

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

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 4491

Dated 21/3/2023  
Appellant

**SA# 154/2022**

Muhammad Rashid .....

**Versus**

Govt. of Khyber Pakhtunkhwa  
Through Secretary, Higher Education,  
Peshawar & others .....

Respondents

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Deponent

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**Service Appeal # 154/2022**

Mr. Muhammad Rashid..... Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa  
Through Secretary, Higher Education  
& others..... Respondents

**SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 4**

**Respectfully Sheweth: -**

**Preliminary Objections: -**

1. That the Appellant has got no locus standi/cause of action to file the instant Service Appeal.
2. That the Appellant has not come to this Honourable Tribunal with clean hands and he is trying to conceal material facts.
3. That the Appeal is barred by Law and limitation.
4. That the Appellant is estopped by his own conduct to file the instant Service Appeal.
5. That, this Service Tribunal has no jurisdiction to entertain the instant Service Appeal.
6. That the Appeal is bad for mis-joinder and non-joinder of necessary parties.

**Facts: -**

- 1- Pertains to record.
- 2- Pertains to record.
- 3- Correct. Is it pertinent to mention here that the rules were amended on 14-04-2021 and the appellant got retired on 24-04-2021 whereas promotion case of the Laboratory staff was under process for the want of PER etc and the meeting of Departmental Promotion Committee was held on 14-09-2021 after fulfilment of all codal formalities while the appellant was already retired from service at that time **(rules attached as Annex-A)**
- 4- Pertains to record.
- 5- Correct to the extent that the appellant was retired from service on 24-04-2021.
- 6- Correct to the extent that departmental Appeal of the appellant was regretted vide letter dated: 13-01-2022 **(Annex-B)**. Moreover, his departmental Appeal was also time barred.
- 7- Incorrect. As already explained in preceding paras.

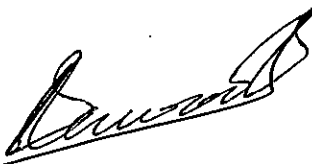
**Grounds: -**

- A. Incorrect. As already explained in preceding paras.
- B. Incorrect. As already explained in preceding paras.
- C. Incorrect. As already explained in preceding paras.

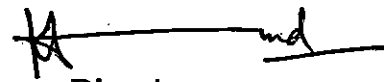
- 25
- D. Incorrect. As already explained in preceding paras.
  - E. Each and every case has its own facts and merits.
  - F. Incorrect. As already explained in preceding paras.
  - G. Incorrect. As already explained in preceding paras.
  - H. Incorrect. As already explained in preceding paras.
  - I. That the respondents may be allowed to raise additional grounds at the time of arguments.

**Prayers: -**

It is, therefore, humbly prayed that the subject case is devoid of merits, hence  
may graciously be dismissed with cost.



**Secretary,**  
Higher Education,  
Khyber Pakhtunkhwa  
Respondent No.1



**Director,**  
Higher Education,  
Khyber Pakhtunkhwa  
Respondent No. 2



**Secretary,**  
Finance Department,  
Khyber Pakhtunkhwa  
Respondent No.3



**Principal,**  
Govt; Postgraduate College,  
Lakki Marwat  
Respondent No. 4

**PRINCIPAL**  
G.P.G.C Lakki Marwat

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

**SA# 154/2022**

Muhammad Rashid ..... Appellant

**Versus**

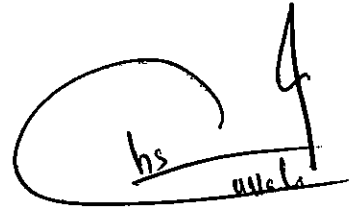
Govt. of Khyber Pakhtunkhwa  
Through Secretary, Higher Education,  
Peshawar & others .....

Respondents

**AFFIDAVIT**

I, Ihsan Ullah, Litigation Officer (BPS-17), Higher Education Department do hereby declare and affirm on oath that the contents of parawise comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

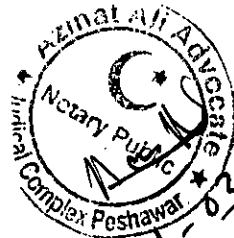
Identified by:



Deponent

Additional Advocate General  
Khyber Pakhtunkhwa

**ATTESTED**



21-03-2023

**Promotion Policy**

Dear Sir,

I am directed to refer to the subject noted above and to say that in order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

**I. Length of service.**

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

- Basic Scale 18 : 5 years' service in BS-17  
 Basic Scale 19 : 12 years' service in BS-17 & above  
 Basic Scale 20 : 17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

- (i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.
- (ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:  
 Basic Scale 19 : 7 years' service in BS-18  
 Basic Scale 20 : 10 years' service in BS-18 and above or 3 years' service in BS-19.

**II. Linking of promotion with training:**

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20

اس فیصلے کا اطلاق نئی بھرتی اور  
 کرے گا۔ مزید وضاحت کے  
 ملاحظہ ہو۔ سال ۲۰۰۳ء میں

1-70/2003-04/FD

کی باقاعدہ پوسٹیں خالی ہونے

جائے گا۔ ساتھ ہی ساتھ یہ وضاحت

سکیل ایک اور اوپر کی آسا

001-2002/FD/Vol-II

محکمہ جات میں مخصوص آسامیاں

جائیں گی۔ نئی بھرتی اگر تاگزیر

مطلوبہ قابلیت کے حامل باقاعدہ

کنٹریکٹ کی بنیاد پر بھرتی محکمہ

۱۲۶ اکتوبر ۲۰۰۲ء کے ذریعے جاری

چونکہ

(ii)

پابندی

جہاں تک

(iii)

میں

معارف

لا

معروف

لیئے

اگر مخصوص

(iv)

کردیا ہوگا

ایڈجسٹ

پر تبدیل کرا

National Management Course at National Management College, Lahore for promotion to BS-21

- (b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.
- (c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:
- |      |    |
|------|----|
| MCMC | 60 |
| SMC  | 70 |
| NMC  | 75 |
- (d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.
- (e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.
- (f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

### III. Development of Comprehensive Efficiency Index (CEI) for promotion:

- (a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:
- (i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

- (ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect

(b)

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2

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(c)

of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

- (iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

- (b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

Sl. No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2	Training Evaluation Reports as explained hereafter.	--	15%
3	Evaluation by PSB	--	15%
	Total	100%	100%

- (c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

- (i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.
- (ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded, points shall be worked out on the basis of

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**58 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]**

weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

**TABLE-A  
Old PASC & NIPAs**

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii). Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

**TABLE-B  
NATIONAL DEFENCE UNIVERSITY**

Category	Range	Weighted Average	Points @ 60%=9
A. Outstanding	76-100%	88%	7.92
B-Plus. Very Good	66-75.99%	71%	6.39
B- High. Good	61-65.99%	63.5%	5.71
B-Average. Average	56-60.99%	58.5%	5.26
B-Low. Below Average	51-55.99%	53.5%	4.81
B-Minus. Below Average	46-50.99%	48.5%	4.36
C. Below Average	40-45.99%	43%	3.87
F. Below Average	35-39.99%	37.5%	3.37

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2/18  
12  
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(1)



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Age range of grades is reflected in table-A

Points of NIPAs @ 40%=6
5.73
5.10
4.35
3.45
2.52

University will be used average based on provided by the NDU as

Age	Points @ 60%=9
	7.92
	6.39
	5.71
	5.26
	4.81
	4.36
	3.87
	3.37

10  
8  
9/18  
12  
8

- (d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.
- (e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of speciality. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PERs and 30% marks shall be at the disposal of the PSB.
- (f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).
- (g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.
- (h) The performance of officers shall be evaluated in terms of the following grades and scores:

		<u>Upto 11<sup>th</sup> June, 2008</u>	<u>From 12<sup>th</sup> June, 2008</u>
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

- (i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing

**60 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]**

justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

- (j) The quantification formula and Instructions for working out quantified score are annexed.

V

**IV. Promotion of officers who are on deputation, long leave, foreign training:**

- a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.
- b) The civil servants who are on deputation abroad or working with International agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.
- c) <sup>1</sup> In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government, the condition of earning one calendar PER shall not be applicable. The Officers on deputation to projects shall be considered for promotion. However, after promotion they will have to actualize their promotion within their cadre.
- d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.
- e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.
- f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.
- g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department. However, in

1. Subs. vided circular letter No. SOR-IV/E&AD/1-16/2006, dated 19-04-2010

ded-by the reporting  
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case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.

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h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

ve. foreign training:

V. Deferment of Promotion:

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(a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if

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(i) His inter-se-seniority is disputed/sub-judice.

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(ii) Disciplinary or departmental proceedings are pending against him.

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(iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

have not successfully  
(MCMC, SMC & NMC)  
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(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

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(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

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(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their

ted 19-04-2010

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**62 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]**

inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

- (e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.
- (f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

**VI. Date of Promotion:**

Promotion will always be notified with immediate effect.

**VII. Notional Promotion:**

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be; and their pension shall be calculated as per pay which they would have received had they not retired/expired.

**VIII. Promotion of Civil Servants who are awarded minor penalties.**

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

**IX. Promotion in case of pending investigations by NAB:**

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.
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**DIRECTORATE OF HIGHER EDUCATION  
KHYBER PAKHTUNKHWA  
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

Email: [dhekpkesht@gmail.com](mailto:dhekpkesht@gmail.com) Facebook.com/dhekpkesht Twitter.com/dhekpkesht1

No. 1-14 /CA-VII/Estt: Branch/A-167/GPGC Lakki Marwat

Dated Peshawar the 13/1/22 2022

To

Muhammad Rashid,  
Ex-Laboratory Supervisor  
Government Postgraduate College,  
Lakki Marwat.

Subject: - **APPLICATION FOR DECIDING THE DEPARTMENTAL APPLICATION WHICH WAS ENTRUSTED TO YOUR HONOUR BY THE WORTHY SECRETARY, HIGHER EDUCATION DEPARTMENT**

Respected Sir, السلام عليكم

I am directed to refer to your Application No. Nil dated 21-12-2021 and to state that your request has been examined and regretted as there is no provision for proforma promotion in prevailing rules.

6/c

13/1/22

(Khanuja M. Saqib)

ASSISTANT DIRECTOR (GENERAL)

5/12

S-HE