

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

Khyber Pakhtunkhwa  
Service Tribunal  
Case No. 4456  
Date 17/3/2023

Reply

In

Service Appeal No. 1348/2022

Mehbeob Alahi S/O A,in Ullah , (Chowkidar) GPS Badalai B, District Dir  
Upper.

..... (Appellant)


Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer Male Dir Upper and others

..... (Respondents)

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District Education Officer (M)  
Dir Upper  
Respondent No.3

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**PARA WISE REPLY ON & FOR BEHALF OF  
RESPONDENTS, No.1, 2, and 3.**

Respectfully Sheweth:-

**PRELIMINARY OBJECTIONS.**


1. That the Appellant is not an “aggrieved” person with the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
2. That the Appellant has got no cause of action /locus standi.
3. That the Appellant has not come to this Honorable court with clean hands.
4. That the Appellant is estopped by his own conduct.
5. That the instant service appeal suffers from laches, hence not maintainable in the present form.
6. That the instant appeal is liable to be dismissed for mis-joinder and non-joinder of necessary parties.
7. That the order dated 23-05-2022 is legally competent and liable to be maintained being the outcome of due process of law and procedure.

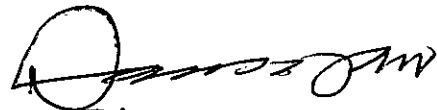
## ON FACTS.


- 1) Para-1 pertains to appellant service records hence needs no comments.
- 2) Para-2 of the facts pertains to record, hence, needs no comments.
- 3) Para-3 of the facts is correct and the appellant was senior to the private Respondents No: 4-6, However, he was not fit for promotion consequently the appellant was not considered for promotion under 33% quota, whereas, the private Respondents although junior to the appellant, were considered for promotion in question on the basis of seniority cum-fitness, hence they were promoted to the post of junior clerk (BPS-11) vide order dated 23-05-2022.
- 4) Para- 4 is incorrect, and further it is stated that the promotion order dated 23-05-2022 wherein the private respondents were promoted in accordance with rules and policies in vogue and the appellant has not been discriminated.
- 5) Para-5 is incorrect, on the grounds that appellant was not entitled to be promoted to the post of junior clerk (BPS-11) being a third divisioner in SSC, whereas the minimum qualification of junior clerk is SSC at least 2<sup>nd</sup> division that the private respondents are promoted although appellant was senior to the Respondents, However the appellant was third divisioner, and there are no rules for promotion to junior clerk under 33% quota on the basis of third division. however minimum qualification for recruitment of junior clerk are as under,  
“(i) For Junior Clerk /Assistant store keepers having at least second division in secondary school certificate or equivalent qualification from a recognized board and a speed of twenty five words per minute in typing.  
Whereas for promotion, the following are the criteria,  
(a) Thirty three percent by promotion, on the basis of seniority –cum-fitness from amongst the daftaries, G/Operators, Qasid and naib qasid including other equivalent posts in the attached department /offices/ institutions with at least two years’ service as such and having qualification mentioned in the column No.3.thus the appellant was third divisioner in his Secondary School Certificate , so not considered while the private respondents No.4 to 6, were eligible so considered.(Copy of the recruitment rules are attached as “A”).
- 6) Para-6 is incorrect, hence denied. Details have been given in the proceeding paras of the reply.
- 7) Para-7 is in correct, as per promotion rules/ policy; the appellant is not eligible on the grounds of 3<sup>rd</sup> Division in his Secondary School Certificate, that’s why he was not promoted.
- 8) Para-8 of the facts is incorrect, hence denied. Details have been submitted in the facts above.
- 9) Para-8 of the facts is incorrect, hence denied. Details have been submitted in the facts above.
- 10) Legal; however the official respondent also seeks permission for additional grounds during arguments inter alia.

Prayer

It is, therefore, humbly prayed that on acceptance of the above submission, the instant Service Appeal may very graciously be dismissed in favor of the answering respondents with cost.

  
Secretary,  
E&SE Peshawar  
Respondent No.1

  
Director,  
E&SE Peshawar  
Respondent No.2

  
District Education officer (M)  
Dir Upper  
Respondent No.3

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**Affidavit**

I, Syed Alam Zeb Shah, office of the DEO (M) Dir upper, do hereby solemnly affirm and state on oath that the whole contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.



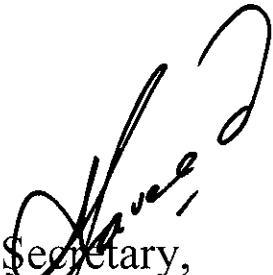
  
Deponent  
Syed Alam Zeb Shah

## Authority Letter

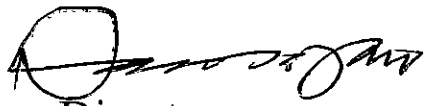
Mr.Syed Alam Zeb Shah, Office of the District Education officer Male Dir upper is hereby authorized to submit the reply in the

Service appeal No.1348/2022

Titled; Mehboob elahi Vs Government of KP and others on behalf of the under signed.



Secretary,  
E&SE Peshawar  
Respondent No.1



Director,  
E&SE Peshawar  
Respondent No.2



District Education officer (M)  
Dir Upper  
Respondent No.3



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
Peshawar, dated the 28<sup>th</sup> January, 2013

**NOTIFICATION**

No.SO(PE)/4-10/SSRC/Ministerial Staff/2013:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all rules issued in this behalf to the extent of the Elementary and Secondary Education Department the (E&SE Department) in consultation with the Establishment Department and Finance Department hereby lays down the method of recruitment, qualifications and other conditions specified in Column 3 to 5 of the Appendix to this Notification which shall be applicable to the posts borne on the ministerial establishment in the Elementary and Secondary Education Department specified in Column No.2 of the said Appendix.

**APPENDIX**

S. NO	NOMENCLATURE	MINIMUM QUALIFICATION AND EXPERIENCE FOR INITIAL APPOINTMENT OR BY TRANSFER	AGE LIMIT	METHOD OF RECRUITMENT (EXISTING)
1	2	3	4	5
1.	Deputy Director (Finance and Accounts) / Deputy Director (Administration) (BPS-18)			By promotion on the basis of seniority cum fitness from amongst the Assistant Directors (Finance and Accounts) & Assistant Directors (Administration) with at least five years service as such.
2.	Assistant Director (Finance and Accounts) / Assistant Director (Administration) (BPS-17)			By promotion on the basis of seniority cum fitness from amongst the Budget and Accounts Officers with at least two years service as such.
3.	Budget and Accounts Officer. (BPS-16)			By promotion on the basis of seniority cum fitness from amongst the Superintendents with at least two years service as such.
4.	Superintendent (BPS-15)			By promotion on the basis of seniority cum fitness amongst the holders of the posts of Assistants and Senior Scale stenographers with at least two years service as such.
5.	Senior Scale	(i) At least Second Class Bachelor's Degree or equivalent	20 to 30	By promotion on the basis of seniority cum fitness

	Stenographers (BPS-16)	qualification from a recognized University; (ii) Speed of Seventy words per minute in shorthand in English and Forty Five words per minute in typing; and (iii) Knowledge of Computer in using MS words and MS Excel.	Years	fitness from amongst the Junior Scale Stenographers (BPS-14) with at least five years service as such.
6.	Assistant (BPS-14)	At least Second Class Bachelor's Degree from a recognized University	20 to 30 Years	(a) Seventy five per cent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least five years service as such; and (b) Twenty five per cent by initial recruitment
7.	Junior Scale Stenographers (BPS-14)	(i) Intermediate or equivalent qualifications from a recognized Board; (ii) Speed of Fifty words per minute in shorthand in English and Thirty Five words per minute in typing; and (iii) Knowledge of Computer in using MS words and MS Excel.	18 to 30 Years	By initial recruitment
8.	Senior Clerks (BPS-09)			By promotion on the basis of seniority cum fitness from amongst the Junior Clerks, Assistant Store Keepers and Laboratory Assistants with at least two years service as such.
9.	Junior Clerk/Assistant Store Keeper/ Laboratory Assistant (BPS-07)	(i) For Junior Clerk / Assistant Store Keepers having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board and a speed of twenty five words per minute in typing; (ii) For Laboratory Assistants having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board with Science.	18 to 30 Years	(a) Thirty Three per cent by promotion, on the basis of seniority-cum-fitness from amongst the Dastaries, G/Operators, Qasids and Naib Qasids including other equivalent posts in the attached department/offices/institutions with at least two years service as such and having qualification mentioned in column No. 3. (b) Sixty Seven per cent by initial recruitment Note: - For the purpose of promotion, there shall be maintained a joint seniority list of Dastaries, Gestener Operators, Qasids, Naib Qasids etc including other equivalent posts in the attached department/offices/institutions with reference to the dates of their regular appointment or acquiring Secondary School Certificate etc.



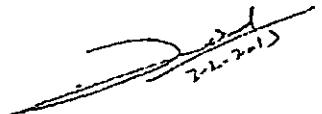
10.	Driver (BPS-04)	Having valid Driving License and preferably Literate.	18 to 32 Years	By Initial recruitment
11.	Naib Qasid /Chowkidar/ Behshi/Cook/Bearer/ Shop Attendant/ Laboratory Attendant etc	Preferably Literate	18 to 30 Years	By Initial recruitment

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Encl : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (I&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA
17. PS to Governor Khyber Pakhtunkhwa Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.

- 20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
- 21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
- 22. Master file

  
SECTION OFFICER (Primary)