deputy Director Labours can be transferred/posted against deputy Controller Weights & Measures. As per order as labour officers also performed/performing the duties of Inspector Weight and Measure. That as per order Assistant labour officers and labour inspector also performed/performing the duties of Inspector Weight and Measure. Both the Inspector Weights and Measures and Labour Officers are promoted to same post i.e Assistant Director Labour/Assistant Controller Weights and Measures, then there is no need to issue separate seniority lists for Inspector Weights and Measures and Labour Officers. As per service rules, the seniority of Assistant Director Labour and Assistant Controller

Weights & Measures (BPS-17) is joint/combined. In the same manner Deputy Director Labour and Deputy Controller Weights & Measures (BPS-18) is also joint. On the same ground and facts the seniority of lower grade BPS-16 need to be joint/combined in order to avoid discrimination. Notifications are attached as annexure **R.**



5- Not replied accordingly hence denied.

6- Incorrect and not replied accordingly. That at the time of lodging the appeal total sanctioned posts of Inspector Weights & Measures were 26 and that of Labour Officers were only 10 but later on in the service rules of 2020, 05 females Labour Officers and 07 Social Mobilizers were also included in Labour Officers quota. The sanctioned posts of Inspector Weights and Measures are also increased from 26 to 33. (Notification attached as Annexure **R1.**

| | |
|------------------------------------|----|
| Total Inspector Weights & Measures | 33 |
| While | |
| Labour Officers | 10 |
| Females Labour Officers | 05 |
| Social Mobilizers | 07 |
| Total | 22 |

The statement of the respondents is misleading and illogical because by clubbing the seniority, share of promotion of Labour Officers to the post Assistant Director Labours will not be disturbed. Labour Officers will be promoted according to their seniority and as a result, line of promotion of Assistant Labour Officers to the post of Labour Officers against 50% quota will not be disturbed at all

7- Not replied accordingly hence denied.

8- Not replied accordingly hence denied.

GROUND:

(A to J):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless hence denied. That the inaction of the respondents by not preparing and framing joint/combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is against the Law, facts, norms of natural justice and materials on the record hence not tenable in the Eye of Law. That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973. That the respondents acted in arbitrary and

malafide manner while separating seniority lists of Inspector Weights & Measure (BPS-16) & Labour Officer (BPS-16) on the promulgation of new service rules of 2012. That the appellant has served the Department for a long period with unblemished service record and separate seniority list has lessened prospects of promotion to the post of Assistant Director Labour/Assistant Director Research, Planning and Statistics/Assistant Controller Weight and Measures (BPS-17). That act of the respondents while separating and framing the seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is against Article-38 (e) of the Constitution of Islamic Republic of Pakistan. That the appellant has been highly discriminated by the respondents while not preparing and framing joint/combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16). That act of the respondents by not preparing and framing joint/combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is against Section-8 of the Civil Servant Act 1973 read with Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer), Rule 1989. That both the cadres i.e. Labour Officers and Inspector Weights and Measures have the same job description as well as the basic pay scale is also the same and NON preparation/framing of joint seniority list for Inspector Weight & Measures (BPS-16) And Labour Officer (BPS-16) for promotion to the post of Assistant Director Labour/Assistant Director Research, Planning & Statistics/Assistant Controller Weights & Measures (BPS-17). That act of the respondent by not preparing combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is also against various judgment passed by the apex court as well as judgment passed by this Honourable Tribunal in connected Appeals No. 1411/2011, 1412/2011 & 1413/2012 Title Shamsul Islam & 2 Others VS Govt. of Khyber Pakhtunkhwa through Secretary (E&SE) Peshawar & other vide dated 01-09-2015 wherein separation of seniority list was declared illegal.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

Received Rs. 14000, (Forty thousand) on account of
cost from reader in apped no. 10926/20
Rami Murad & (6) sites.

Dated. 18.03.2021.

Afranal Khan wazir
No. 1
H/S

**LIST OF DB II CASES FIXED BEFORE JUSTICE (R) HAMID FAROOQ DURRANI
(CHAIRMAN) & MIAN MUHAMMAD MEMBER (E) KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

16/03/2021.

ARGUMENTS

| S/NO | APPEAL NO | APPELLANT NAME | DEPPT | NEXT DATE |
|------|-----------|------------------|---------|-----------|
| 1 | 673/13 | REHMAT ALI | POLICE | |
| 2 | 150/14 | DR ABDUL GHAFOOR | EDU | |
| 3 | 1333/18 | M ASIF | POLICE | |
| 4 | 165/18 | MIR FARAZ | POLICE | |
| 5 | 335/18 | M ASIF | POLICE | |
| 6 | 828/18 | KHALID KHAN | EDU | |
| 7 | 1715/19 | ATIF BANGASH | POLICE | |
| 8 | 179/19 | ZAFAR ALI | HEALTH | |
| 9 | 15/19 | DR NAWAZ | FOREST | |
| 10 | 403/19 | MUJEEB UR REHMAN | EDU | |
| 11 | 1771/19 | M TARIQ | C & W | |
| 12 | 1614/19 | M SADDIQUE | EDU | |
| 13 | 1336/19 | TAHIR JAMEEEL | FISHERY | |
| 14 | 1691/19 | NISAR AHMAD & 02 | EDU | |
| 15 | 6881/20 | JAMSHAD KHAN | POLICE | |
| 16 | 286/20 | SAMEENA SHAHEEN | EDU | |
| 17 | 331/20 | AHMAD BILOUR | POLICE | |
| 18 | 63/20 | KHANGIR | EDU | |
| 19 | 270/20 | ASIA SARDAR | EDU | |
| 20 | 6872/20 | HINA IDREES | EDU | |
| 21 | 10926/20 | RAMIZ MURAD & 06 | LABOR | |
| 22 | 11879/20 | ROHEELA SAYAL | H EDU | |
| 23 | R/A387/19 | JAMSHAD | EDU | |
| 24 | R/A243/19 | IMRAN | POLICE | |
| 25 | R/A236/19 | FALAK NIAZ | AGRI | |
| | | | | |

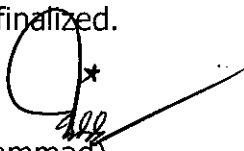
REDEAR

16.03.2021

Counsel for the appellant and Addl. AG alongwith Jamil Ahmad Qureshi, A.D (Litigation) for respondents No. 1 to 5 present.


On 12.02.2021 the official respondents were burdened with cost of Rs. 1000/- on account of non-submission of written reply/comments. On 26.02.2021, the respondents were further required to deposit Rs. 1000/- as costs, in addition to the one ordered on the previous date.

The representative of respondents No. 1 to 5 has deposited today the requisite cost and has also submitted parawise comments on behalf of the said respondents. Made part of the record. To come up for arguments on 29.04.2021. In the meanwhile the process of promotion shall not be finalized.


(Mian Muhammad)
Member (E)


Chairman

29.4.2021

Due to COVID-19, the case is adjourned to 31-8-2021 for the same. 

12.02.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned A.A.G for respondents present.

Written reply on behalf of respondents is still awaited. Representative of respondents is not in attendance. Case is adjourned on the request of learned A.A.G but on cost of payment of Rs.1000/-. To come up for written reply/comments on 26.02.2021 before S.B. In the meanwhile, process of promotion shall not be finalized till the date fixed.

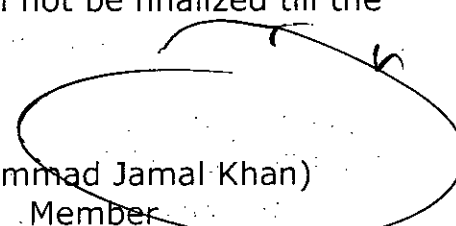


(Rozina Rehman)
Member (J)

26.02.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Muhammad Ibrar, Legal Assistant, on behalf of official respondents are also present.

Written reply on behalf of impleaded respondents has already been submitted while written reply on behalf of official respondents has not been submitted despite given of last chance and imposition of costs of Rs. 1000/-, therefore, the appeal is posted to D.B for rejoinder and arguments for 16.03.2021. In the meanwhile, process of promotion shall not be finalized till the date fixed.

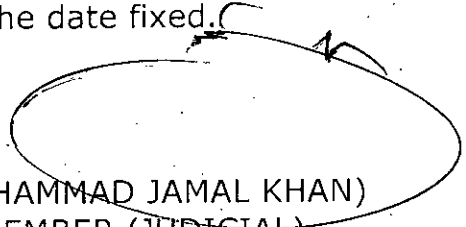


(Muhammad Jamal Khan)
Member

08.01.2021

Junior to the senior counsel is present for appellant. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sameen Shah, Senior Clerk, on behalf of official respondents are also present.


Written reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply/comments. Adjourned to 25.01.2021 on which date requisite written reply/comments shall be positively submitted by respondents. In the meanwhile process of promotion shall not be finalized till the date fixed.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

25.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Samin Shah, Senior Clerk on behalf of official respondents and junior counsel for private respondents, are also present.

Junior counsel for private respondents furnished written reply which is placed on record. Written reply on behalf of official respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Time is give but as a last chance. File to come up for written reply/comments on behalf of official respondents on 12.02.2021. In the meanwhile, process of promotion shall not be finalized till the date fixed.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

24.12.2020

Counsel for the appellant and Asstt. AG for the official respondents present.

Mr. Bilal Ahmad, Kakaizai, Advocate has submitted an application for impleadment of (1) Qaiser Alam, Labour Officer Kohat (2) Altaf Hussain, Labour Officer presently posted as Assistant Director OPS Nowshera (3) Muhammad Sharif, Labour Officer, presently posted as Assistant Director OPS Abbottabad and (4) Rizwan Zia, Labour Officer, Peshawar as respondents. Application placed on record. Learned counsel for the appellant as well as learned AAG have ~~raised~~ no objection on the impleadment.

Application is, therefore, allowed. The above named applicants are impleaded as private respondents No. 6, 7, 8 and 9, respectively. Office is required to make entry in the memo. of appeal with red ink. Counsel for the appellant is required to arrange copies of memo. of appeal alongwith complete documents for the newly impleaded respondents within 10 days.

To come up for written reply/comments of all the respondents on 08.01.2021 before S.B.



Chairman

09.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 24.12.2020 before S.B.

Appellant Deposited
Security & Process Fee

[Handwritten Signature]
09/12/20

Annexed with memo of appeal is an application for interim relief. Notice of the said application be issued to respondents. Process of promotion shall not be finalized till the date fixed.

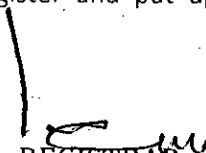

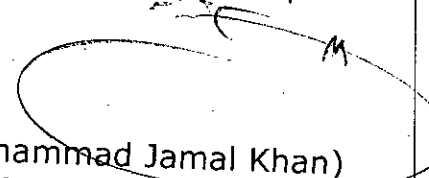
[Handwritten Signature]
(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 10747 /2020


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 14/09/2020 | <p>The appeal resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | 02.11.2020 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/11/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Nemo for appellant.</p> <p>Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned counsel for appellant is not available today. Adjourned to 05.01.2021 on which date to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (Muhammad Jamal Khan) Member (Judicial)</p> |

The appeal of Mr. Yasir Masood Inspector-Weights and Measures Labour Department received today i.e. on 31.08.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

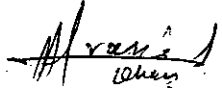
Annexure-B of the appeal is illegible which may be replaced by legible/better one.

No. 2540 /S.T,

Dt. 01-09 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.

Note ✓ *Completed and hence resubmitted.* 
Dated: 14.09.2020

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

SERVICE APPEAL NO. 10747/2020

YASIR SAMOOD

V/S

GOVT. OF KP & OTHERS

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| 4. | Notification dated 12/07/1982 | B | 8 - 14 |
| 5. | Notification dated 31/12/2012 | C | 15 - 20 |
| 6. | Departmental appeal dated 02-05-2020 | D | 21 |
| 7. | Judgment dated 01-09-2015 | E | 22 - 28 |
| 8. | Wakalat Nama | | 29 |

Dated: 31-08-2020

APPELLANT

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA
SECRETARIAT,
WARSAK ROAD, PESHAWAR
0345-9383141

Impleaded Respondents

06. Qaisar Alam, Labour Officer, Kohat

07. Atay Hussain, Labour Officer, Presently Posted

as Assistant Director, OPS, Newshera

08. Muhammad Sharif, Labour Officer, Presently Posted
as Assistant Director, OPS, Abbottabad

09. Rizwan Zia, Labour Officer, Peshawar

order
sheet
24/11/20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 10747 / 2020

Diary No. 9395

YASIR SAMOOD, Inspector Weights & Measures (BPS-16),
Directorate of Labour, Khyber Pakhtunkhwa, District KOHAT

Dated 31/8/2020

..... APPELLANT

VERSUS

- 1- Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary, Labour Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3- The Secretary (Establishment), Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 4- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director (Labour), Directorate of Labour, 3rd Floor FC Trust Building, Sunehri Masjid Road, Peshawar City.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS REGARDING NON PREPARATION/FRAMING OF JOINT SENIORITY LIST OF INSPECTOR WEIGHT & MEASURES (BPS-16) AND LABOUR OFFICER (BPS-16) FOR PROMOTION TO THE POST OF ASSISTANT DIRECTOR LABOUR/ASSISTANT DIRECTOR RESEARCH, PLANNING & STATISTICS/ASSISTANT CONTROLLER WEIGHTS & MEASURES (BPS-17) AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL DATED 02-05-2020 OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents by kindly be directed to frame/prepare joint/combine seniority list of Inspector Weight & Measure (BPS-16) & Labour Officer (BPS-16) for the purpose of promotion to the post of Assistant Director Labour/Assistant Director Research, planning & Statistics/Assistant Controller Weights & Measures (BPS-17). That the respondents may further please be directed to considered the appellant for promotion to the above mentioned post of (BPS-17) on the basis of joint seniority list. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day

Registrar

31/8/2020

Re-submitted to-day
and filed.

Registrar
31/8/2020

R/SHEWETH:
ON FACTS:

- 1- That appellant is the employee of the respondent Department since 09-01-2012 and is presently working as Inspector Weights & Measures in Directorate of Labour at District Mardan.
- 2- That right from appointment till date the appellant is performing his duty quite efficiently and up to the entire satisfaction of his superiors.
- 3- That appellant while working with the respondent Department for quite sufficient time, the respondent Department prepared Seniority List of Inspector Weights and Measures (BPS-16) for the year 2018 vide notification dated 04-01-2019 whereupon the appellant stood at serial No. 6 of the seniority List. Copy of the Seniority List is attached as **Annexure A.**
- 4- That in the year 1982 service rules for Industries, Commerce, Mineral Development, Labour and Transport Department was prepared and was notified vide notification dated 12-07-1982 which was properly published in the official Gazette on 1st December 1982 wherein in column 8 of the notification it was attracted for promotion to the post of Assistant Director Labour/Assistant Director Weight and Measures a combine seniority list of Labour Officer & Inspector Weights and Measures had to be prepared. Copy of the Notification dated 12/07/1982 is attached as **Annexure B.**
- 5- That in the year 2012 when Labour Department become a separate Department the Government of Khyber Pakhtunkhwa introduced service rule for Labour Department vide notification dated 31-12-2012 which was attracted in the official Gazette of Khyber Pakhtunkhwa on 29th January 2013 wherein in column 4 of the notification it was attracted for promotion to the post of Assistant Director Labour/Assistant Director Research, Planning and Statistics/Assistant Controller Weight and Measures (BPS-17), 30% quota is reserved for Labour Officers, Statistical Officer and Research and statistical officer & 30% quota was reserved for Inspector Weight and Measure by separating both the cadres and also seniorities. Copy of the Notification dated 31/12/2012 is attached as **Annexure C.**
- 6- That there is total sanctioned posts of 26 Inspector Weights & Measures where the total sanctioned posts of Labour Officers are 10 in number and for both the cadres 30% each of the quota has been reserved for promotion to the post Assistant Director Labour/Assistant Director Research, planning & Statistics/Assistant Controller Weights & Measures (BPS-17).

7- That feeling aggrieved the appellant filed Departmental Appeal dated 02-05-2020 for joint/combined seniority where in the appellant stated in Para-3 of the representation regarding the sanctioned strength of Labour Officers and Inspector Weights and Measures which is not responded till date. Copy of the Departmental appeal is attached as Annexure D.

8- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

A- That the inaction of the respondents by not preparing and framing joint/combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is against the Law, facts, norms of natural justice and materials on the record hence not tenable in the Eye of Law.

B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.

C- That the respondents acted in arbitrary and malafide manner while separating seniority lists of Inspector Weights & Measure (BPS-16) & Labour Officer (BPS-16) on the promulgation of new service rules of 2012.

D- That the appellant has served the Department for a long period with unblemished service record and separate seniority list has lessened prospects of promotion to the post of Assistant Director Labour/Assistant Director Research, Planning and Statistics/Assistant Controller Weight and Measures (BPS-17).

E- That act of the respondents while separating and framing the seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is against Article-38 (e) of the Constitution of Islamic Republic of Pakistan.

F- That the appellant has been highly discriminated by the respondents while not preparing and framing joint/combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16).

- G- That act of the respondents by not preparing and framing joint/combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is against Section-8 of the Civil Servant Act 1973 read with Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer), Rule 1989.
- H- That both the cadres i.e. Labour Officers and Inspector Weights and Measures have the same job description as well as the basic pay scale is also the same and NON preparation/framing of joint seniority list for Inspector Weight & Measures (BPS-16) And Labour Officer (BPS-16) for promotion to the post of Assistant Director Labour/Assistant Director Research, Planning & Statistics/Assistant Controller Weights & Measures (BPS-17)
- I- That act of the respondent by not preparing combine seniority list of Inspector Weights & Measures (BPS-16) & Labour Officer (BPS-16) is also against various judgment passed by the apex court as well as judgment passed by this Honourable Tribunal in connected Appeals No. 1411/2011, 1412/2011 & 1413/2012 Title Shamsul Islam & 2 Others VS Govt. of Khyber Pakhtunkhwa through Secretary (E&SE) Peshawar & other vide dated 01-09-2015 wherein separation of seniority list was declared illegal. Copy of the judgments dated 01-09-2015 is attached as **Annexure** **E.**
- J- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 31-08-2020

APPELLANT


YASIR SAMOOD

THROUGH:


NOOR MOHAMMAD KHATTAK

&


**MUHAMMAD MAAZ MADNI,
ADVOCATES
HIGH COURT, PESHAWAR**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. _____/2020

YASIR SAMOOD

V/S

GOVT. OF KP & OTHERS

**APPLICATION FOR RESTRAINING THE RESPONDENTS FROM
PROMOTION TO THE POST OF ASSISTANT DIRECTOR
LABOUR/ASSISTANT DIRECTOR RESEARCH, PLANNING AND
STATISTICS/ ASSISTANT CONTROLLER WEIGHT AND
MEASURES (BPS-17) TILL FINAL DISPOSAL OF THE INSTANT
APPEAL**


Respectfully Sheweth;

1. That the appellant has filed the instant service appeal in which no date has so far been fixed.
2. That the appellant has challenged the separate seniority list prepared for Labour Officer (BPS-16) & Inspector Weights and Measures (BPS-17).
3. That all the three ingredients required for the grant of status quo is in favour of the appellant.
4. That this petition may be considered as part & parcel of the in the main appeal.

It is, therefore, most humbly prayed that on acceptance of the instant petition the respondents may kindly be restrained from promotion to the post of Assistant Director Labour/Assistant Director Research, Planning And Statistics/Assistant Controller Weight & Measures (BPS-17) till final decision of the instant service appeal.

Dated: 31-08-2020

Through, Appellant


NOOR MOHAMMAD KHATTAK,
Advocate,
High Court, Peshawar

**DIRECTORATE OF LABOUR
KHYBER PAKHTUNKHWA**

ORDER

Dated Peshawar the

mn/11/235/ 136-52 : In pursuance of Section-08 of Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment) Rules 1989, with the approval of Competent Authority, Tentative Seniority List of Inspector Weights and Measures (BPS-16) Directorate of Labour, Khyber Pakhtu 2018 is hereby notified/circulated for general information. Total Sanctioned Posts of Inspector W&M=26.

| S No | Name of Officer with Qualification | Date of Birth with Domicile | Date of 1 st Entry into Govt: Service | Regular Appointment / Promotion to the Present Post | | | Present Appointment with Date | Ret |
|------|--|-----------------------------|--|---|-----|--|-------------------------------|-----|
| | | | | Date | BPS | Method of Recruitment: a) 5% on the basis of Seniority -cum- Fitness from Laboratory Assistant with eight Years Services such; and b) 95% by initial recruitment | | |
| 01 | 02 | 03 | 04 | 05 | 06 | 07 | 08 | |
| 1 | Mr. Hashmat Ali (B.Sc) | 02.04.1985 Mardan | 09.01.2012 | 09.01.2012 | 16 | By Initial | Inspector W&M 09.01.2012 | |
| 2 | Mr. Muhammah Yaqoob (M.Sc. Chemistry) | 5.04.1986 L/Marwat | 11.01.2012 | 11.01.2012 | 16 | -do- | Inspector W&M 11.01.2012 | |
| 3 | Mr. Ali Akbar (M.Sc Chemistry) | 7.2.1981 Malakand | 11.1.2012 | 11.01.2012 | 16 | -do- | Inspector W&M 11.01.2012 | |
| 4 | Mr. Muhammad Rafeeq (M.Sc Phy, B.Ed) | 06.10.1986 Swat | 10.01.2012 | 10.01.2012 | 16 | -do- | Inspector W&M 10.01.2012 | |
| 5 | Mr.Said Badshah (M.A Pol. Science, M.Sc Phy) | 02.04.1982 Bajawar Agency | 09.01.2012 | 09.01.2012 | 16 | -do- | Inspector W&M 09.01.2012 | |
| 6 | Mr. Yasir Samood (M.Sc Phy) | 12.04.1983 Karak | 09.01.2012 | 09.01.2012 | 16 | -do- | Inspector W&M 09.01.2012 | |
| 7 | Mr. Muhammad Rafeeq (M.Sc Phy M.Ed) | 01.01.1981 Swabi | 09.01.2012 | 09.01.2012 | 16 | -do- | Inspector W&M 09.01.2012 | |
| 8 | Mr. Sarfaraz Ahmad (M.Sc Electronics) | 05.01.1984 Abbottabad | 09.01.2012 | 09.01.2012 | 16 | -do- | Inspector W&M 09.01.2012 | |
| 9 | Mr.Tausaf Mushtaq M.Sc (Electronics) | 04.11.1984 Mansehra | 20.08.2014 | 20.08.2014 | 16 | -do- | Inspector W&M 20.08.2014 | |
| 10 | Mr.Fida Hussain M.Sc (Electronics) | 28.02.1990 Bauun | 20.08.2014 | 20.08.2014 | 16 | -do- | Inspector W&M 20.08.2014 | |
| 11 | Mr.Majeed Ullah M.sc (Physics) | 25.09.1983 Karak | 01.01.2015 | 01.01.2015 | 16 | -do- | Inspector W&M 01.01.2015 | |
| 12 | Mr. Muhammad Shahid BSc | 01.04.1961 Mardan | 22.02.1986 | 01.08.2016 | 16 | By Promotion | Inspector W&M 01.08.2016 | |

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| | | | | | | | |
|----|-------------------------------------|-----------------------------|------------|------------|----|------------|-----------------------------|
| 13 | Mr. Ramiz Murad M.Sc (Zoology) | 02.05.1989 Chitral | 16.05.2017 | 16.05.2017 | 16 | By Initial | Inspector W&M 16.05.2017 |
| 14 | Mr. Abdul Baais M.Sc (Chemistry) | 13.01.1986 Buner | 20.06.2017 | 20.06.2017 | 16 | -do- | Inspector W&M 20.06.2017 |
| 15 | Muhammad Ilyas BSc (Engg) | 25-01-1994 Dir Lower | 27-04-2018 | 27-04-2018 | 16 | -do- | Inspector W&M 27.04.2018 |
| 16 | Mr. Raza Shah MSc (Physics) | 17-12-1991 Khyber Agency | 27-11-2018 | 27-11-2018 | 16 | -do- | Inspector W&M 27.11.2018 |
| 17 | Mr. Saad Shaukat BSc (Engg) | 18-12-1989 Mansehra | 11-05-2018 | 11-05-2018 | 16 | | Inspector W&M 11.05.2018 |

-Sd/-
Director Labour,
Khyber Pakhtunkhwa Peshawar

Dated: 9/1/2019

Assistant Director Labour (Admn)
Hqtr: Office Peshawar

ATTESTED

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136-52
t No: DL/Admn/11/235/
IFICATE

Copy of the above is forwarded to all Officers/officials concerned for information. They are requested to confirm their placement in the list and if there is any objection c
seniority list, they can submit presentation within 15 -days of the receipt of this communication, otherwise it will be presumed that their placement is correct and seniority will

1982

NO. SOI(IND) 2-1/91/Vol. II/10489

GOVERNMENT OF N.-W.F.P.
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,
LABOUR AND TECHNICAL EDUCATION DEPARTMENT

Dated Peshawar. the 30-07-2003



To

The Director,
Industries, Commerce & Labour,
NWFP, Peshawar.

B-8

SUBJECT:-

SERVICE RULES FOR THE POST OF DIRECTOR INDUSTRIES,
COMMERCE & LABOUR AND DEPUTY CONTROLLER WEIGHTS &
MEASURES.

I am directed to refer to your letter No. DL/Admn/
3/1/2926 dated 26/7/2003 on the subject noted above and to
state that the comments on the minutes of the meeting of
SSRC held on 26/4/2003 regarding the post of Deputy Controller
Weight & Measures BPS-18 may be included in the draft service
Recruitment/Appointment Rules being prepared in the Directorate
and jointly submitted for placing before the SSRC, for
consideration.

D/A
What is progress?

D/L
31/7/03
7/11

Shahir-Ul-Din
(SHAHIR-UL-DIN)
SECTION OFFICER (ADMN:)

ATTESTED

2/8/03
10/2

PP. put up
EA
2/8

NORTH WEST FRONTIER PROVINCE
Published by Authority
PESHAWAR, WEDNESDAY, 1st DECEMBER, 1982

PART-I
N.W.F.P GOVERNMENT NOTIFICATION AND ORDERS.
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT, LABOUR AND
TRANSPORT DEPARTMENT
NOTIFICATION
12 July, 1982.

No. SO1/13-2/75-Vol-II:- in exercise of the powers conferred by sub-rule (2) of rule-3 of North West Frontier Province Government Servants (Appointment, Promotion & Transfer) Rules 1975, and in supersession of all rules on the subject; in this behalf the Governor of the North West Frontier Province is pleased to make following rules, namely:-

THE LABOUR DEPARTMENT (RECRUITMENT & APPOINTMENT) RULES,
1982

1. (1) These rules may be called the Labour Department (Recruitment & Appointment) Rules, 1982
(2) They Shall come into force at once.
2. The method of recruitment minimum qualification, age limit and other matters related thereto for the post specified in column-2 of the Schedule annexed shall be such as given in column-3 in 6 of the said schedule.

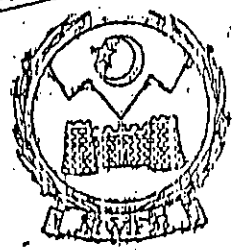
| S# | Nomenclature of Post | Minimum qualification for appointment, initial recruitment or by transfer | Minimum qualification for appointment by promotion | Age limit for initial recruitment | Method of recruitment |
|----|--|---|--|-----------------------------------|--|
| 8. | Assistant Director, Labour/Assistant Controller, Weights and Measures/ Assistant Director Planning and Statistics, (Labour Wing) | Master's Degree in Electrical or Mechanical Engineering from a recognized University. | | 21 years to 30 years | (a) Fifty percent by promotion on the basis of seniority cum fitness from amongst the holders of the posts of Labour Officer (Factories), Inspector, Weights and Measures and Statistical Officer with at least five years service as such and (b) fifty percent by initial recruitment |

Annex

No. P. 111

9

GOVERNMENT



GAZETTE

North-West Frontier Province

Published by Authority

PESHAWAR, WEDNESDAY, 1st DECEMBER, 1982. [OF 1982-83

Separate paging is given to this part in order that it may be filed as a separate compilation.

CONTENTS.

- North-West Frontier Province Government Notifications and Orders.
- PART II.—Notifications by the Commissioners—Local Government Departments. Nil.
- PART III.—Republications from the "Gazette of Pakistan" and other Government Gazettes. Nil.
- PART IV.—Notifications by Heads of Departments. Nil.
- PART V.—
 - (1) Acts of the Pakistan Legislature, assented to by the President of Pakistan. Nil.

- (2) Bills Introduced into Pakistan Legislature and Bills published before introduction. Nil.
- PART VI.—Notifications by the North-West Frontier Province, Provincial Assembly. Nil.
- SUPPLEMENT.—
 - PART I.—Statistical. Nil.
 - PART II.—General—Miscellaneous Notices Advertisements, etc. Nil.

PART I

N. W. F. P. GOVERNMENT NOTIFICATIONS AND ORDERS. INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT, LABOUR AND TRANSPORT DEPARTMENT.

NOTIFICATION.

12th July 1982.

No. SOI/13-2/75-Vol.II—In exercise of the powers conferred by sub-rule (2) of rule 3 of North-West Frontier Province Government Servants (Appointment, Promotion and Transfer) Rules, 1975, and in supersession of all the rules on the subject, in this behalf the Governor of North-West Frontier Province is pleased to make the following rules, namely:—

THE LABOUR DEPARTMENT (RECRUITMENT AND APPOINTMENT) RULES, 1982.

- (1) These rules may be called the Labour Department (Recruitment and Appointment) Rules, 1982.
- (2) They shall come into force at once.

2. The method of recruitment, minimum qualifications, age limit and other matters related thereto for the post specified in column 2 of the Schedule annexed shall be such as given in column 3 to 6 of the said Schedule.

Sd/- X X X Secretary, Government of N.-W. F. P., Industries, Commerce, Mineral Development, Labour and Transport Department.

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| Sl. No. | Nomenclature of post. | M | Minimum qualification for appointment or by transfer. | Minimum qualification for appointment by promotion. | Age limit for initial recruitment. | Method of recruitment. |
|---------|---|---|--|---|------------------------------------|---|
| 1. | Director, Labour Welfare. | | | | | (a) By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Deputy Director (Labour Wing), Deputy Director (M&M), Training Wing, Chief Inspector of Factories and Mines Safety Engineer or (b) By temporary trans. |
| 2. | Deputy Director, (Labour Wing) | | (i) Master's Degree (2nd Class) in Economics, Statistics, Sociology, Public Administration or Social Work from a recognised University; and (ii) Five years' experience in Grade-17 in a Government/ Autonomous Body. | | 25 years to 35 years. | (a) Two-third by promotion on the basis of seniority-cum-fitness, from amongst holders of the posts of Assistant Director Labour, Assistant Controller (Weights and Measures) and Assistant Director, Research, Planning and Statistics, with at least five years service as such; and (b) One-third by initial recruitment. |
| 3. | Deputy Director, (Manpower, Employment and Training Wing) | | (i) Master's Degree in Economics, Statistics, Sociology, Public Administration or Social Work from a recognised University; and (ii) five years' experience in Grade-17 in a Government Department/ Autonomous Body. | | 25 years to 35 years. | (a) Two-third by promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Assistant Director Employment Exchange, Assistant Director, Manpower and Employment, Regional Manager, Employment Exchange, Adviser, Vocational Guidance Unit, Assistant Director, Apprenticeship Training and Principal Technical Training Centre, with at least 5 years service as such. (b) One-third by initial recruitment. |
| 4. | Chief Inspector of Factories (Labour Wing). | | (i) Bachelor's Degree in Mechanical, Electrical, Chemical, Civil or Mining Engineering from a recognised University; and (ii) five year's experience in the relevant field. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority-cum-fitness, from amongst holders of the posts of Inspectors of Factories (Technical), with at least five years service as such; and (b) Fifty per cent by initial recruitment. |

Deleted by froming separate Service Rules in the Directorate of Manpower and Inspector of Mines N.W.P.

Deputy Director (M&M)
Training Wing
Chief Inspector of Factories and Mines Safety Engineer or

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[Signature]

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| 2 | 3 | 4 | 5 | 6 |
|--|--|---|-----------------------|---|
| Engineer | (i) Bachelor's Degree in Mining Engineering from a recognised University; and (ii) Two years experience in mining. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority/fitness from amongst the holders of the posts of Inspectors of Mines, with at least five years service as such; and (b) fifty per cent by initial recruitment. |
| 6. Assistant Director, Employment Exchange/Manpower and Employment/Regional Manager, Employment Exchange/Vocational Advisor (Manpower Employment and Training Wing). | Note:—Preference shall be given to persons having teaching experience in Mining Engineering or Occupational Safety Health and Hygiene. Master's Degree (2nd Class) in Economics, Public Administration, Statistics, Sociology or Social Work. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority/fitness from amongst the holders of the posts of Manager Employment Exchange and Research Officer, Manpower, Employment and Training Wing and Vocational Guidance Unit; and (b) fifty per cent by initial recruitment. |
| 7. Assistant Director, Apprenticeship Training (Manpower, Employment and Training Wing). | Bachelor's Degree in Electrical or Mechanical Engineering from a recognised University. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority/fitness from amongst the holders of the posts of Apprenticeship Officer, with at least five years service as such; and (b) fifty per cent by initial recruitment. |
| 8. Assistant Director, Labour/Assistant Controller, Weights and Measures/Assistant Director, Planning and Statistics, (Labour Wing). | Master's Degree (2nd Class) in Economics, Public Administration, Statistics, Social Work or Sociology, Physics, from a recognised University. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority/fitness from amongst the holders of the posts of Labour Officer (Factories), Inspector, Weights and Measures and Statistical Officer, with at least five years service as such; and (b) fifty per cent by initial recruitment. |
| 9. Inspector of Factories, Technical (Labour Wing). | Bachelor's Degree in Civil, Mechanical, Electrical, Mining or Chemical Engineering from a recognised University. | | 21 years to 30 years. | By initial |
| 10. Inspector of Mines (Mines Wing). | Bachelor's Degree in Mining Engineering from a recognised University. | | 21 years to 30 years. | By initial recruitment. |
| 11. Principal, Technical Training Centre (Manpower, Employment and Training Wing). | (i) Bachelor's Degree in Mechanical or Electrical Engineering from a recognised University; and (ii) three years experience in the relevant field. | | 21 years to 30 years. | (a) Seventy-five per cent by promotion on the basis of seniority/fitness from amongst holders of the posts of Vice-Principal and Chief Instructor, with at least five years service as such; and (b) twenty-five per cent by initial recruitment. |

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GOVERNMENT OF N.W.F.P.
 DIRECTORATE OF
 INDUSTRIES, COMMERCE AND MINERAL DEVELOPMENT,
 PESHAWAR.

ATTENDED

(c) Fifty per cent by initial recruitment.

(b) Fifteen per cent by promotion on the basis of seniority-cum-tenure from amongst holders of the post of Superintendent in the respective Wings and

(a) Thirty per cent by promotion on the basis of seniority-cum-tenure from amongst holders of posts of Assistant Labour Officers with at least 2 years service in such posts. Officers will be eligible for promotion to the post of Superintendent in the respective Wings with at least 5 years service in such posts.

(c) Fifty per cent by initial recruitment.

(b) Fifteen per cent by promotion on the basis of seniority-cum-tenure from amongst the holders of the post of Superintendent in the respective Wings and

(a) Thirty per cent by promotion on the basis of seniority-cum-tenure from amongst holders of posts of Assistant Labour Officers with at least 2 years service in such posts. Officers will be eligible for promotion to the post of Superintendent in the respective Wings with at least 5 years service in such posts.

the holders of the posts of Chief Inspectors in the respective Wings.

(c) Fifty per cent by initial recruitment.

(b) Twenty per cent by promotion on the basis of seniority-cum-tenure from amongst holders of the post of Superintendent in the respective Wings and

(a) Thirty per cent by promotion on the basis of seniority-cum-tenure from amongst holders of posts of Assistant Labour Officers and Statistical Officers in the respective Wings with at least three years experience as such.

(12)

(ii) Diploma in Mechanical Engineering with 4 years experience.

(i) B.Sc. (2nd Division) with Physics, Chemistry or Maths from a recognized University or

Note:- Applicable only in the case of promotion of Superintendents.
 Bachelor's Degree from a recognized University, 21 years to 30 years.

Note:- Applicable only in the case of promotion of Superintendents.

Bachelor's Degree from a recognized University, 21 years to 30 years.

21 years to 30 years.

21 years to 30 years.

16. Inspector (General) (Labour Wing)

15. Labour Officer (Technical) (Labour Wing)

14. Vice-Principal, Technical Training Centre (Manpower, Employment and Training Wing)

13. Apprenticeship Officer (Manpower, Employment and Training Wing)

Diploma in Mechanical Engineering from a recognized University.

Bachelor's Degree in Economics or Statistics from a recognized University.

12. Manager/Research Officer (Manpower, Employment and Training Wing)

13

| 2 | 3 | 4 | 5 | 6 |
|---|---|---|-----------------------|--|
| 17. Statistical Officer, (Labour Wing) | Master's Degree (2nd Division) in Economics, Statistics or Maths from a recognised University. | | 11 years to 30 years | (a) Fifty per cent by promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Statistical Assistant and Statistical Investigator of the Labour Wing with at least 5 years service as such; and (b) fifty per cent by initial recruitment. |
| 18. Secretary, Mines (Mines Wing). | Bachelor's Degree from a recognised University; | Bachelor's Degree from a recognised University. | | (a) By temporary transfer of the holders of the posts of Superintendent in any Wing of the Labour Welfare Directorate; or (b) If no suitable Superintendent is available, then by selection on merit from amongst holders of the posts of Assistants and Senior Scale Stenographers of the Labour Wing with at least 10 years service in the Department. (However joint seniority of senior scale Stenographers and Assistants will continue.) By deputation from Accountant-General's Office. |
| 19. Accounts Officer (Labour Wing) | S.A.S. qualified. | | | By deputation from Accountant-General's Office. |
| 20. Superintendent. | | | | By promotion on the basis of seniority-cum-fitness from amongst holders of the post of Assistant and Senior Scale Stenographers of the respective Wings with at least 5 years service as such. |
| 21. Chief Instructor, Technical Training Centre (Manpower, Employment and Training Wing). | Diploma from a recognised Polytechnic Institute with 4 years practical experience after obtaining the Diploma. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Senior Supervisor/Instructors in Grade-14 of the concerned trade group with at least 3 years service as such; and (b) fifty per cent by initial recruitment. |
| Senior Supervisor/ Instructors, (Manpower, Employment and Training Wing). | Diploma from a recognised polytechnic Institute with 2 years practical experience after obtaining the Diploma. | | 21 years to 30 years. | (a) Fifty per cent by promotion on the basis of seniority-cum-fitness from amongst holders of posts of Instructors in Grade-10 of the concerned trade group with at least 5 years service as such; and (b) fifty per cent by initial recruitment. |
| 21. Project Mechanic (Mines Wing). | Diploma in Electrical or Mechanical Technology from a recognised Institute with 2 years practical experience after obtaining the Diploma. | | 21 years to 35 years. | By initial recruitment. |
| 24. Senior Scale Stenographer. | (i) Matriculation or equivalent qualification from a recognised Board; and (ii) A speed of 140 words per minute in Shorthand in English and 40 words per minute in typing. | A speed of 140 words per minute in Shorthand in English and 40 words per minute in typing | 18 years to 25 years. | (a) Not more than 50% by promotion on the basis of Seniority-cum-fitness from amongst the holders of the posts of Junior Scale Stenographer with at least 2 years service as such, or if no suitable Junior Scale Stenographer is available by initial recruitment; and (b) not less than fifty per cent by initial recruitment. |

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| 16. Statistical Assistant (Labour Wing) | Bachelor's Degree (2nd Division) with Statistics as one of the subjects from a recognised University. | 18 years to 25 years. | By initial recruitment. | |
|--|---|-----------------------|---|--|
| 17. Laboratory Assistant (Labour Wing) | B.Sc. (2nd Division in Physics or Chemistry) from a recognised University. | 18 years to 25 years. | By initial recruitment. | |
| 28. Manpower Survey Officer (Manpower, Employment and Training Wing) | Bachelor's Degree (2nd Division) with Statistics as one of the subjects from a recognised University. | 18 years to 25 years. | By initial recruitment. | |
| 29. Assistant. | Bachelor's Degree from a recognised University. | 18 years to 25 years. | (a) Fifty per cent by promotion on the basis of seniority-cum-fitness from holders of the post of Accountant in M & E W. I. from Senior Clerks in other wings with at least three years experience in the case of Senior Clerks, as such preference will be given to Accountants; and (b) fifty per cent by initial recruitment. | |
| 30. Junior Scale Stenographer. | (a) Matriculation or equivalent qualification from recognised Board; (b) a speed of 100 words per minute in shorthand in English and 40 words per minute in typing. | | (a) By promotion on the basis of seniority-cum-fitness from amongst holders of the post of Stenographer in the respective Wing with at least 3 years service as such; and (b) if no suitable stenotypist is available, by initial recruitment. | |
| 31. Instructor (Manpower, Employment and Training Wing). | (i) Matriculation or equivalent qualification from a recognised Board; and (ii) (a) A certificate in the relevant trade from Government Vocational Institute, Technical Training Centre or other recognised Institutes with 5 years practical experience in the relevant trade after obtaining trade course certificate; or (b) 2 years trade course certificate from the NWFP Board of Technical Education with at least 8 years experience after obtaining trade course certificate; or (c) 1 year trade course certificate from the NWFP Board of Technical Education with at least 10 years experience after obtaining trade course certificate; or (d) Armament Artificer's certificate with at least 8 years experience as Artificer; or (e) Diploma from a Polytechnic Institute in the respective trade. | 20 years to 45 years | By initial recruitment. | |
| 32. Statistical Assistant (Manpower, Employment & Training Wing). | Bachelor's Degree (2nd Division) with Statistics as one of the subjects from a recognised University. | 18 years to 25 years. | By initial recruitment. | |

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2012

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EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 29TH JANUARY, 2013.

**GOVERNMENT OF KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT.**

NOTIFICATION

Dated: 31st December, 2012

No. SOL(LD)8-12/2012/1232-92.--- In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all previous notifications issued in this behalf, the Labour Department, in consultation with the Establishment Department and Finance Department, hereby lay down the method of recruitment, qualifications and other conditions specified in columns 1 to 5 of the Appendix to this Notification which shall be applicable to the posts borne in the Directorate of Labour, Khyber Pakhtunkhwa, specified in column 2 of the said Appendix.

Secretary to Government of
Khyber Pakhtunkhwa
Labour Department.

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ATTESTED

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596 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 29TH JANUARY, 2013.

APPENDIX

| S. No. | Nomenclature of posts | Minimum qualification prescribed for appointment by initial recruitment or by transfer | Age limit | Method of recruitment |
|--------|---|--|----------------|---|
| 1 | 2 | 3 | 4 | 5 |
| 1. | Director Labour (BPS-19) | | | By promotion, on the basis of seniority-cum-fitness, from amongst the Chief Inspectors of Factories, Deputy Directors Labour and Deputy Controller Weights & Measures, with at least twelve years service in BPS-17 and above; provided that if no suitable officer is available for promotion, then by transfer from amongst the DMG/PMS Officers. |
| 2. | Chief Inspector of Factories (BPS-18) | First Class Bachelor's Degree in Mechanical, Electrical, Chemical, Civil, Mining, Electronics or Mechatronics Engineering from a recognized University with five years experience in the relevant field | 25 to 35 years | (a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Inspector of Factories (Technical) with five years service as such; and |
| 3. | Deputy Director Labour/ Deputy Controller Weights & Measures (BPS-18) | | | By promotion, on the basis of seniority-cum-fitness, from amongst Assistant Directors Labour, Assistant Directors Research Planning and Statistics, Accounts Officers and Assistants, Controller Weights & Measures with at least five years service as such. |
| 4. | Assistant Director Labour/ Assistant Director Research, Planning and Statistics/Assistant Controller Weights & Measures (BPS-17) | For Assistant Director Labour/Assistant Director Research and Planning and Statistics: (i) Second Class Master's degree in any Social Sciences Business Administration or Public Administration or Statistics or LL.B. from a recognized University; and | 21 to 30 years | (a) Thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Labour Officers, Statistical Officer and Research & Statistical Officers with at least five years service as such; (b) thirty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the |

APPROVED

KHYBER APKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 29TH JANUARY, 2013.

| 1 | 2 | 3 | 4 | 5 |
|----|---|---|----------------|--|
| | | For Assistant Controller Weights & Measures: (ii) Second Class Master's Degree in Physics or Chemistry from a recognized University. | | Inspectors Weights & Measures years service as such; and (c) forty per cent by initial recruitment. |
| 5. | Inspector of Factories (Technical) (BPS-17) | First Class Bachelor's Degree in Mechanical, Electrical, Chemical, Civil, Mining, Electronics or Mechatronics Engineering from a recognized University. | 22 to 30 years | By initial recruitment. |
| 6. | Labour Officer (BPS-16) | LL.B or Second Master's degree in Economics Business Administration and Public Administration from a recognized University. | 21 to 30 years | (a) Fifty per cent by promotion, seniority-cum-fitness, from Assistant Labour Officers with years service as such; and (b) fifty per cent by initial recruitment. |
| 7. | Assistant Labour Officer (BPS-11) | LL.B or Second Class Bachelor's Degree from a recognized University with Economics, Statistics, Mathematics, or Law as one of the subjects or in Business Administration. | 21 to 30 years | (a) Seventy-five per cent by promotion of seniority-cum-fitness, from Labour Inspectors with five years service as such; and (b) twenty-five per cent by initial recruitment. |
| 8. | Labour Inspector (BPS-09) | Second Class Bachelor's Degree from a recognized University. | 18 to 30 years | By initial recruitment. |
| 9. | Inspector Weights and Measures (BPS-16) | Second Class Bachelors' Degree with Physics, Chemistry, Electronics or Mathematics as one of the subjects from a recognized University. | 21 to 30 years | (a) Five per cent, on the basis of seniority-cum-fitness, from Laboratory Assistants with years service as such; and (b) ninety-five per cent by initial recruitment. |

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| 10. | Statistical Officer/ Research & Statistical Officer (Minimum Wages Board) (BPS-16) | (i) Second Class Master's Degree in Economics, Statistics, Mathematics or Business Administration from a recognized University; and (ii) Certificate in Advance Office Automation from a recognized institute. | 22 to 30 years | (a) Seventy-five per cent by promotion of seniority-cum-fitness, from Statistical Assistants or Statistical with five years service as such; and (b) twenty-five per cent by initial recruit |
| 11. | Statistics Assistant/ Statistical Investigator (BPS-11) | (i) Second Class Bachelor's Degree with Statistics as one of subject from a recognized University; and (ii) Certificate in Advance Office Automation from a recognized institute. | 21 to 30 years | By initial recruitment. |
| 12. | Laboratory Assistant (BPS-11) | (i) Second Class B.Sc with Physics, Chemistry or Electronics as one of the subject from a recognized University; and (ii) Certificate in Advance Office Automation from a recognized institute. | 21 to 30 years | By initial recruitment. |
| 13. | Accounts Officer (BPS-17) | | | By promotion, on the basis of seniority from amongst the Superintendents service as such; provided that if no suitable Accounts Officer from the General's Office. |
| 14. | Superintendent (BPS-16) | | | By promotion, on the basis of seniority from amongst the Assistants with five years service as such. |

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[Signature]

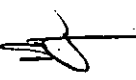
18

KHYBER APKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 29TH JANUARY, 2013.

| 1 | 2 | 3 | 4 | 5 |
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| 15. | Assistant (BPS-14) | Second Class Bachelor's Degree from a recognized University. | 20 to 32 years | (a) twenty-five per cent by initial recruitment (b) seventy-five per cent by promotion of seniority-cum-fitness, from Senior Clerks with at least five years service as such. |
| 16. | Senior Clerks (BPS-09) | | | By promotion, on the basis of seniority, from amongst the as Junior Clerks with at least five years service as such. |
| 17. | Junior Clerks (BPS-07) | (i) Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing. | 18 to 30 years | (a) Thirty per cent by promotion of seniority-cum-fitness, from Assistant Clerks who have passed Secondary Certificate Examination with two years service as such; and (b) seventy per cent by initial recruitment. |
| 18. | Manual Assistant (BPS-04) | Second Class Secondary Certificate from a recognized University | 18 to 30 years | (a) Seventy per cent by initial recruitment (b) thirty per cent by promotion of seniority-cum-fitness, from amongst Qasids, Chowkidars and other employees who have passed S.S.C. Examination with two years services as such. |
| 19. | Senior Scale Stenographer (BPS-16) | | | By promotion, on the basis of seniority, from amongst Stenographers (BPS-14) with at least five years service as such. |
| 20. | Stenographer (BPS-14) | (i) Intermediate or equivalent qualifications from a recognized Board; and (ii) a speed of 50 words per minute in typing. | 18 to 30 years | By initial recruitment. |

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| | | shorthand in English and 35 words per minute in typing; and (iii) knowledge of computer in using MS Words, MS Excel. | | |
| 21. | Computer Operator (BPS-12) | Second class Bachelor's Degree or equivalent qualification from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education or its equivalent qualification. | 18 to 30 years | By initial recruitment. |
| 22. | Driver (BPS-04) | Possessing a valid HTV/LTV Driving license with five years practical experience in driving. Preferably SSC qualified. | 25 to 35 years | (a) Twenty per cent by promotion of Class-IV employees having Driving License or by initial suitable candidate is available and (b) eighty per cent by initial recruitment that preference will be given to those who have passed S.S.C. Examination. |
| 23. | Naib Qasid (BPS-01) | - | 18 to 32 years | By initial recruitment. |
| 24. | Chowkidar (BPS-01) | - | 18 to 32 years | By initial recruitment. |
| 25. | Bahishti (BPS-01) | - | 18 to 32 years | By initial recruitment. |
| 26. | Sweeper (BPS-01) | - | 18 to 32 years | By initial recruitment. |

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT.

Printed and published by the Manager,
Staty. & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

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4/2

The Secretary Labour
Khyber Pakhtunkhwa, Peshawar

2/5/2020
D-21

Through: Proper Channel

Subject: Request for Combined Seniority of Labour officers and Inspectors Weights & Measures in new Service Rules 2020 of Directorate of Labour Khyber Pakhtunkhwa

Respected Sir,

With due respect, Inspectors Weights & Measures, Directorate of Labour Khyber Pakhtunkhwa, beg to submit the following paras for your kind considerations please.

1. Prior 2012, in service rules the Inspectors Weights & Measures (BPS-16) and Labour officers (BPS-16) had **Combined Seniority list** for departmental promotion.
2. In revised Service Rules of 2012, the promotion through the combined seniority list was amended with Inspectors Weights & Measures (30%) quota; Labour Officers (30%) quota; and 40% by initial recruitment.
3. Total numbers of sanctioned posts of Inspectors Weights & Measures are 26, and Labour Officers are 10, which arises hindrance in the promotion of Inspectors Weights & Measures as per service rules 2012.
4. As new Service rules 2020 are in process and the aforementioned service rules of 2012 are being followed for promotion which results in discriminative promotional skeleton.
5. The applicants are being suffered in promotion, as labour officers BPS(16)- being junior in term of service-are promoted earlier than Inspectors Weights & Measures.
6. Previously with similar analogy, cases of the similar nature in other departments have been challenged in the Service Tribunal and Supreme Court, where the courts ordered for combined seniority, as the division goes against merit.

Respected Sir, in view of the above mentioned facts, it is very humbly requested that directions may kindly be advised for **Combined Seniority list** in under-process new Service Rules 2020 of the Directorate of Labour.

The applicants will be very grateful for this act of kindness.

Yours Sincerely,

YASIR MANSOOR

Inspector W&M
Kohat

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| Sr. No. | Date of order/ proceedings | Order or other proceedings with signature of Judge/ Magistrate |
|---------|--|--|
| 1 | 2 | 3 |
| | 01.09.2015 | <p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p>1. Appeal No. 1411/2011, Shamsul Islam. 2. Appeal No. 1412/2011, Khalid Rahman, & 3. Appeal No. 1413/2011, Mir Qadam.</p> <p style="text-align: center;">Versus Government of KPK through Secretary, E&SE, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.</u>:- Counsel for the appellant (Mr. Bashir Naveed, Advocate), Mr. Muhammad Jan, GP with Khurshed Khan, SO and Javed Ahmad, Supdt. for the official respondents, counsel for private respondents No. 4 to 8 (Syed Younis Jan, Advocate) and Counsel for private respondents No. 9 to 12 (Mr. Muhammad Asif Yousafzai, Advocate) present.</p> <p>2. Appellants are aggrieved with preparation of joint seniority list of the Headmasters and Subject Specialists. The appellants are of the Headmasters cadre and the private respondents of the Subject Specialists. In the said perspective the appellants have instituted these</p> <p>3. The learned counsel for the appellants submitted that cadre of the appellants is totally different from the cadre of Subject Specialists; therefore, preparation of their</p> |
| | <p style="text-align: center;">ATTIESTED</p> <p style="text-align: center;">\$ separate</p> <p style="text-align: center;">ATTIESTED</p> | |

joint seniority list for the purpose of their promotion to BS-18 is against the rules and norms of justice. It was further submitted that such preparation of joint seniority list is not substantiated by any law; hence the respondent department may be directed to bifurcate such list.

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4. The learned counsel for private respondents and learned GP resisted these appeals by stating that joint seniority list is prepared in the light of service rules notified in 1994 and further modified in 2004. Hence, the appeals are devoid of merits. It was further submitted that by way of the said rules of 1994, almost 300 Headmasters were promoted on the basis of joint seniority list and when the turn of Subject Specialists came so the appellants raised hue & cry on this joint seniority list for no good reason. A copy of the Judgment dated 02.08.2005 in the service appeal No. 88/Neem/1998 decided by this Tribunal was presented and it was stated that this decision has got finality which was also maintained by the august Supreme Court of Pakistan and not over-ruled by this Tribunal in any fresh decision. Hence the practice of joint seniority list being in accordance with the law and rules has been left intact. Finally, it was submitted that framing of rules and prescription of qualification and criteria for promotion/ appointment are the prerogative of the government which cannot be interfered with by this Tribunal. Reliance was placed on 2005-PLC(C.S)962.

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5. We have considered arguments of the learned counsel for the appellants, learned GP for the official respondents and counsel for private respondents and perused the record.

6. It is evident that this Tribunal has already given its verdict in the cited case of Mr. Muhammad Jamil decided on 02.08.2005 and the plea of the appellants to do away with joint seniority list has^{not} been acceded to in the said judgment. It was not shown to the Tribunal that this judgment has been set aside by the august Supreme Court of Pakistan or has been over-ruled by this Tribunal. Hence on the principles of consistency, the Tribunal is constrained to dismiss^{as to} the appeals being devoid of any merits. The same are dismissed. Parties are left to bear their own costs.

File be consigned to the record.

ANNOUNCED
01.9.2015.

*Ady. J. B. Hashmi, Qadri
Munir
Ady. J. B. Hashmi, Qadri
Munir*

Certified to be a true copy

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Date: 14.9.2015
No: 1200
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10
14.9.2015
14.9.2015

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

(Handwritten marks and initials)

| S.No. | Date of order | Order or other proceedings with signature of the Judge |
|-------|---------------|--|
| 1 | 2 | 3 |
| | 5.3.2010. | <p><u>W.P.No.870/2010.</u></p> <p>Present: Mr.Ibad-ur-Rehman, Advocate for the petitioners._____</p> <p><u>ABDUL AZIZ KUNDI, J.-</u> Jehanzeb and six others, employees of Education Department as SETs, seek issuance of an appropriate writ directing the respondents to treat them equally in the matter of promotion with other senior English Teachers(General) and act in accordance with law and further to declare the undertaking obtained from them by the respondents as void, illegal and un-warranted.</p> <p>2. Earlier the petitioners had filed W.P.No.656/2007 and a Division Bench of this court vide order dated 31.10.2007 while converting the said writ petition into departmental appeal, sent the same to Secretary, Government of NWFP, Schools and Literacy Department, Peshawar, for disposal.</p> <p>3. Pursuant to the said order after considerable correspondence amongst various offices of the department, ultimately Director of</p> |

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M. I. R.
Peshawar High Court

ATTESTED

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Education, vide its letter bearing No.3894-F. No.A-SS/SL/B-16/Appeal, dated 5.6.2009, addressed to secretary, Govt: of NWFP (Elementary and secondary Education) Department, proposed allocation of 5% share to SET (Technical) for promotion to the posts of Head Masters in B-17 (Regular). Government of NWFP, Elementary and Secondary Education Department, responded to the same, vide its number SO (PE)9-4/SET-Tech/Gen/07/court cases, dated Peshawar the 31-7-2009 and paras-2 and 3 of the same are reproduced hereunder:-

- "2. In the light of the foregoing it is proposed that:
- i. The SET (Tech) and SET (Commerce) may be included in the seniority list of SET (General/Science) with the condition that this inclusion will only be for the purpose of promotion to the post of Headmaster (B-17) in light of the service rules for the posts of Headmaster duly notified vide Notification No.SOG/ S&LD/ 1-28/2003/VOL.II dated 9.04.2004 and these SETs (Technical and Commerce) will not claim any other benefits which will accrue of their inclusion in the seniority list that would affect the SET (General/Science).
 - ii. A written undertaking will be obtained from all SET (Tech) and SET (Commerce) regarding the condition mentioned in para-I above which will also discourage further litigation. This condition will be reflected in the revised seniority list of all SETs.
 - iii. This inclusion in the seniority list will be compulsory and any teacher who does not furnish the relevant undertaking mentioned in para-ii above will be kept on static list and he/she will not claim any service benefits which his other colleagues will enjoy.

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~~ATTESTED~~

M. J. Gumbi

ATTESTED

EXAMINER

[Signature]

3. The Directorate is advised to implement the above decisions in letter and spirit and send compliance report."

4. Thereafter, the Directorate of Elementary and Secondary Education, Peshawar, vide its letter dated 25.9.2009, addressed to all Executive District Officers (E&SE) in NWFP, directed that a written undertaking be obtained from the SETs (Tech)/ SET (Commerce) (on judicial Stamp Paper) as under:-

"I am agreed for including my name in the General seniority list of SETs and I will not claim any other benefits which will accrue of my inclusion in the general seniority list. This condition will be reflected in the revised seniority list of all SETs. I will also not make further litigation."

5. After hearing the learned counsel for the petitioner at some length, whose main grievance was that inspite of the aforesaid decision as contained in the letter dated 31.7.2009, respondents are not implementing the said decision in letter and spirit, resulting into non-issuance of a joint seniority list and making promotion strictly in accordance with the said decision. Learned counsel ultimately argued that if this court directs the respondent department to strictly adhere to the said decision and give the petitioners and others alike them, their due rights as highlighted

Mir Sami

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above, petitioners shall feel satisfied.

Accordingly, we direct the respondents to strictly adhere to the said decision while making promotions on regular basis to the posts of Headmasters in B-17 from SETs and while doing so, keep the merit their prime goal. This writ petition, with the observations, is accordingly disposed of limine.

sd/ Abdul Aziz K
sd/ M. Ethar ul Din

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Peshawar
Authorized Under Section 75 Acts Order

No. 10031
Date of Presentation of Application 6/3/20
No of Pages 5
Copying Fee 10/-
Urgent Fee 10/-
Total 20/-
Date of Preparation of Copy 9/3/2010
Received by

M. Gul

ATTESTED

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D/- 158852
Add'l Registrar
9/3

VAKALATNAMA

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

10747 OF 2020

Yasir Samood

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt: of KP & Others

(RESPONDENT)
(DEFENDANT)

I/We Yasir Samood

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2020

YASIR SAMOOD

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:

Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile.No.0345-9383141

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Civil Miscellaneous No: _____ / 2020
In Service Appeal No: 6747 / 2020

Yasir Masood VS Govt. of Khyber Pakhtunkhwa etc.

APPLICATION FOR IMPLEADMENT

Respectfully Sheweth,

- 1) That, the titled Service Appeal is pending subjudice before this Honorable Court and is fixed for today.
- 2) That, Applicants are Labour Officers working in the Directorate of Labour i.e. the Respondent No. 5.
- 3) That, the Appellant in fact wants to merge the seniority list of the Applicants with his cadre of Inspector Weights & Measure.
- 4) That, the Appellant has purposely and malafidely not arrayed the Applicants as Respondents in the panel of Respondents despite having knowledge of the fact that the main affectees of outcome of the titled Appeal, in any manner, would be Applicants.
- 5) That, more interestingly, instant Appeal has been filed by the Appellant for the purpose of promotion by merging the cadre of the Applicants and the Appellant.
- 6) That, if the Appeal of the Appellant is accepted, without hearing the Applicants, the valuable service rights / Seniority Position of the Applicants would be infringed.
- 7) That, any benefit if granted or refused will ultimately affect the Applicants Seniority / Promotion / Promotion Quota.
- 8) That, there is no legal lacuna or bar in impleading the Applicants as necessary party.

Sir, I have no objection on me
applicability for impleadment.
D.R. 24/12

Sir, I have no objection on the
application for impleadment.
M.F. 24/12/2020

9) That, in post Impleadment scenario, Applicants will help and assist this Honourable Court to arrive at a correct and just decision of the lis, as early as possible, according to law.

10) That, following are the particulars of the Applicants:

Respondent No. 6

Qaiser Alam, Labour Officer, Kohat.

Respondent No. 7

Altaf Hussain, Labour Officer, Presently Posted as Assistant Director, OPS, Nowshera.

Respondent No. 8

Muhammad Sharif, Labour Officer, Presently Posted as Assistant Director, OPS, Abbottabad.

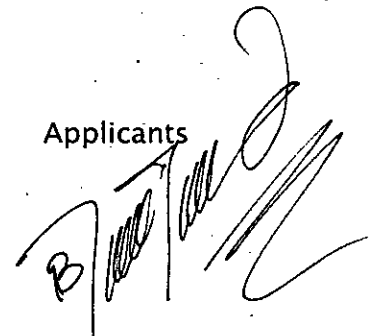
Respondent No. 9

Rizwan Zia, Labour Officer, Peshawar.

It is, therefore, requested that Applicants may please be arrayed / added as necessary parties, in the Column of Respondents.

Applicants

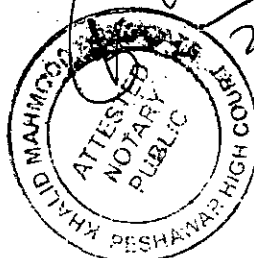
Through:



BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

AFFIDAVIT

I, Altaf Hussain, Labour Officer, Presently Posted as Assistant Director, OPS, Nowshera, Applicant, do hereby on oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.



Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Suit / Appeal / Claim / Petition / Application No. 6747/2020

Yasir Masood VERSUS Govt. of KPK etc
On behalf of Respondents / Applicants

KNOW ALL to whom these present shall come that I / We _____ through my legally constituted attorney _____ do hereby appoint **MR. BILAL AHMAD KAKAIZAI** (herein after called the advocate) to be my / our Advocate in above noted case.

He is authorized:-

1. To act, appear and plead in the above-noted case in Court / Tribunal / Authority / Commission etc or in any other Court in which the same may be tried or heard.
2. To sign, file verify and present pleadings, appeals cross objections, written statement, comments or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution / disposal of the said case in all its stages.
3. To file and take back documents, to admit and / or deny the documents of opposite party.
4. To withdraw or compromise the said case with my / our prior approval.
5. To take execution proceedings.
6. To do all other acts and things, which may be necessary to be one for the progress and in the course of prosecution / proceedings of the said case.
7. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so.

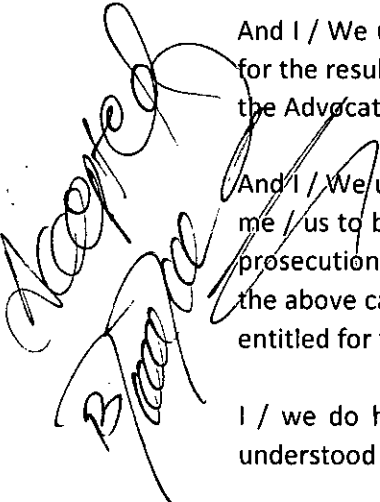
And I / We the undersigned do hereby agree to ratify and confirm all acts done by Advocate or his substitute in the matter as my / our own acts, as if done by me / us to all intents and purposes.

And I / We undertake that I / we or my / our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.


And I / We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.


And I / We undersigned do hereby agree that in event of the whole or part of the fee agreed by me / us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution / proceedings of the said case until the same is paid up. The fee settled is only for the above case and above Court. I / We hereby agree that once the fee is paid. I / we will not be entitled for the refund of the same in any case whatsoever.

I / we do hereunto set my / our hand to these presents the contents of which have been understood by me / us on this _____ day of _____.


Aftab Hussain


Sharif Ahmad


KAISER FAROOQ


RIZWAN ZIA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 10747/2020

Yasir Samood, Inspector Weights & Measure (BPS-16) & (06) OTHERS.

Directorate of Labour, Khyber Pakhtunkhwa, District Peshawar.....Appellant.

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary, to Government of Khyber Pakhtunkhwa Labour Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
4. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
5. The Director Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Peshawar
Cantt.....**Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1, 2, 3, 4 and 5.

Respectfully Sheweth that the respondent submits as under.

Preliminary Objections:

1. That Appellant has got no locus standi and cause of action to file the instant appeal.
2. That the Appellant has not come to this Honourable Court with clean hands.
3. That the instant Appeal is not maintainable.
4. That the instant Appeal is based on malafide with ulterior motive to coerce and pressurize the respondents.
5. That the Appellant is estopped by his own conduct.
6. That the appeal of the applicant is badly time barred.

ON FACTS:

1. Para No. 1 is incorrect that current posting of appellant is in Mardan, his previous station of posting was Kohat and currently he is serving at Bannu order dated 20-11-2020 is attached for ready reference as **(Annexure-A)**, according to official record his date of appointment is 09-01-2012. Office order of notified seniority list no DL/Admn/11/235/368-85 dated 06-01-2021, (serial no. 6, column no.4) issued by Directorate of Labour on 06-01-2021 is attached as **(Annexure-B)**.

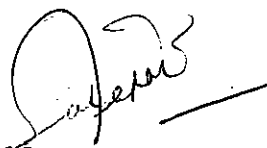
2. That Para No. 2 pertains to record.
3. That Para No. 3 is correct to the extent. Hence needs no comments.
4. Correct to the extent that the seniority of both cadres i.e Inspector Weights & Measures and Labour Officers was joint in the year 1982 Service Rules (**Annexure-C**). Later on, according to the framed service rules 1989 the seniority of the said cadres was separated (**Annexure-D**). It may be clarified here that the post of **Assistant Director Weights & Measures** never existed on the strength of Directorate of Labour.
5. As explained at Para-4 above.
6. That Para No. 6 is correct to the extent that there are 26 sanctioned posts of Inspector weights and Measure. However, it may be clarified here that there are 22 Sanctioned Posts of
- | | | | |
|-------|--------------------------------|---|----|
| (i) | Labour Officers (BPS-16) | = | 10 |
| (ii) | Female Labour Officer (BPS-16) | = | 5 |
| (iii) | Social Mobilizers (BPS-16) | = | 7 |
- which were clubbed in the revised Service Rules issued on 15.09.2020 S. No. 5, meaning there by that against 26 posts of Inspector Weights & Measure, there are 22 posts of Labour Officers, Female Labour Officer and Social Mobilizer for promotion to the post of Assistant Director Labour @ 30% Quota
- It is also worth adding that 95% Inspector Weights & Measure (BPS-16) are appointed through initial recruitment and 5% by promotion amongst the laboratory Assistant (BPS-12) according to revised Service Rules issued on 15.09.2020 S. No. 17 and Labour Officers are 50% by initial recruitment and 50% by promotion from among Assistant Labour Officers (BPS-12) S. No. 15 of revised Service Rules issued on 15.09.2020. (**Annexure-E Revised Service Rules 2020**)
- It is also pertinent to note that the Inspector Weights & Measures (BPS-16) have already exhausted their 30% Quota of promotion to the post of Assistant Director (BPS-17) Departmental Promotion Committee Notification dated 06-01-2017 is attached as (**Annexure-F**).
7. That Para No.7 pertains to the record.
8. Incorrect.

ON GROUNDS:

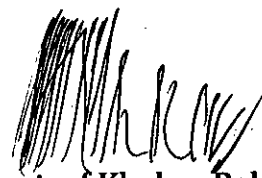
- A. That the appellant kept silent since long, enjoyed / availed the promotion to the post of Assistant Director Labour (BPS-17) and exhausted their 30% promotion quota in the year 2017 as already explained in the end of para-6 under the same rules. Now when it come to the turn of promotion of Labour Officers (BPS-16) they are agitating the criteria / quota in the Service Rules. As already stated in the Para-4 of the facts, the seniority of both cadres was separated in the rules notified in 1989, 2005, 2012 and 2020 respectively.

- B. That the appellant treated as per Law and Rules.
- C. Incorrect. As already explained at Para-4, 6 of the facts and Ground-A of the para-wise comments.
- D. Pertains to Record.
- E. Pertains to Record.
- F. That the appellant treated as per Law and Rules.
- G. That the appellant treated as per Law and Rules.
- H. In reply to ground-H, it is submitted that job description as well as required qualification of both cadres are different. It is pertinent to note here that there is only 1 post of Assistant Controller Weights & Measures and 17 posts of Assistant Director Labour. In order to minimize the chances of stagnancy of the career of the appellants cadre a 30% quota for promotion has been granted to the posts of Assistant Director Labour and Assistant Controller Weights & Measures.
- I. That the appellant treated as per Law and Rules.
- J. That the appellant treated as per Law and Rules.

It is therefore, prayed that on acceptance of this instant reply the appeal of the appellant may kindly be dismissed with cost.



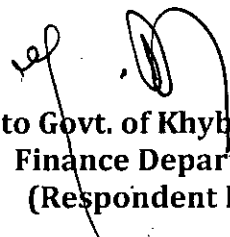
Chief Secretary
Government Khyber Pakhtunkhwa
(Respondent No.1)



Secretary to Govt. of Khyber Pakhtunkhwa
Labour Department
(Respondent No. 2)



Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department
(Respondent No.3)



Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department
(Respondent No.4)



Director Labour
Directorate of Labour Khyber Pakhtunkhwa
(Respondent No. 5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 10747/2020

Yasir Samood, Inspector Weights & Measure (BPS-16) & (06) OTHERS.

Directorate of Labour, Khyber Pakhtunkhwa, District Peshawar..... Appellant.

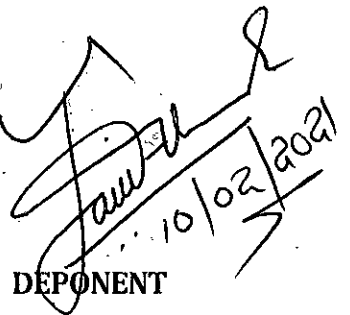
Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary, to Government of Khyber Pakhtunkhwa Labour Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
4. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
5. The Director Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Peshawar Cantt.

..... **Respondents.**

AFFIDAVIT

I, Jamil Ahmad Qurashi Assistant Director (Litigation), Directorate of Labour, Khyber Pakhtunkhwa at Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


 DEPONENT
 10/02/2021

CNIC No: 17301-1392156-3

Contact Number: 0343-7779998

02

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 10747/2020


YASIR SAMOOD, INSPECTOR WEIGHTS & MEASURE (BPS-16) & (06) OTHERS.

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar:
2. The Secretary, to Government of Khyber Pakhtunkhwa Labour Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
4. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
5. The Director Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Peshawar
Cantt.

AUTHORITY

Mr. Jamil Ahmad Qurashi, Assistant Director Labour (Litigation), is hereby authorized and deputed to appear before the honourable, Khyber Pakhtunkhwa Service Tribunal, Peshawar on behalf of the respondents No. 1, 2, 3, 4 and 5 in the above title and to produce necessary documents to the Honourable Court required in this behalf. The officer shall attend the Court regularly on each date of hearing till the decision of the case and will be responsible for obtaining certified copy of the final order/ judgment in the above case for submission to the department well in time.



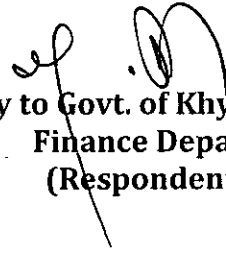
**Chief Secretary
Government Khyber Pakhtunkhwa
(Respondent No.1)**



**Secretary to Govt. of Khyber Pakhtunkhwa
Labour Department
(Respondent No. 2)**



**Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department
(Respondent No.3)**



**Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department
(Respondent No.4)**



**Director Labour
Directorate of Labour Khyber Pakhtunkhwa
(Respondent No. 5)**

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Civil Miscellaneous No: _____ / 2020
In Service Appeal No: 6747 / 2020

Yasir Masood VS Govt. of Khyber Pakhtunkhwa etc.

WRITTEN REPLY ON BEHALF OF ADDED / IMPEADED RESPONDENTS

Respectfully Sheweth,

Reply, on behalf of Added / Impleaded Respondents, is as under:

PRELIMINARY OBJECTIONS:

- A. That, Appellant has got no cause of action or locus standi against the Answering Respondent.
- B. That, the Appeal of the Appellant is not maintainable in its present form.
- C. That, the Appellant has been estopped by his own conduct to file the instant Appeal.
- D. That, Appellant has not come to the Court with clean hands and has suppressed material facts from this Honourable Tribunal.
- E. That, Appellant has not questioned vires of the Rules before this Honorable Tribunal and seeks remedy of promotion against the allotted quota of Answering Respondents hence the Appeal of the Appellant is not maintainable on this score alone.

- F. That, Appellant has suppressed the factum from this Honorable Tribunal that the promotion quota allotted to their category / cadre has already been exhausted.
- G. That, as per Rules, Joint Seniority List is maintained only for those cadres of Civil Servants for whom separate quota is not allotted moreover direction of issuance of joint Seniority List is always mentioned in the Rules where it is expedient / necessary to mention.
- H. That, if, for couple of moments, it is presumed that Joint Seniority List is allowed as per the prayer of the Appellant, even than the promotion will be done as per allotted quota / share hence instant Appeal is meritless and fruitless for the Appellant.
- I. That, after promulgation of new service rules, titled Appeal has become infructuous.
- J. That, the Service Appeal is hopelessly time barred, as the rules for promotion were notified in the year 2012 which were never challenged by the Appellant or any of his colleague, followed by amendment in the said Rules in recent past i.e. during the pendency of instant Appeal.

FACTS:

1. Para 1 pertains to record, hence needs no Reply from the Answering Respondents.
2. Para 2 pertains to Official Respondents, hence needs no Reply from the Answering Respondents.
3. Para 3 pertains to Official Respondents, hence needs no Reply from the Answering Respondents.
4. In response to Para 4 of the Appeal, it is submitted that in the Rules of 1982, the concept of Joint Seniority List was allowed, for the purpose of promotion to the post of Assistant Director Labour,

Assistant Director Weights & Measure & Assistant Director Planning the Statistics (Labour Wing), due to the fact that all the above mentioned cadres were allotted collective quota of 50%, and as per law the promotion was given to the incumbents according to seniority position. In Column 6 of the Rules of 1982 no specific quota was allotted to any specific cadre hence separate Seniority List could not be maintained as per Rules of 1982. However nowadays the scenario is changed and separate quota of 30% each is allocated to the post of Inspector Weights & Measure as well as Labour Officers / Research & Statistical Officers.

5. Para 5 needs no comments as per above clarifications.
6. Incorrect & misleading one, hence denied. As per Rules, the post of Labour Officer is filled-in by promotion from amongst the holders of the post of Assistant Labour Officers. Assistant Labour Officer is promoted from amongst the holders of post of Inspector Labour. The hierarchy mention in the instant Para is supported by the Rules while on the other hand the post of Inspector Weight & Measure is initial / direct recruitment post. The numbers mentioned in the Para in response are incorrect moreover, the number of posts of Labour Officers, Labour Officers (Female) & Social Mobilizers are almost equal to the Appellant, as per new rules.
7. Incorrect. As per information of the Answering Respondents, no Departmental Appeal has been filed by the Appellant before approaching this Honorable Forum, hence instant Appeal is not maintainable.

GROUND:

- A. Incorrect. As per rules, issuance of joint Seniority List is not permissible.
- B. Incorrect. The cadre of Appellant has already been accommodated and their quota of promotion is exhausted more than the allotted quota. It is important to mention here that the Appellant and his colleagues, in order to get the promotion in excess of their allotted quota, has filed the instant Appeal under malafide intention.

- C. Incorrect. No malafide has been done by any authority while issuing the Seniority List or Service Rules of 2012. The Appellant should have brought his grievance before this Honorable Tribunal in the year 2012 if he was aggrieved from the promulgation of Rules.
- D. Incorrect hence denied. As per allotted quota promotion of the Appellant as well as Answering Respondents are just and the same cannot be amalgamated with Appellant's Quota, in any manner.
- E. Incorrect & misleading one hence denied. Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 does not contain any reference regarding the joint or separate Seniority List.
- F. Incorrect. As per the contents of preceding Para(s).
- G. Incorrect. As per the contents of preceding Para(s).
- H. Incorrect and misleading one hence denied. Labour Officers and Inspectors Weights & Measures are distinct cadres having different job descriptions and nature of duties moreover both the cadres originates from different channel of recruitment and promotion.
- I. Incorrect & misleading one hence denied as per the contents of preceding Para(s).

Through


Added Respondents


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Civil Miscellaneous No: _____ / 2020
In Service Appeal No: 6747 / 2020

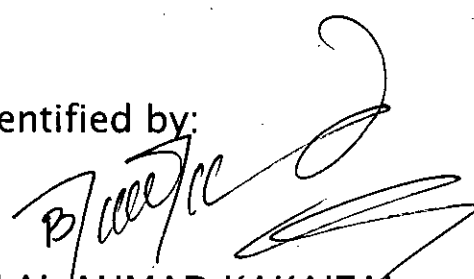
YASIR MASOOD VS Govt. of Khyber Pakhtunkhwa etc.

AFFIDAVIT

I, Altaf Hussain, Labour Officer, Presently Posted as Assistant Director, OPS, Nowshera, Applicant, do hereby on oath affirm and declare that the contents of the Reply are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.


Deponent

Identified by:


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

