

31.08.2022

Bench is incomplete, therefore, case is adjourned to
14.11.2022 for the same as before.


Reader


14.11.2022

Appellant present in person.

Naseer Ud Din Shah, learned Assistant Advocate General
for respondents present.


Learned Member (Judicial) is on leave, therefore,
arguments could not be heard. Adjourned. To come up for
arguments on 04.01.2023 before D.B

SCANNED
KPS
Peshawar


(Fareeha Paul)
Member (E)

4-1-23

Due to rush of work therefore case
is adjourned to 13-4-23


Reader

31.03.2022

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Farmanullah, Office Assistant for respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of respondents seek time to submit the same on the next date. Adjourned. To come up for written reply/comments on 17.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

17th June 2022

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

Despite three opportunities given to the respondents, they have not submitted reply. The respondents are given last opportunity to submit reply within 07 days from today, failing which their right to file reply shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 31.08.2022. The case will not be adjourned on the ground of non-filing of reply/comments.



(Kalim Arshad Khan)
Chairman

11.01.2022

Counsel for the appellant present. Preliminary arguments have been heard.

Points raised need consideration. This appeal is admitted for hearing, subject to all legal just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 31.01.2022 before the S.B.

SC
Peshawar

Appellant Deposited
Security & Process Fee


12/01/22


Chairman

31.01.2022

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

Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 31.03.2022.




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

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7895/2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/12/2021	<p>The appeal of Mr. Masud-ur-Rehman resubmitted today by Syed Noman Ali Bukhari 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> <p>2-</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>17/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Masud-rur-Rehman (Retd) IG Prisons Khyber Pakhtunkhwa received today i.e. on 10.12.2021 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

Page nos. 19, 21 to 26 and 33 to 43 of the appeal are illegible which may be replaced by legible/better one.

No. 2468 /S.T,

Dt. 10/12 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr.M. Asif Yousafzai Adv. Pesh.

Sir All objection removed and file

R- Submitted

Asif

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 7895 /2021

Masud Ur Rahman

V/S

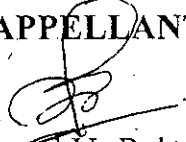
Govt. of KP etc.

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APPELLANT


Masud Ur Rahman


THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT OF PAKISTAN,


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

& 
(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

①

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. _____/2021

Masud Ur Rahman, (Retd) IG Prisons (BPS-20),
Khyber Pakhtunkhwa.

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa Peshawar.
4. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE LETTER/ORDER DATED 09.11.2021 COMMUNICATED TO THE APPELLANT ON 16.11.2021 WHEREBY THE DEPARTMENTAL APPEAL DATED 09.06.2021 DAIRY DATED 11.06.2021 FOR ANTEDATION OF PROMOTION OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE REJECTION ORDER DATED 09.11.2021 COMMUNICATED TO THE APPELLANT ON 16.11.2021 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE GRANTED ANTEDATED PROMOTION FROM HIS DUE DATE WHICH IS FROM THE DATE THE POST OF IG PRISONS BECAME AVAILABLE FOR PROMOTION QUOTA. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Superintendent District Jail (BPS-17) in the Khyber Pakhtunkhwa Prisons Department w.e.f. 23.01.1988.
2. That the appellant was then promoted to the rank of Superintendent Central Prison and was then considered for promotion to the post of I.G. Prisons vide PSB dated 19.07.2004 but deferred on the ground of lack of minimum length of service i.e. five years in BPS-18. Later on the same deficiency was removed vide order dated 29.07.2011. **Copy of Minutes of PSB dated 19.07.2004 is attached as Annexure - A.**
3. That the appellant was promoted to the rank of Superintendent Central Prison w.e.f. 23.01.1993 instead of 25.02.2004 through Home and Tribal Affairs Department Notification dated 29.07.2011. **Copy of Notification dated 29.07.2011 is attached as Annexure - A1.**
4. That upon upgradation of the post of Superintendent Central Prison from BPS-18 to BPS-19, the appellant was promoted to BPS-19 through Home and Tribal Affairs Department Notification dated 21.12.2005. **Copy of Notification dated 21.12.2005 is attached as Annexure - B.**
5. That the appellant's seniority was disputed which was heard and then decided in his favour by the Honorable KP Service Tribunal on 19.08.2008 and also by the Honorable Supreme Court of Pakistan on 29.04.2011 where after Final Seniority List was issued by the Home and Tribal Affairs Department through Notification dated 29.07.2011. According to this Notification and Final Seniority List dated 27.07.2011 the appellant was the senior most Superintendent Central Prison (BPS-19). **Copy of Notification dated 29.07.2011 & Final Seniority List dated 27.07.2011 are attached as Annexure - C.**
6. That the appellant in spite of being the most senior Superintendent Central Prison (BPS-19) and the most eligible candidate for the post Inspector General of Prisons (BPS-20), his name was not placed before the Provincial Selection Board. **Copy of Service Recruitment Rules, 1980 (Updated 31.03.2011) is attached as Annexure - D.**

7. That the appellant submitted a representation on 23.02.2012 for consideration of promotion of the appellant to the post of Inspector General (IG) Prisons (BPS-20) as being senior most as well as eligible on all counts. But the department did not consider the appellant for promotion and filled the post of IG prison vide transfer order dated 09.03.2012 and posted the BPS-19 officer against the post of BPS-20 on OPS basis in violation of rules. **Copy of Representation dated 23.02.2012 and order is attached as Annexure - E & E1.**

8. That the appellant then through Writ.Petition No. 1001-P/2012 decided by the honourable Peshawar High Court vide order dated 06.06.2012 directed the respondents to decide the departmental representation of the petitioner (now appellant) within 20 days. **Copy of the Order dated 06.06.2012 is attached as Annexure - F.**

9. That the order dated 06.06.2012 of the honourable Peshawar High Court was also forwarded to Home and Tribal Affairs Department vide IG Prisons letter dated 01.08.2012 for necessary action. **Copy of Letter dated 01.08.2012 is attached as Annexure - G.**

10. That thereafter, appellant also submitted application for promotion to BPS-20 based on the above mentioned order of the honourable Peshawar High Court which was forwarded to Home and Tribal Affairs Department vide IG Prisons letter dated 25.07.2013. **Copy of Letter dated 25.07.2013 is attached as Annexure - H.**

11. That the department was required to conduct PSB for promotion to the post of BPS-20 but the department in stead of conducting PSB, with malafide intention posted another PCS Officer as IG Prisons by transfer on 26.12.2013 without considering the suitability of the appellant in violation of the Prisons Department Service Rules, the appellant filed departmental representation on 27.12.2013 for setting aside the said posting order and for considering the appellant for promotion to the post of IG Prisons (BPS-20) in accordance with rules. **Copy of Posting Order dated 26.12.2013 & Departmental Representation dated 27.12.2013 are attached as Annexures - I & J.**

12. That due to the inaction on the departmental representation by the department, the appellant filed Writ Petition No. 629-P/2014 in the honourable Peshawar High Court, challenging the illegal posting order and non-consideration of the appellant (then petitioner) for promotion to (BPS-20). The said writ petition was decided in favour of the appellant

(then petitioner) vide judgment dated 24.12.2014. Copy of PHC Judgment dated 24.12.2014 is attached as Annexure - K.

13. That then in compliance of the Peshawar High Court judgment the case of the appellant for promotion to the rank of IG Prisons (BPS-20) was placed before the Provincial Selection Board in its meeting on 30.01.2015 which deferred the promotion of the appellant stating that the appellant had not attended Senior Management Course (S.M.C.) as it was not provided in service rules of the Prisons Department. It further observed that the service rules may be amended and the appellant may be nominated for the coming S.M.C. by Home and Tribal Affairs Department and that the seat will be reserved for the appellant. Copy of the Minutes of PSB Meeting dated 30.01.2015 is attached as Annexure - L.

14. That the appellant was not nominated for the coming S.M.C. by Home and Tribal Affairs Department. Service rules were also amended after a long delay vide Home and Tribal Affairs Department Notification dated 30.11.2016. Copy of Amendment in Rules Notification dated 30.11.2016 is attached as Annexure - M.

15. That the appellant was nominated for S.M.C. in 2018 and after successfully attending it he was finally considered for promotion in the PSB Meeting dated 17.09.2018 and the appellant was promoted as IG Prisons (BPS-20) vide notification dated 03.10.2018 and his posting order as IG Prisons was issued vide notification dated 09.11.2018. Copy of Promotion Notification dated 03.10.2018 & Posting Notification dated 09.11.2018 are attached as Annexures - N & O.

16. That the post of IG Prisons (BPS-20) remained occupied by officers of other services/cadres on transfer basis from 29.07.2011 to 09.11.2018 when the appellant while the appellant was eligible by all counts for promotion to the rank of IG Prisons (BPS-20) according to rules despite repeated requests by the appellant for consideration for promotion to the post of IG Prisons (BPS-20) in accordance with the rules.

17. That while posted as Inspector General of Prisons KP, the appellant retired from service on 14.04.2021 on attaining the age of superannuation vide notification dated 08.04.2021. Copy of Retirement Notification dated 08.04.2021 is attached as Annexure - P.

18. That the appellant then filed Petition (Review) dated 09.06.2021 diary dated 11.06.2021 to the honorable Chief Minister, Khyber Pakhtunkhwa which was rejected vide letter dated 09.11.2021 communicated to the appellant on 16.11.2021. **Copy of Petition(Review) dated 09.06.2021 & Letter of Rejection dated 09.11.2021 are attached as Annexures - Q & R.**

19. That now the appellant comes to this august Tribunal for the redressal of his grievances on the following grounds amongst others.

GROUND:

A) That as per the prisons Department Services Rules, the appellant had become eligible for consideration for promotion to the post of IG Prisons (BPS-20) with the issuance of Notification of Final Seniority of Superintendent Central Prison on 29.07.2011.

B) That after Notification of the final seniority list on 29.07.2011 and in the light of the rules, the appellant was eligible for consideration for promotion to the post of IG Prisons (BPS-20) and as such his case was due for placement for promotion before the PSB in its very next meeting held on 04.08.2011.

C) That after the recommendation of PSB in its meeting on 30.01.2015 regarding deferment of promotion of the petitioner for want of S.M.C. and directions of PSB for amending the rules and for nomination of the petitioner for coming S.M.C, rules were amended the rules and for nomination of the appellant for coming S.M.C, rules were amended after deliberate delay of 22 months and the appellant was nominated for S.M.C. after 3 years of the PSB recommendation. The PSB exceeded from its powers and deferred the case of the appellant for not a valid reason. The said Principal was also decided by this honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Appeal No. 731/2015 decided on 25.10.2017. **Copy of the Tribunal Judgment dated 25.10.2017 is attached as Annexure - S.**

D) That from 01.02.2015 to 17.09.2018 i.e. from the date of recommendation of the PSB for nomination of the appellant for S.M.C. till the date of PSB meeting wherein promotion of the appellant to the post of IG Prisons (BPS-20) was recommended, 29 meetings of PSB were held but due to indifferent attitude of the concerned authorities, the promotion case of the appellant was not placed before the PSB.

E) That the insertion of the mandatory provision of S.M.C. in service rules of Prisons Department for promotion to the post of IG Prisons (BPS-20) or nomination of the appellant for S.M.C. was neither the responsibility of the appellant nor within the powers or control of the


appellant. Further it is added that the said amendment has no relevancy with the case of appellant because the promotion of the appellant was due much before the said amendment and hence the rules which are applicable to the appellant are the rules which were updated on 31.03.2011 already annexed as Annexure - D. The said point is also decided by this Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar in case titled as Mr. Inayatullah Versus Education Department & others. Copy of Tribunal Judgment is attached as Annexure-T.

- F) That after issuance of notification dated 29.07.2011 wherein promotion of the appellant to the rank of Superintendent Central Prison was antedated from 25.02.2004 to 23.01.1993 so the appellant is also entitled for promotion to the post of I.G Prison from the date of 1st PSB dated 19.07.2004.
- G) That nothing adverse was on record against the appellant from 29.07.2011 till the formal promotion of the appellant to BPS-20.
- H) That during the entire period i.e. 29.07.2011 to 17.09.2018, the post of IG Prisons was occupied by the officers of other services in contravention of the service rules of Prisons Department as they were posted without determining the suitability or otherwise of the appellant, although the appellant was fully eligible for promotion and posting as IG Prisons (BPS-20).
- I) That during this period i.e. 29.07.2011 to 17.09.2018, the appellant was never superseded.
- J) That deferment on 30.01.2015 was not due to any fault or failure on part of the appellant.
- K) That the only shortcoming pointed out by the PSB on 30.01.2015, though beyond control of the appellant, was removed after attending the S.M.C. by the appellant.
- L) That from 29.07.2011 till 30.01.2015, the appellant was neither considered for promotion nor was he ever superseded or nominated to undergo S.M.C.
- M) That due to indifferent attitude and malafide on part of the concerned authorities, the appellant was not only deprived of timely promotion but also suffered financial loss including loss on account of pension and gratuity as a consequence thereof.
- N) That having been recommended for promotion to the post of IG Prisons (BPS-20) on 17.09.2018 on the basis of the same record, and after removal of the deficiency which was beyond the control of the

appellant, his promotion becomes due on the date of the PSB meeting dated 04.08.2011 having never been superseded as the appellant may not suffer financial losses due to inaction, malafide, arbitrary and illegal conduct of others.

- O) That the appellant has been condemned unheard and has not been treated according to law and rules.
- P) That the appellant seeks permission to advance others grounds and proofs at the time of hearing

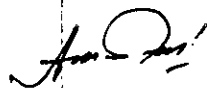
It is therefore, most humbly requested that the appeal of the appellant may be accepted as prayed for.



APPELLANT

Masud Ur Rahman

THROUGH:



(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT OF PAKISTAN,



(TAIMUR ALI KHAN

ADVOCATE HIGH COURT,



(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT,

&



(SHAHKAR KHAN YOUSAFZAI)

ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. _____/2021

Masud Ur Rahman

V/S

Govt. of KP etc.

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.

THROUGH:

(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT OF PAKISTAN,

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2021

Masud Ur Rahman

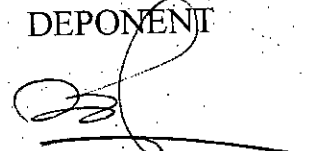
VS

Govt. of KP etc.

AFFIDAVIT

I, Masud Ur Rahman, (Retd) Inspector General of Prisons (BPS-20), Khyber Pakhtunkhwa, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honourable Tribunal.

DEPONENT



Masud Ur Rahman

Annexure - A

10

ITEM NO.1

HOME & TAs DEPARTMENT
(Dated 19.7.2004)

SUBJECT: - **PROMOTION OF SUPERINTENDENT CENTRAL PRISON
(BPS-18) TO THE POST OF I.G PRISON (BPS-19)**

The Administrative Department apprised the Board that notification regarding antedation of promotion of Mr. Masood-u- Rehman is under process in the Establishment/ Law Departments. Hence final seniority list has yet to be notified. In the absence of final seniority list submission of formal working paper is not possible. According to service rules promotion to the post of IG Prison is made as under:-

"By promotion on the basis of selection on merit from amongst holders of the posts of Assistant Inspectors General Prisons and Superintendents Central Prisons with at least 15 years service in BPS-17 and above, out of which at least 5 years should be in BS-18

Or

By transfer

The Board was further apprised that amongst the existing lot of Superintendent Central Prison (BPS-18) i.e M/S Muzaffar Khan, Khalid Abbas and Masood ur Rehman no one meets the criteria to be promoted as IG Prison (BPS-19) due to lack of minimum length of service i.e 5 years in BPS-18. Mr. Masood ur Rehman has also challenged the promotion of M/S Muzaffar Khan and Khalid Abbas in the NWFP Service Tribunal. The case is subjudice but no stay order has been issued.

The Board, therefore, recommended to defer the case and directed the administrative department to defend the case in the Service Tribunal properly. Board also decided that a committee

Attested
Secretary
Govt. of Khyber Pakhtunkhwa
Establishment Department

headed by Secretary Home along with Additional Secretary Law and Additional Secretary (Judicial) Establishment Department may be notified for determination of seniority of Mr. Masood-Ur-Rehman and others in pursuance of judgment of NWFP Service Tribunal, decisions of the Provincial selection Board and Rules/Laws on the subject and submit its report within three weeks.

Attested
Secretary (Judicial) (P.S.B.)
Govt. of Punjab, Ferozpur
Establishment Department

Annexure - A1

Attention! 24
SD Prisons 12



Government Of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
Dated Peshawar, 29th July, 2011

Amex - A

PRISONS DEPARTMENT	
Inspector General.....	
A.I.G.....	
Admin. Officer.....	

NOTIFICATION

No.1/3-SO(Prisons)HD/11. In partial modification of this Department Notification No.1/3-SO(Prisons)HD/2004, dated 25.02.2004, the competent authority is pleased to antedate the promotion of Masud-ur-Rahman to the rank of Superintendent Central Prison from 25-02-2004 to 23.01.1993. The intervening period shall be counted for the purpose of increments without arrears in terms of FR-26 (c).

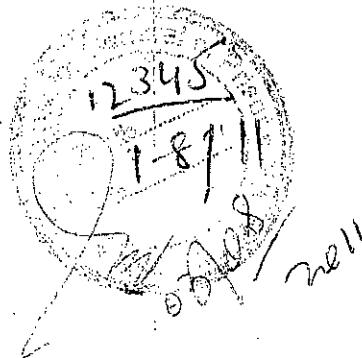
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Endst: of even No/date

Copy forwarded to the:-

1. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar with reference to their judgment dated 19.08.2008 in service appeals No.1223/2007 and 1232/2007 and Honorable Supreme Court of Pakistan, Islamabad Order dated 29.04.2011 in civil appeals No.1791/2008 and 1792/2008.
3. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Officer concerned.
6. Manager Government Printing Press Peshawar for publication in the next issue of Government Gazette.
7. PS to Home Secretary, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary Home, Khyber Pakhtunkhwa, Peshawar

Muhammad Ghulam Marwat
(MUHAMMAD GHULAM MARWAT)
Section Officer (Prisons)



Annexure - B

Amex-B

(13)

GOVERNMENT OF NWFP
HOME & TRIBAL AFFAIRS DEPARTMENT.

DATED PESHAWAR, THE 21/12/2005.

NOTIFICATION.

NO. 1/3-SO(PRISONS)HD/2005. The Competent Authority in consultation with the Provincial Selection Board is pleased to promote the following Superintendents Central Prison/ATG Prisons (BPS-18) against the newly upgraded posts of BPS-19 with immediate effect:-

- 1- Mr. Muhammad Muzaffar Khan.
- 2- Mr. Khalid Abbas.
- 3- Mr. Masud-ur-Rehman.
- 4- Malik Fakhr-i-Alam.

The above officers will be on probation for a period of one year in terms of section 6(2) of NWFP Civil Servants Act, 1973.

SECRETARY TO GOVT. OF NWFP
HOME & TAS DEPARTMENT.

Enclst: of even No./date.

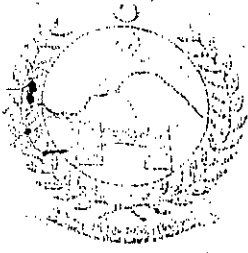
Copy forwarded to the following:-

- 1- Secretary to Chief Minister NWFP.
- 2- Secretary to Govt. of NWFP, Establishment Department.
- 3- Inspector General of Prisons NWFP Peshawar.
- 4- Accountant General NWFP Peshawar.
- 5- PS to Chief Secretary NWFP Peshawar.
- 6- District Accounts Officer Haripur.
- 7- District Accounts Officer DIKhan.
- 8- District Accounts Officer Bannu.
- 9- Officers concerned.
- 10- Manager Govt. Printing & Stationary Department NWFP Peshawar for publication in the next issue of the Govt. Gazette.

(MUHAMMAD AFSAR KHAN)
DEPUTY SECRETARY (COORD).

18876

22/12/05



Government Of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
Date: Peshawar, 29th July, 2011

NOTIFICATION

No. 1/57-SO(Prisons)HD/11. In partial modification of this Department Notification No. 1/57-SO(Prisons)HD/07, dated 29th August, 2007 and in exercise of powers conferred under sub section (1) of section 8 of the NWFP Civil Servants Act, 1973 (NWFP Act No. XVII of 1973), the Governor of Khyber Pakhtunkhwa is pleased to notify the revised final seniority list of Superintendents Central Prison / AIC Prisons (DPS-19) of Inspectorate General of Prisons, Khyber Pakhtunkhwa as it stood on 27-07-2011. The same is appended herewith at Annexure-A for information of all concerned.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Handst of even No/date

Copy forwarded to the:-

1. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar with reference to their judgment dated 19.08.2008 in service appeals No.1223/2007 and 1232/2007 and Hon'ble Supreme Court of Pakistan, Islamabad order dated 29.04.2011 in civil appeals No.1791/2008 and 1792/2008.
3. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
4. All concerned Officers
5. Manger Government Printing Press Peshawar for publication in the next issue of Government Gazette.
6. PS to Home Secretary, Khyber Pakhtunkhwa, Peshawar.

(MUMTAZ GHULAM MARWAT)
Section Officer (Prisons)

FINAL SENIORITY LIST OF SUPERINTENDENTS CENTRAL PRISON / AIG PRISON (BPS-19)
OF THE KHYBER PAKHTUNKHWA PRISONS DEPARTMENT AS STOOD ON 27-07-2011

S.No	Name of officer with qualification	Date of birth with domicile	Date of first entry into Govt Service	Date of appointment / promotion		
				BPS-17	BPS-18	BPS-19
1.	Mr. Masud-Ur-Rahman MA (Political Science)	15.04.1981 (Haripur)	28.03.1984 (IB) 23.01.1988 (Prisons)	23.01.1988	23.01.1993	21.12.2005
2.	Mr. Khalid Abbas MA (Political Science)	01.09.1967 (Peshawar)	29.11.1992	29.11.1992	26.10.2001	21.12.2005
3.	Malik Fakhri Alam BA, LLB	20.05.1952 (Abbotabad)	16.02.1977	16.02.1999	28.09.2004	21.12.2005

Annexure - D

16

KHYBER PAKHTUNKHWA PRISONS DEPARTMENT MANUAL FOR SERVICE/ RECRUITMENT RULES 1980
(Up- dated 31-03-2011)

S.NO	NOMENCLATURE OF POST	MINIMUM QUALIFICATION FOR APPOINTMENT BY INITIAL RECRUITMENT OR BY TRANSFER	MINIMUM QUALIFICATION PRESCRIBED FOR PROMOTION	AGE LIMIT	METHOD OF RECRUITMENT
1	2	3	4	5	6
1.	Inspector General of Prisons (BPS-20)				a) By promotion, on the basis of selection on merit from amongst Assistant Inspector General, Prisons and Superintendent Central Prisons with at least 17 years service in BPS-17 and above, or b) If no suitable candidate is available, then by transfer
2.	Assistant Inspector General of Prisons/ Superintendent Central Prisons (BPS-19)				a) By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents, District Jails, who have passed Departmental examination, if any prescribed and have rendered at least 12 Years service in BPS-17, and above as such; Ors b) If no suitable candidates then by transfer.
3.	Superintendent District Jails (BPS-18)				By promotion, on the basis of seniority-cum-fitness from among the Deputy Superintendent Jail, who have successfully qualified Departmental Training & Examination, if any prescribed and at least five years service as such.
3-A	Superintendent Sub Jail (BPS-17)	Deleted vide Notification No. 1/33-SO(Prs)HD/2010 dated 15-03-2010.			
3-B	Psychologist (BPS-17)	MA Psychology from a recognized University.		21 to 35	By initial recruitment.

Annex-D

Annexure -E

Amea -E

(17)



OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON DIKHAN

NO 635 DATED 23/2/2012

To

The Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.

Subject: - APPOINTMENT/ PROMOTION AS IG PRISONS (B-20)

Memo:

Enclosed please find herewith a petition of the undersigned addressed to the Honorable Chief Minister Khyber Pakhtunkhwa for onward transmission to the concerned quarters at the earliest please.

MASUD-UR-RAHMAN
SUPERINTENDENT
CENTRAL PRISON DIKHAN

ENDSTT: No 636-401

Copy in advance forwarded to the: -

1. PS to the Principal Secretary to the Honorable Chief Minister Khyber Pakhtunkhwa, Peshawar.
2. PS to the Chief Secretary Khyber Pakhtunkhwa Peshawar.
3. PS to the Secretary to the Government of Khyber Pakhtunkhwa, Establishment of Khyber Pakhtunkhwa, Home & TAs Department, Peshawar.
4. PS to the Secretary to the Government, Peshawar.
5. PS to Special Secretary (Regulation) Establishment Department Peshawar.

MASUD-UR-RAHMAN
SUPERINTENDENT
CENTRAL PRISON DIKHAN

BEFORE THE HONORABLE CHIEF MINISTER, KHYBER
PAKHTUNKHWA

Through: Proper Channel

Subject: APPOINTMENT/ PROMOTION AS IG PRISONS (B-20)

Respectfully sheweth:

The petitioner submits as under:-

1. That the petitioner was appointed as Superintendent District Jail (B-17) wef 23-01-1988 in Prisons Department;
2. That the petitioner has been promoted to the rank of Superintendent Central Prison (B-18) wef 23-01-1993;
3. That upon up gradation of the post of Superintendent Central Prison, the petitioner was promoted to B-19 wef 21-12-2005;
4. That according to the Final Seniority List of Superintendents Central Prison/ AIG circulated vide Home Department Notification dated 29th July 2011, the petitioner being the senior most is at S.No 1. A copy of the Final Seniority List is **Annex- A**.
5. That the following method of appointment has been prescribed in Prisons Department Service Rules (**Annex-B**) for the post of Inspector General of Prisons (B-20): -
 - i) "By promotion on the basis of selection on merit from amongst Assistant Inspector General Prisons and Superintendents Central Prisons with at least 17 years service in BPS-17 and above; or
 - ii) If no suitable candidate is available, then by transfer."
6. That only two officers i.e. the petitioner and Mr. Khalid Abbas fulfill the required length of service prescribed by rules for promotion to the post of Inspector General of Prisons (B-20).
7. That Mr. Khalid Abbas has been awarded the penalty of withholding of promotion for five years in a disciplinary case in October 2010. His appeal against the said penalty has been dismissed by the Khyber Pakhtunkhwa Service Tribunal Peshawar vide order dated 03-02-2012 which information has been duly conveyed to Home Department vide IG Prisons Memo No 3259 dated 18-02-2012.
8. That the petitioner having no penalty to discredit is the only Prison Officer eligible for appointment/ promotion to the post of IG Prisons.
9. That being eligible on all counts, it is right of a civil servant to be considered for appointment/ promotion in accordance with the rules.

PRAYER

In view of the above, it is humbly prayed that the petitioner, being the senior most Prison Officer and eligible on all counts may kindly be considered for appointment/ promotion to the post of Inspector General of Prisons in the light of relevant rules on the basis of known available record please.

(MASUD-UR-RAHMAN)
Superintendent Central Prison
Dera Ismail Khan
Petitioner

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar the 9th March, 2012

NOTIFICATION

No.-SO(E-DE&AD/9-162/2012 Government of khyber pakhtunkhwa is pleased to order the posting/transfer of the following officers, in the public interest, with immediate effect:-

Sr. #	Name of OFFICR	FROM	TO
1.	Mr. Qudratullah Khan	Inspector General of Prisons, Khyber Pakhtunkhwa,	Report to Police Department (CPO)
2.	Mr. Arshad Majeed Mohmand DMG	Additional Secretary, Environment Department	Inspector General of Prisons, Khyber Pakhtunkhwa, in his own pay and scale, on deputation basis, vice Sr. No. 01.

(CHIEF SECRETARY)
GOVERNMENT OF KHYBER PAKHTUNKHWA,

1. Additional chief Secretary, P&D, Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Additional Chief Secretary (FATA) FATA Secretariat.
4. Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Govt: Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. Accountant General, Khyber Pakhtunkhwa.
9. Director (PD) Establishment Division, Islamabad.
10. Section Officer (E-5/DMG) Establishment Division, Islamabad.
11. Section officer (E-3/Police), Establishment Division, Islamabad.
12. Director Information, Khyber Pakhtunkhwa.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Establishment, Section Officer (Admn), SO (Secret) E&AD, and P.A to Addl. Secretary (Estt) E&AD/PA to Director (Protocol).
15. Officers Concerned.
16. Manager, Govt. Printing Press Peshawar.

SECTION OFFICER (ESTT-I)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar the 9th March 2012.

NOTIFICATION

S.O. (E&AD)/9-161/2012. Government of Khyber Pakhtunkhwa is pleased to order the posting/transfer of the following officers, in the public interest, with immediate effect:-

Sl. No.	NAME OF OFFICER	FROM	TO
1.	Mr. Qudratullah Khan (SP BS-20)	Inspector General of Prisons, Khyber Pakhtunkhwa.	Report to Police Department (CPO)
2.	Mr. Arshad Majeed Mohmand (DMG BS-19)	Additional Secretary, Environment Department.	Inspector General of Prisons, Khyber Pakhtunkhwa, in his own pay and scale, on deputation basis, vice Sr. No.1.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

Order No. & date even

Copy forwarded to the:-

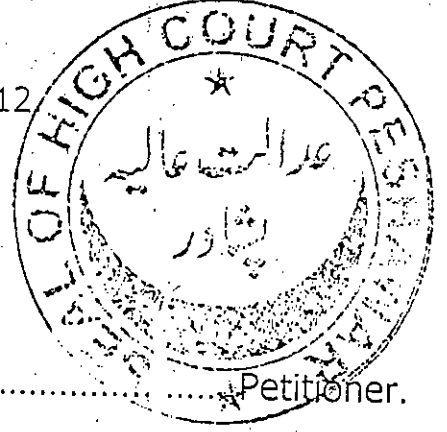
1. Additional Chief Secretary (P&D), Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Additional Chief Secretary (FATA) FATA Secretariat.
4. Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. Accountant General, Khyber Pakhtunkhwa.
9. Director (PD) Establishment Division, Islamabad.
10. Section Officer (E-5/DMG) Establishment Division, Islamabad.
11. Section Officer (E-3/Police) Establishment Division, Islamabad.
12. Director Information, Khyber Pakhtunkhwa.
13. S.O. to Chief Secretary, Khyber Pakhtunkhwa.
14. S.O. to Secretary Establishment, Section Officer (Admn), S.O. (Secret) E&AD, and P.A. to Addl. Secretary (Estt.) E&AD/PA to Director (Protocol)
15. Officers concerned.
16. Manager, Govt. Printing Press Peshawar.

(MUHAMMAD TAUFIQUE)
SECTION OFFICER (ESTT. I)
PHONE & FAX # 091-9210529

96

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

WRIT PETITION NO. 1001-P/2012



Masudur Rehman, Superintendent Jail,
Jail Colony, Peshawar.....

Petitioner.

VERSUS

- 1- The Govt: of KPK Through The Chief Secretary KPK Civil Secretariat Peshawar.
- 2- The Secretary Homes & Tribal Affairs KPK Civil Secretariat Peshawar.
- 3- The Secretary Establishment KPK Civil Secretariat Peshawar.
- 4- Mr. Arshad Majeed Mohmand, I.G Prisons KPK Peshawar.

..... Respondents.

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF PAKISTAN 1973
AS AMENDED UP TO DATE.

K
1385/12

R.SHEWETH.

Brief Facts of the petition are as under:

- 1- That the petitioner joined the Jail Deptt: in the year 1988 in BPS-17. The petitioner was promoted to BPS-18 in the year 1993 and in PBS-19 in the year 2005. Thus the petitioner has more than 24 years service at his credit. All the date are recorded in the seniority list the copy of which is already attached as Annexure - A.
- 2- That the petitioner is at S.No.1 of the seniority list as stood on 27.7.2011 which shows that the petitioner is the senior most Superintendent jail in the province. Copy of the seniority list is attached as Annexure - A.

FILED TODAY
Deputy Registrar
02 APR 2012

ATTESTED
May
EXAMINER
Peshawar High Court

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
6.6.2012	<p><u>WP No. 1001-P/2012.</u></p> <p><i>Present: Mr. Muhammad Asif Yousafzai, Advocate for the petitioner.</i></p> <p>*****</p> <p><u>DOST MUHAMMAD KHAN, CJ.</u> As the matter relates to the terms and conditions of service of a civil servant, therefore, this court cannot pass any conclusive order, however, it was stated at the bar that the Departmental Appeal/ Representation of the petitioner is pending disposal before respondent No.1 but he is not deciding the same. Respondent No.1 shall read the relevant rules whereunder it is binding that such appeal/ representation must be decided within ninety (90) days.</p> <p>Accordingly, we would direct respondent No.1 to decide the Departmental Appeal/ Representation of the petitioner within twenty (20) days at the most, after receiving</p>

ATTESTED

 EXAMINER
 Peshawar High Court.

22 *[Signature]*

copy of this order, fairly, justly and in accordance with law.

Petition disposed of:

Sd/- *Muhammed Iqbal*
CHIEF JUSTICE

Sd/- *Wajid Ahmed Sethi*
JUDGE

CERTIFIED TO BE TRUE COPY

[Signature]
Examined *20/8/13*
Peshawar High Court Peshawar
Authorised Under Article 87 of
the Qanun-e-Shahadat Order 1984

Please issue

[Signature]
Addl. Registrar

Office 7/15

.....	<i>2224</i>
Date of Presentation of Application	<i>20/8/13</i>
No of Pages	<i>67</i>
Copying fee	<i>12/-</i>
Urgent Fee	<i>—</i>
Total	<i>12/-</i>
Date of Preparation of Copy	<i>20/8/13</i>
Date Given For Delivery	<i>20/8/13</i>
Date of Delivery of Copy	<i>20/8/13</i>
Received By	<i>[Signature]</i>

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

WRIT PETITION NO. 1001/2012.

Masudur Rehman, Superintendent Jail,
Jail Colony, Peshawar.....Petitioner.

VERSUS

1. The Govt: of KPK Through The Chief Secretary KPK Civil Secretariat Peshawar.
2. The Secretary Homes & Tribal Affairs KPK Civil Secretariat Peshawar.
3. The Secretary Establishment KPK Civil Secretariat Peshawar.
4. Mr: Arshad Majeed Mohmand, I.G Prisons KPK Peshawar.

.....Respondents.

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF PAKISTAN 1973
AS AMENDED UP TO DATE.**

R. SHEWETH.

Brief Facts of the petition are as under:

1. That the petitioner joined the Jail Deptt: in the year 1988 in B17. The petitioner was promoted to BPS-18 in the year 1993 and BPS-19 in the year 2005. Thus the petitioner has more than years service at his credit. All the date are recorded in the seniority list the copy of which is already attached as Annexure - A.
2. That the petitioner is at S.No.1 of the seniority list as stood 27.7.2011 which shows that the petitioner is the senior in Superintendent jail in the province. Copy of the seniority list attached as Annexure - A.

(21)

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
11.06.2012	<p><u>WP No. 1001-P/2012.</u></p> <p>Present: <i>Mr. Muhammad Asif Yousafzai, Advocate for the petitioner.</i></p> <p style="text-align: center;">*****</p> <p><u>DOST MULLAMMAD KHAN, C.J.</u> As the matter relates to the terms and conditions of service of a civil servant, therefore, this court cannot pass any conclusive order, however, it was stated at the bar that the Departmental Appeal/ Representation of the petitioner is pending disposal before respondent No.1 but he is not deciding the same. Respondent No.1 shall read the relevant rules whereunder it is binding that such appeal/ representation must be decided within ninety (90) days.</p> <p>Accordingly, we would direct respondent No.1 to decide the Departmental Appeal/ Representation of the petitioner within twenty (20) days at the most, after receiving</p>

copy of this order, fairly, justly and in accordance with law.

Petition disposed of.

~~_____~~
CHIEF JUSTICE

~~_____~~
JUDGE

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA, PESHAWAR

No. Court Cases/ _____ /-

Dated 01/08/2012/-

To

The Secretary to Govt: of Khyber Pakhtunkhwa,
Home and Tribal Affairs Department,
Peshawar.

ATTENTION
Section Officer (Courts)

**SUBJECT:- WRIT PETITION NO. 1001-P/2012, MASUD -UR-RAHMAN VS
GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.**

I am directed to forward herewith request of Mr. Masud-ur-Rahman for further necessary action as per rules.

Yours Obediently

ASSISTANT DIRECTOR(ADMN)
For INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA

Endst: No. 20200 _____ /-

Copy of the above is forwarded to Mr. Masud-Ur-Rahman Superintendent Central Prison Haripur for information with reference to his memo: No. 4507 dated 17.07.2012.

ASSISTANT DIRECTOR(ADMN)
For INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA

Annexure-07

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406

📠 091-9213445

23

No. Court Cases/ _____ /-

Dated 31-8-2012 /-

The Secretary to Govt. of Khyber Pakhtunkhwa
Home and Tribal Affairs Department
Peshawar.

ATTENTION
Section Officer (Courts)

**WRIT PETITION NO.1001-P/2012, MASUD-UR-RAHMAN VS GOVERNMENT
OF KHYBER PAKHTUNKHWA AND OTHERS.**

I am directed to forward herewith request of Mr. Masud-ur-Rahman for
necessary action as per rules.

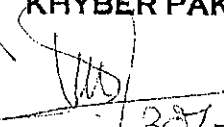
Yours Obediently


**ASSISTANT DIRECTOR (ADMN)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

No. 20200

Copy of the above is forwarded to Mr. Masud-ur-Rahman
Prisoner Central Prison Haripur for information with reference to his memo;
dated 17-07-2012.


**ASSISTANT DIRECTOR (ADMN)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**


38/7/12

OFFICE OF THE
SUPERINTENDENT CENTRAL PRISON, HARIPUR

No. 4507/

Dated 17.07.2012.

To

The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

**SUBJECT:- WRIT PETITION NO. 1001-P/2012, MASUD -UR-RAHMAN VS
GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.**

It is submitted that the Honorable Peshawar High Court, Peshawar vide order dated 06.06.2012 (copy enclosed) in the subject writ petition had directed respondent No. 1 i.e the Government of Khyber Pakhtukhwa through the Chief Secretary Khyber Pakhtunkhwa to decide the Departmental appeal/ Representation of the undersigned within 20 days at the most after receiving copy of the order fairly, justly and in accordance with law.

It is requested that orders of the Honorable High Court may kindly be compied with in letter and spirit and decision of the Government on Departmental appeal/Representation of the undersigned may be communicated to the undersigned please.

Yours Obediently

**Masud-ur-Rahman
Now Superintendent
Central Prison Haripur**

(24)

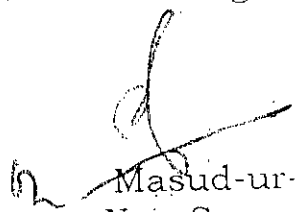
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON HARIPUR
NO 4507 /Dated 17/07/2012.

**The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.**

Subject: **WRIT PETITION NO. 1001-P/2012, MASUD-UR-
RAHMAN VS GOVERNMENT OF KHYBER
PAKHTUNKHWA AND OTHERS.**

It is submitted that the Honorable Peshawar High Court in Peshawar vide order dated 06-06-2012 (copy enclosed) in the subject writ petition had directed Respondent No.1 i.e. the Government of Khyber Pakhtunkhwa through the chief secretary, Khyber Pakhtunkhwa to decide the Departmental appeal/Representation of the undersigned within (20) days at the most after giving copy of the order fairly, justly and in accordance with law.

It is requested that orders of the of the honorable High Court may kindly be complied with in letter & spirit and decision of Government on Departmental appeal/Representation of the undersigned may be communicated to the undersigned please.


Masud-ur-Rahman
Now Superintendent
Central Prison Haripur

**OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA, PESHAWAR**

No. _____/-

Dated 25.07.2013

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Home and Tribal Affairs Department,
Peshawar.

SUBJECT:- APPOINTMENT/PROMOTION AS I.G PRISONS BPS-20

Sir

I am directed to refer to the subject and to forward herewith an application (in original) alongwith its enclosures submitted by Mr. Masud-Ur-Rahman, Superintendent Central Prison Haripur, on the captioned subject (self-explanatory) for information and further disposal, please.

Yours Obediently

**DEPUTY DIRECTOR
For INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA**

Endst: No. 20449/-/-

Copy of the above is forwarded to Mr Superintendent Central Prison Haripur for information with reference to his memo: No. 2304 dated 18.07.2013..

**DEPUTY DIRECTOR
For INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA**

Annexure - H

Annexure - H
OFFICE OF THE
INSPECTOR GENERAL OF PRISONS (25)
KHYBER PAKHTUNKHWA PESHAWAR

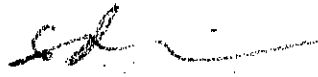
NO. _____ - 6

DATED 25-07-2013


The Secretary to Government of Khyber Pakhtunkhwa,
Home and T.As Department,
Peshawar.

APPOINTMENT/PROMOTION AS LG PRISONS (B-20)

I am directed to refer to the subject and to forward herewith an application (in
(a) alongwith its enclosures submitted by Mr.Masud-ur-Rahman, Superintendent Central
Prison Haripur, on the captioned subject (self explanatory) for information and further disposal
of the same.


DEPUTY DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

Copy of the above is forwarded to the Superintendent, Central Prison Haripur, for
information with reference to his letter No.5304 dated 18-7-2013.


DEPUTY DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

15/10

S. p. l. t.
4-7-13

3076
31-7-13

(BETTER COPY No. 26)

OFFICE OF THE SUPERINTENDENT
CENTRAL PRISON, HARIPUR
NO. 5304, DATED: 18/07/2013

To

The inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar.

Subject: APPOINTMENT / PROMOTION AS IG PRISONS (B-20)

Memo:

It is submitted that while posted as Superintendent Central Prison DI Khan, the undersigned had submitted a petition addressed to the Hon'ble Chief Minister Khyber Pakhtunkhwa to your office vide Superintendent Central Prison DI Khan Memo No. 635 dated 23/02/2012 for consideration of the undersigned for promotion to the post of Inspector General of Prisons (B-20) being the senior most and eligible on all counts under the rules. A copy of the petition along with enclosures is enclosed for ready reference.

Thereafter, the undersigned filed Writ Petition No. 1001-P/2012 before the Hon'ble Peshawar High Court, Peshawar. Vide order dated 06/06/2012, the Hon'ble Court very kindly directed respondent No.1 i.e the Government of Khyber Pakhtunkhwa to decide the petition of the undersigned within twenty (20) days at the most after receiving copy of the court order fairly, justly and in accordance with law. A copy of the court order is again enclosed for ready reference.

The order of the Hon'ble Court was duly received in Home Department. The undersigned vide Superintendent Central Prison, Haripur Memo No. 4507 dated: 17/07/2012 addressed to your office also sent a copy of the court order with request the orders of the court may kindly be complied with in letter and spirit and decision of the government may be communicated to the undersigned.

Ironically no decision on the petition of the undersigned has so far been taken and conveyed to the undersigned. Non compliance of the court orders despite lapse of such a long time.

Amounts to contempt of court for which the undersigned having no alternative, will be constrained to again approach the Hon'ble Court.

My this request may kindly be conveyed to the government for early compliance of the orders of the Hon'ble High Court regarding

OFFICE OF THE SUPERINTENDENT

CENTRAL PRISON, HARIPUR

NO 5306, Dated 18/07/13

[Handwritten signature]
19-7-13

The Inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar.

APPOINTMENT/ PROMOTION AS IG PRISONS (B-20)

It is submitted that while posted as Superintendent Central Prison Dikhan the undersigned had submitted a petition addressed to the honorable Chief Minister Khyber Pakhtunkhwa to your office vide Central Prison Dikhan Memo No 635 dated 23-02-2012 for consideration of the undersigned for promotion to the post of Inspector General of Prisons (B-20) being the senior most and eligible candidate under the rules. A copy of the petition along with supporting documents is enclosed for ready reference.

After the undersigned filed Writ Petition No 1001-P/ 2012 before the honorable Peshawar High Court Peshawar. Vide order dated 14 June 2012, the Honorable Court very kindly directed the Government No 1 i.e. the Government of Khyber Pakhtunkhwa to comply with the petition of the undersigned within twenty (20) days at the earliest receiving copy of the court order fairly, justly and in accordance with law. A copy of the court order is again enclosed for ready reference.

The order of the Honorable court was duly received in Home Department. The undersigned vide Superintendent Central Prison Dikhan Memo No 4507 dated 17-07-2012 addressed to your office enclosing a copy of the court order with request that orders of the court should be complied with in letter and spirit and decision of the Government may be communicated to the undersigned.

Unfortunately no decision on the petition of the undersigned has so far been taken and conveyed to the undersigned. Non compliance of the court orders despite lapse of such a long time amounts to contempt of court for which the undersigned having no alternative, will be constrained to again approach the honorable court.

This request may kindly be conveyed to the government for compliance of the orders of the honorable High Court regarding

and in accordance with the law decision on petition of the
 assigned please.

(MASUD-UR-RAHMAN)
 Superintendent Central Prison
 Haripur

OFFICE OF THE SUPERINTENDENT CENTRAL PRISON HARIPUR

13/05/2017

Copy in advance along with enclosures is forwarded to the: -

PS to the Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat
 Peshawar for kind information of the Chief Secretary.

PS to the Secretary Establishment Department Khyber
 Pakhtunkhwa, Civil Secretariat Peshawar for kind information of
 the Secretary Establishment Department.

PS to the Home Secretary Khyber Pakhtunkhwa, Civil
 Secretariat Peshawar for kind information of the Home
 Secretary.

(MASUD-UR-RAHMAN)
 Superintendent Central Prison
 Haripur

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

DATED PESHAWAR, DECEMBER 26, 2013

NOTIFICATION

NO. SO(E-1)/E&AD/1-1/2013. Government of Khyber Pakhtunkhwa is pleased to announce the posting/transfer of the following officers, in the public interest, with immediate effect:-

S. No.	NAME OF OFFICER	FROM	TO
	Mr. Kifayatullah Khan (PCS EIG BS-19)	Member-I, Revenue.	Inspector General of Prisons, Khyber Pakhtunkhwa in his own pay and scale vice Sr.No.2
	Mr. Zakir Hussain AFMII (PCS EIG BS-19)	Inspector Prisons, Pakhtunkhwa.	General of Khyber Revenue in his own pay and scale vice Sr.No.1

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

List of even and date.

Copy forwarded to the:-

1. Member Board of Revenue, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Secretary to Government of Khyber Pakhtunkhwa, Home & TAs Department.
5. Accountant General, Khyber Pakhtunkhwa.
6. Inspector General of Prisons, Khyber Pakhtunkhwa.
7. Director Information, Khyber Pakhtunkhwa Peshawar.
8. Chief Secretary, Khyber Pakhtunkhwa.
9. Secretary Establishment/PS to SS(E)/PA AS(E),
S(E)/D.S(A)/D.S(E)/SO(Secret)/ SO(E.II)/SO (HRD-I)/SO(E.IV)/E.O/ACSO
Chief/IT and Director Protocol E&AD, Khyber Pakhtunkhwa.
10. Concerned.
11. Manager Govt. Printing Press Peshawar.

M. Javed Siddiqi
(MUHAMMAD JAVED SIDDIQI)
SECTION OFFICER (ESTT- I)
PH & FAX # 091-9210551

Javed



OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON HARIPUR

NO 7687 DATED 27 11/12/2013

The Inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL REPRESENTATION/PETITION

Enclosed please find herewith a Departmental Representation/Petition of the undersigned addressed to the Hon'ble Chief Minister Khyber Pakhtunkhwa for onward transmission to the members concerned at an early date please.

me
(MASUD-UR-RAHMAN)
SUPERINTENDENT
CENTRAL PRISON HARIPUR

Ref: No. 7688-92 /

Copy of the above is forwarded in advance to the: -

1. PS to the Principal Secretary to the Chief Minister Khyber Pakhtunkhwa, Peshawar for kind information/ action of the Hon'ble Chief Minister.
2. PS to the Chief Secretary Khyber Pakhtunkhwa, Peshawar for kind perusal/ action of the worthy Chief Secretary.
3. PS to the Advisor to the Chief Minister Khyber Pakhtunkhwa (for Prisons) for kind information of/ action by the Hon'ble Advisor.
4. PS to the Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar for kind information of and appropriate action by the worthy Secretary.
5. PS to Secretary Home & Tribal Affairs Department, Peshawar for kind information of and necessary action by the worthy Secretary Home.

me
SUPERINTENDENT
CENTRAL PRISON HARIPUR

Received
24752
30-12-2013

Through: Proper channel

Subject: DEPARTMENTAL REPRESENTATION/PETITION

With due respect, the petitioner submits as under: -

FACTS

Facts of the instant petition are as under: -

- a. That the petitioner was appointed as Superintendent District Jail (BPS-17) through Public Service Commission wef 23-01-1988.
- b. That the petitioner was promoted to the rank of Superintendent Central Prison (BPS-18) wef 23-01-1993.
- c. That upon up-gradation of the post, the petitioner was promoted to BPS 19 wef 21-12-2005.
- d. That the petitioner is the senior most superintendent Central Prison. In this connection final seniority list dated 29-07-2011 issued by Home Department is **Annex A** which would confirm the facts stated at a to d above.
- e. That the following method of appointment has been prescribed in Prisons Department Service Rules (**Annex B**) for the post of Inspector General of Prisons (BPS-20): -

- i) **"By promotion on the basis of selection on merit from amongst Assistant Inspector General Prisons and Superintendents Central Prison with at least 17 years service in BPS-17 and above ; OR**
- ii) **If no suitable candidate is available, then by transfer."**

That the petitioner, having rendered more than 25 years service in BPS-17 and above and having no penalty to discredit, is the only eligible officer in the department for consideration for promotion to the post of Inspector General of Prisons (BPS-20).

That the Hon'ble Chief Minister being competent authority had been pleased to approve posting of the Petitioner as Inspector General of Prisons vide his directive dated 4th December, 2013 followed by reminder dated 19-12-2013

Despite that Mr. Kifayatullah Khan, a BPS-19 Officer of PCS Executive Group has been posted as Inspector General of Prisons in his own pay and scale vide Government of Khyber Pakhtunkhwa Establishment Department Notification No SO (E-1) E&AD/1-1/2013 dated 26th December, 2013. A copy of the impugned Notification is **Annex C**.

That the petitioner has been ignored on three occasions (**Annex C, D & E**) from posting as Inspector General of Prisons despite repeated petitions without any solid reason and without informing the petitioner of the reasons, if any, for such deprivation when other officers of his grade (BPS-19) were posted to that position. Departmental Representations/ Petitions of the Petitioner were never answered or given any serious/ due consideration.

That promotion case of the petitioner was not processed even after the directions of the Hon'ble Peshawar High Court Peshawar in writ petition No 1001-P/2012 filed by the petitioner.

Copy of the Order dated 06-06-2012 of the Hon'ble High Court is Annex-F.

That the impugned Notification has rendered the Petitioner as aggrieved party, hence this representation/ petition.

1. GROUNDS

This petition is preferred on the following grounds: -

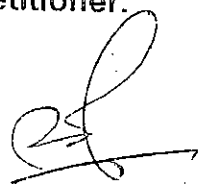
- 1. That the petitioner being senior most and the only officer of Prisons department eligible for promotion deserves to be posted as IG Prisons instead of **other favorites** from other service and of the same pay scale which the petitioner was holding.
- 2. That posting to the position of Inspector General of Prisons was not horizontal movement for which no reasons for denying such posting were required. It is vertical career movement which the petitioner had been rightly aspiring for after completion of minimum length of service and fulfillment of other conditions, therefore he could not have been ignored without having been properly considered and without assigning any reasons which the petitioner had right to know and to contest in proper forum. This discretion could not be exercised on the whims and caprices of any authority but had to be exercised discretely and in accordance with the service rules and norms of justice.
- 3. That **performance of the favorites who were given preference over the petitioner was never enviable to have justified such an injustice;**
- 4. That the petitioner is fully convinced that he has fallen prey to the likings and disliking and prejudices.
- 5. That the Hon'ble Peshawar High Court vide order at Annex-F has already ordered to decide the departmental representation dated 22-02-2012 of the petitioner within 20 days which orders have not been complied with despite lapse of more than 550 days and despite reminders which amounts to contempt of court besides being indicative of prejudiced mind.
- 6. That appointment of Inspector General of Prisons notified vide Establishment Department Notification No SO(E-1)E&AD/1-1/2013 dated 26-12-2013 (**impugned notification**) at Annex-C is illegal and in violation of Service Rules and hence of no legal effect in presence of an eligible officer of Prisons department and hence liable to setting aside.
- 7. That repeated ignoring of the petitioner without any fault on his part amounts to humiliation and tends to shatter his confidence thereby destroying his self respect and pride of being a civil servant.

PRAYER

In view of the above, it is prayed that: -

- 1. The impugned order may be set aside and the petitioner may be posted as Inspector General of Prisons in his own pay and scale as others were appointed and may then be considered for promotion to the post of IG Prisons (BPS-20) as per rules being the only eligible officer of Prisons department for such promotion. **Moreover postings to that position against the service rules may be stopped forthwith;**

2. If there is any adverse report/ record rendering the petitioner unsuitable for that position, the petitioner may be confronted with that to clarify his position as according to law nobody should be condemned unheard; AND
3. In the meanwhile the petitioner may be posted as OSD or may be deputed to any other department as further injustice and humiliation is not tolerable and is likely to impair the performance of the petitioner.



(MASUD-UR-RAHMAN)
SUPERINTENDENT
CENTRAL PRISON HARIPUR
(Petitioner)

K
=

(33)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT

JUDGMENT

Writ Petition No. 629 of 2014.

Masudur Rehman.....Vs.....Govt of KPK etc.

Date of hearing 24th December 2014.

Petitioner(s) by Muhammad Asif Jousaf zai - Advocate

Respondent(s) by A. T. 11 Jager Ahmad Ishaq AAL.

WAOAR AHMAD SETH, J:- Petitioner, Masudur Rehman, has approached to this court through Constitutional Petition filed under Article, 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

"It is therefore, most humbly prayed that on acceptance of this writ petition, the Hon'ble Court may:

- i) Declare the notification dated 26.12.2013 as illegal, unlawful, unconstitutional, without authority and in violation of law and rules, violation of the Supreme Court's judgment and the same be set aside.
- ii) Direct the Government of Khyber Pakhtunkhwa to abide by the rules governing the filling of IG prisons post (BPS-20) and to convene the meeting of

ATTESTED

EXAMINER
Peshawar High Court

03 FEB 2015

Provincial Selection Board first by considering the eligible candidates first and if the petitioner found fit, he may be promoted to BPS-20 as IG Prisons, KPK being senior most and eligible with all consequential benefits instead of filling the post by transfer.

- iii) Direct the respondent No.1 to implement the direction of the Chief Minister dated 04.12.2013.

2. Brief facts relevant for the disposal of this writ petition are that, petitioner joined the Department of Jail (Prison) in the year 1988 in BPS-17, and in the year 1993 the petitioner was promoted to BPS-18 & in the year 2005 to BPS-19. It is averred that seniority list dated 27.07.2011; petitioner stood at serial No.1 being most senior and has been served for more than 24 years. According to rules the post of I.G Prisons (BPS-20) is to be filled in as:

- a) By promotion by selection on merit from amongst Assistant Inspector General Prisons and Superintendent Central Prisons with at-least 17 years service in BPS-17 and above; or

ATTESTED
EXAMINER
Peshawar High Court.
03 FEB 2015

(35)

b) If no suitable candidate is available, then by transfer.

3. The petitioner filed an appeal for consideration and promotion being eligible for promotion as per rules on 23.2.2012, as the post of IG Prisons (BPS-20) was available, but vide notification dated 09.03.2012 the post of IG Prisons was filled in by transfer instead of making promotion, therefore, the petitioner challenged the said order in WP No. 1001-P of 2012 vide which the respondents were directed to decide the pending departmental appeal of petitioner within 20 days. It is further averred that petitioner filed several applications for implementation of court directions, but in-vain, despite the fact that the Competent Authority (Chief Minister) has also issued directions for posting of the petitioner as IG Prisons, vide order dated 4.12.2013 & subsequent reminder dated 19.12.2013.

4. The respondents instead of issuing the posting order or acting on the appeal/applications of the petitioner issued two orders dated 01.08.2013 & 26.12.2013, whereby the post of IG Prisons was again filled in by transfer instead of following proper rules.

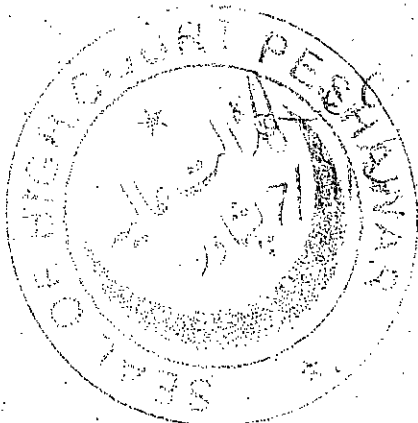
ATTESTED
EXAMINER
Prisoner High Court
03 FEB 2015

10. In view of the above, this writ petition is allowed and impugned notification dated 26.12.2013 is set aside. Respondents No.1 to 4 are directed to convene the meeting of PSB/DPC and consider for promotion the petitioner for the post of IG Prisons in BPS-20, with one month positively. The writ petition is allowed as prayed for.

Announced:
24th December 2014.

Justice Waqar Ahmad
JUDGE

Justice M. Nadeem
JUDGE



CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of the Islamic Republic of Pakistan
03 FEB 2015

No. 12799
Date of Presentation of Application 3/2/15
No of Pages 12P
Copying fee 1
Urgent Fee
Total 14.00
Date of Preparation of Copy 03/2/15
Date Given For Delivery 03/2/15
Date of Delivery of Copy 03/2/15
Received By M. Nadeem

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT

JUDGMENT

Writ Petition No. 629 of 2014.

Masudur Rehman.....Vs.....Govt of KPK etc.

Date of hearing: 24th December 2014.

Petitioner(s) by Muhammad Asif Jaiswal - Advocate

Respondent(s) by M. A. Iqbal - Advocate

YAOAR AHMAD SETH, J.- Petitioner, Masudur
Rehman, has approached to this court through
Constitutional Petition filed under Article, 199 of the
Constitution of Islamic Republic of Pakistan, 1973,
with the following prayer:-

"It is therefore, most humbly
prayed that on acceptance of
this writ petition, the Hon'ble
Court may:

- i) Declare the notification dated
26.12.2013 as illegal, unlawful,
unconstitutional, without
authority and in violation of
law and rules, violation of the
Supreme Court's judgment and the
same be set aside.
- ii) Direct the Government of Khyber
Pakhtunkhwa to abide by the
rules governing the filling of
IG prisons post (BPS-20) and to
convene the meeting of

Provincial Selection Board first by considering the eligible candidates first and if the petitioner found fit, he may be promoted to BPS-20 as IG Prisons, KPK being senior and eligible with all consequential benefits instead of filling the post by transfer.

iii) Direct the respondent No.1 to implement the direction of the Chief Minister dated 04.12.2013.

Brief facts relevant for the disposal of this writ petition are that, petitioner joined the Department of Jail (Prison) in the year 1988 in BPS-17, and in the year 1993 he was promoted to BPS-18 and in the year 2005 to BPS-19. It is averred that seniority list dated 27.07.2011, petitioner stood at serial No.1 being most senior and has been served for more than 24 years. According to rules the post of I.G Prisons (BPS-20) is to be filled in as:

- i) By promotion by selection on merit from amongst Assistant Inspector General Prisons and Superintendent Central Prisons with at-least 17 years service in BPS-17 and above; or

TESTED
 EXAMINER
 Peshawar High Court
 07/11/2013

b) If no suitable candidate is available, then by transfer.

3. The petitioner filed an appeal for consideration and promotion being eligible for promotion as per rules on 23.2.2012, as the post of IG Prisons (BPS-20) was available, but vide notification dated 09.03.2012 the post of IG Prisons was filled in by transfer instead of making promotion, therefore, the petitioner challenged the said order in WP No. 1001-P of 2012 vide which the respondents were directed to decide the pending departmental appeal of petitioner within 20 days. It is further averred that petitioner filed several applications for implementation of court directions, but in-vain, despite the fact that the Competent Authority (Chief Minister) has also issued directions for posting of the petitioner as IG Prisons, vide order dated 4.12.2013 & subsequent reminder dated 19.12.2013.

4. The respondents instead of issuing the posting order or acting on the appeal/applications of the petitioner issued two orders dated 01.08.2013 & 26.12.2013, whereby the post of IG Prisons was again filled in by transfer instead of following proper rules.

RECEIVED
CHIEF MINISTER
PUNJAB
01/08/2013

5. Feeling aggrieved from the act of respondents and having no other efficacious remedy the petitioner has approached this court for his redressal.

6. We have heard both the counsel for the parties and have gone through the available record.

7. According to Khyer Pakhtunkhwa, Prisons Department Manual, for service / recruitments rules, 1980, the post of Inspector General of Prisons (BPS-20) is to be filled in by promotion, on the basis of selection on merit from amongst Assistant Inspector General, Prisons and Superintendent Central Prisons with a minimum service in BPS-17 and where no suitable candidate is available then by transfer. It appears that before issuance of impugned notification dated 26th December 2013, whereby respondent No.5 who is in BPS-19, has been appointed as Inspector General of Prisons, KPK, without first conveying the meeting of Departmental Promotion Committee, and determining the fitness and suitability of the petitioner for promotion.

8. Record reveals that petitioner is the senior most incumbent in the Department as per latest seniority list circulated and there is no adverse point

against the petitioner, disentitling him for promotion against the post of IG Prisons in BPS-20. No doubt promotion is the right and prerogative of the employer and no one could claim as of right but where the prescribed procedure and law has been violated then it become the vested right of any employee. Learned counsel for the respondents failed to point out any negative against the petitioner promotion nor could give any justification for appointment respondent No.5, on transfer basis and that too against a higher post of BPS-20.

9. Since it is clearly mentioned in the Rules, in the post of IG Prisons BPS-20 is to be filled in by promotion and if the suitable person is not available only then the post is to be filled in by transfer, therefore, the petitioner has the preferential right to be considered for promotion by the Competent Promotion Committee / Selection Board. Even otherwise, the Apex Court has held that grant of higher appointments to Junior Officers against senior post amounts to accelerated promotion. Moreover, the instructions of the Administrative Department of the KPK in this respect are also very clear and unambiguous.

10. In view of the above, this writ petition is allowed and impugned notification dated 26.12.2013 is set aside. Respondents No.1 to 4 are directed to convene the meeting of PSB/DPC and consider for promotion the petitioner for the post of IG Prisons in EPS-20, with one month positively. The writ petition is allowed as prayed for.

At Wazir Ahmad Sethi
At Jifainullah Khan
announced:
 14th December 2014.

J
 JUDGE

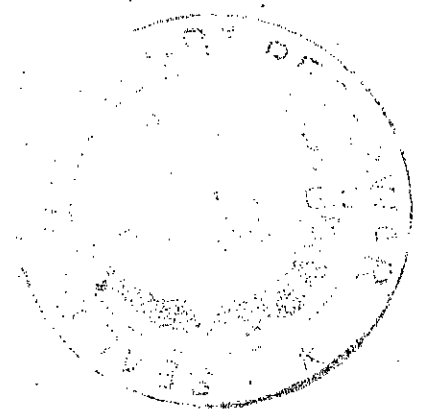
J
 JUDGE

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14P 24-12-14

07-01-15
 07-01-15
 07-01-15



(BETTER COPY No. 39)

HOME DEPARTMENT
(Meeting of PSB held on 30/01/2015)

Subject: PROMOTION TO THE POST OF INSPECTOR GENERAL
OF PRISONS BS-20

The board considered the promotion case of Mr. Masud Ur Rehman to the post of LG Prison BS-20 as per direction of Hon'ble Court. He is the most senior and his length of service is also completed for the promotion. The board discussed his promotion case in detail and it was felt that the post of IG Prisons is not a technical post but an administrative nature post, which demands administrative and managerial skills, hence Senior Management Course (SMC) is must for such like promotion. The officers has not done the course, as the service rules do not prescribe such course for promotion of the post of I.G Prisons. Keeping in view, the present security related issues in the province, the post must be filled by such an incumbent who has good administrative / managerial capability. It is the considered view of the board that the promotion of the officer may be deferred and the post may be reserved for him. On his successful completion of SMC, he will be considered for promotion to the post of IG Prisons. Home department will issue a circular to all administrative departments for declaring SMC mandatory for all those posts in BS-20, which require administrative and managerial skills. Home department will also amend rules for promotion to the post of IG Prisons by inserting SMC mandatory for the said post.

The Board therefore, recommended to defer his promotion.

HOME DEPARTMENT

(Meeting of PSB held on 30.01.2015)

PROMOTION TO THE POST OF INSPECTOR GENERAL OF PRISONS BS-20

The Board considered the promotion case of Mr. Masud ur Rehman to the post of Inspector BS-20 as per direction of honorable Court. He is the most senior and his length of service is also completed for the promotion. The Board discussed his case in detail and it was felt that the post of IG Prisons is not a technical post but an administrative nature post, which demands administrative and managerial skills. Senior Management Course (S.M.C) is must for such like promotion. The officer has not done the course, as the service rules do not prescribe such course for promotion to the post of I.G. Prisons. Keeping in view the present security related issues in the province, the post must be filled by such an incumbent who has good administrative/managerial capability. It is the considered view of the Board that the promotion of the officer may be deferred and the post may be reserved for him. On his completion of S.M.C, he will be considered for promotion to the post of I.G Prisons. Home department will nominate him for the coming S. M. C. The Home department will issue a circular to all Administrative departments for making S.M.C mandatory for all those posts in BS-20 which require administrative and managerial skills. Home department will also amend rules for promotion to the post of I.G Prisons by inserting S. M.C mandatory for the said post.

The Board therefore recommended to defer his promotion.

[Handwritten signature]

(BETTER COPY No. 40)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT, PESHAWAR**

Peshawar, dated 30/11/2016

NOTIFICATION:

No. SO(Prison)HD/1-33/2014/Vol-VI. In exercise of the powers conferred by sub rule (2) rule (3), the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, of 1989, the Home & Tribal Affairs Department in consultation with the Establishment Department and the Finance Department, hereby direct that in the Khyber Pakhtunkhwa Prisons Department Recruitment And Appointment) Rules 1980, the following further amendment shall be made namely.

AMENDMENT

In the Appendix, against serial 1 in column 6, in clause (c) after the words and above, the words "who have successfully qualified Senior Management Course" shall be inserted, namely.

**SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT**

Endst & Date even

- Copy forwarded to
1. The Secretary to Government of Khyber Pakhtunkhwa Establishment 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 Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
 5. The Manager, Government Printing Press Peshawar for publication in the Government Gazette he is further requested to sent 10 copies of the said Gazette notification to the Law department as well as this Department and Prisons department for record.

**Senior Officer Prisons
Home and Tribal Affairs Department
Government of Khyber Pakhtunkhwa
Section Officer (Prisons)**



**GOVERNMENT OF KHYBER PUKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT PESHAWAR**

Peshawar, dated 30-11-2016

NOTIFICATION

Whereas (H.D./1-33/2014/Vol-VI. In exercise of the powers conferred by sub-rule (2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1980 and Home & Tribal Affairs Department, in consultation with the Establishment Department and Finance Department, hereby direct that in the Khyber Pakhtunkhwa Prisons Department (Appointment) Rules, 1980, the following further amendment shall be made:

AMENDMENT.

In the Appendix, against serial 1, in column 6, in clause (c) after the words "and above", the words "who have successfully qualified Senior Management Course" shall be inserted, namely:

**SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.**

and this even.

is forwarded to:-

Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Peshawar.

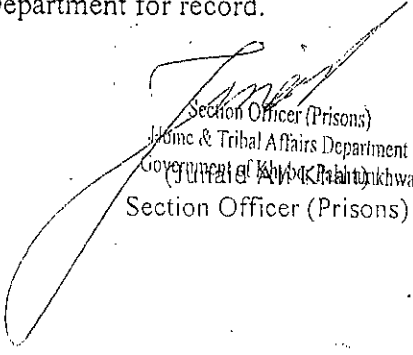
Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.

Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.

Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.

Manager, Government Printing Press Peshawar for publication in the Government Gazette.

It is further requested to send 10 copies of the said Gazette Notification to the Establishment Department as well as this Department and Prisons Department for record.


 Section Officer (Prisons)
 Home & Tribal Affairs Department
 Government of Khyber Pakhtunkhwa
 Section Officer (Prisons)

(BETTER COPY No. 41)

GOVERNMENT OF
KHYBER PAKHTUNKHWA
Establishment DEPARTMENT
Peshawar, the Octover 3, 2018

NOTIFICATION:

No. SD (E-I) E&AD/9-162/2018. On the recommendation of Provincial selection board, the competent authority is pleased to promote Mr. Masud Ur Rehman, Superintendent Central Prisons Peshawar to the post of Inspector General of Prisons (Bs-20) on regular basis, with immediate effect.

2. The officer on promotion will remain on probation for a period of one year in terms of section 6(2) of Khyber Pakhtunkhwa Civil Servant Act 1973, read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules 1989.
3. His posting / Transfer / Orders will be issued later.

CHIEF SECRETARY
Government Khyber Pakhtunkhwa.

**** of Even No. and Date

Copy Forwarded to:

1. Additional Chief Secretary, P&D Department.
2. Senior Member board of Revenue, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa Home and T As Department.
4. Principal, Secretary to Governor Khyber Pakhtunkhwa
5. Principal, Secretary to Chief Minister, Khyber Pakhtunkhwa
6. Commissioner Peshawar Division, Peshawar.
7. Accountant General Khyber Pakhtunkhwa
8. Inspector General of Prisons, Khyber Pakhtunkhwa
9. PSO to Chief Secretary, Khyber Pakhtunkhwa
10. PS to Chief Secretary, Khyber Pakhtunkhwa
11. PSO to Chief Secretary, Establishment Khyber Pakhtunkhwa
12. PSO to Secretary, (Admin) DS/A SO, (Secretary / Estab) Khyber Pakhtunkhwa.
13. Officer concerned.
14. Controller, Government Printing Press, Peshawar.

(Ishtiaq Ahmad)
Section Officer (Estt)
Phone and Fax No. 091-9210529



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar, the October 3, 2018

NOTIFICATION

NO. SO(E-I)E&AD/9-162/2018. On the recommendations of Provincial Selection Board, the competent authority is pleased to promote Mr. Masud-ur-Rehman, Superintendent Central Prisons Peshawar to the post of Inspector General of Prisons (BS-20), on regular basis, with immediate effect.

The officer on promotion will remain on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

His posting/transfer orders will be issued later.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

COPYES NO. & DATE

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Home & T.As Deptt.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. Commissioner Peshawar Division, Peshawar.
7. Accountant General, Khyber Pakhtunkhwa.
8. Inspector General of Prisons Khyber Pakhtunkhwa.
9. PSO to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Chief Secretary, Khyber Pakhtunkhwa.
11. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA,AS(HRD)/AS(E)/DS(E)/SO(E.II)/SO(E.V)
12. PS to Secretary (Admn.)/D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department.
13. Officer concerned.
14. Controller, Govt. Printing Press, Peshawar.

(ISHTIAQ AHMAD)

SECTION OFFICER (ESTT. I)
PHONE & FAX # 091-9210529

10/3/18

SUM
3/12/18

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the 9.11.2018

NOTIFICATION

No.-SO(E-DE&AD/1-1/2018(V) The Competent Authority is pleased to order the posting/transfer of the following officers, in the public interest, with immediate effect:-

Sr. #	Name of OFFICR	FROM	TO
1.	Mr. Shahidullah PAS-19	Inspector General of Prisons, Khyber Pakhtunkhwa,	Report to Establishment Department.
2.	Mr. Masud-ur- Rehman BPS-20	Superintendent Central Prisons Peshawar.	Inspector General of Prisons, Khyber Pakhtunkhwa.

(CHIEF SECRETARY)
GOVERNMENT OF KHYBER PAKHTUNKHWA,

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Home & T.As Deptt.
4. Accountant General, Khyber Pakhtunkhwa.
5. Inspector General of Prisons, Khyber Pakhtunkhwa.
6. Superintendent Central Prions Peshawar.
7. PS to Chief Secretary, Khyber Pakhtunkhwa.
8. PS to Secretary Establishment, Section Officer (Admn), SO (Secret) E&AD, and P.A to Addl. Secretary (Estt) E&AD/PA to Director (Protocol).
9. Officers Concerned.
10. Manager, Govt. Printing Press Peshawar.

SECTION OFFICER (ESTT-I)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar November 9, 2018

NOTIFICATION

SO(E-1)/E&AD/1-1/2018 (V) The Competent Authority is pleased to order the transfer of the following officers, in the public interest, with immediate effect:-

NAME OF OFFICER	FROM	TO
M. Shahidullah (AS 65-19)	Inspector General of Prisons, Pakhtunkhwa	Report to Establishment Department.
M. Masud-ur-Rehman (S-10)	Superintendent Central Prisons Peshawar.	Inspector General of Prisons, Pakhtunkhwa

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

POST NO & DATE EVEN.

is forwarded to the:-

1. Chief Secretary to Governor, Khyber Pakhtunkhwa.
2. Chief Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Home & T.As Deptt.
4. Commissioner Peshawar Division, Peshawar.
5. Joint Commissioner, Khyber Pakhtunkhwa.
6. Inspector General of Prisons Khyber Pakhtunkhwa
7. Superintendent Central Prisons Peshawar.
8. P.O to Chief Secretary, Khyber Pakhtunkhwa.
9. P.O to Secretary Establishment/PS to SS(E)/SS (Reg)/PA,AS(HRD)/AS(E)/ DS(E.)
10. P.O to Secretary (Adm.)/D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director (IT)
11. Director Protocol Administration Department.
12. Officers concerned.
13. Director, Govt. Printing Press, Peshawar

(ISHTIAQ AHMAD) *we*
SECTION OFFICER (E-1)
PHONE # 091-9210529

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT.**

Dated Peshawar the 08.04.2021.

NOTIFICATION

No.-SO(Accounts)2-12/RG/LPR2020-/Prison In terms of section 13 of Khyber Pakhtunkhwa Civil Servant Act, 1973 Mr. Masud-ur-Rahman, Inspector General of Prisons (BPS-20) stands retired from Govt. Service on 14.04.2021 (A.N) on attaining superannuation i.e sixtieth (60') year of age, as his date of birth is 15.04.1961.

2. In terms of provision of Rule 20 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 and instructions there-under issued from time to time, the Competent Authority is pleased to sanction 365 days leave encashment in lieu of LPR in favour of officer concerned, subject to availability of leave at his credit and clearance of financial liability.

**(HOME SECRETARY)
KHYBER PAKHTUNKHWA,**

Endst: No. & dated.

Copy forwarded for necessary action to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment & Administration Department w/r to his quoted above.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar w/r to his letter quoted dated 30.03.2021 for further necessary action.
3. P.S to Home Secretary, Khyber Pakhtunkhwa.
4. P.A to Deputy Secretary (Dev/Fin), Home Department Khyber Pakhtunkhwa.
5. Officer concerned.

SECTION OFFICER (ACCOUNTS)



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

Dated Peshawar the 08.04.2021.

SEEN	
I.G.	
A.I.G.	
D.D.	
A.D.	

CERTIFICATION.

NO. SO(Accounts)HD/2-12/RG/LPR/2020-21/Prison. In terms of section 4 of Khyber Pakhtunkhwa Civil Servants Act, 1973 Mr. Masud-ur-Rahman, Inspector General of Prisons (BPS-20) stands retired from Govt. service on 14-04-2021 (A.N) on full superannuation i.e sixtieth (60th) year of age, as his date of birth is 11.6.1961.

In terms of provision of Rule 20 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 and instructions there-under issued from time to time the Competent Authority is pleased to sanction 365 days leave encashment in full pay in favour of officer concerned, subject to availability of leave at his credit and discharge of financial liability.

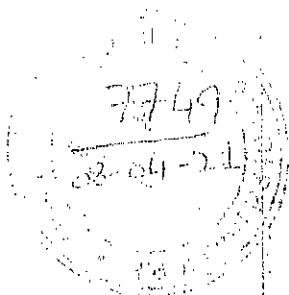
**HOME SECRETARY
KHYBER PAKHTUNKHWA**

Copy for Even No.& date.

Copy forwarded for necessary action to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment & Administration Department, Peshawar w/r to letter No.SO(Policy)E&AD/1-13/2019 dated 30.03.2021.
2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar w/r to his letter No.KC-9865-WE dated 30.03.2021 for further necessary action.
3. P.S to Home Secretary, Khyber Pakhtunkhwa.
4. P.A to Deputy Secretary (Dev/Fin), Home Department Khyber Pakhtunkhwa.
5. Officer Concerned.

[Signature]
SECTION OFFICER (ACCOUNTS)



Annexure - Q

44

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A.D.	

The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Subject: PETITION FOR ANTEDATING THE PROMOTION TO DUE DATE

Memo:

Enclosed please find here with my petition addressed to the Honorable Chief Minister Khyber Pakhtunkhwa on the subject for further necessary action please.

Masud Ur Rahman
9/6/2021

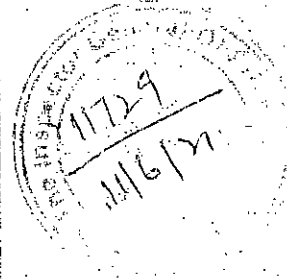
(Masud Ur Rahman)

(Rtd) Inspector General of Prisons,
Khyber Pakhtunkhwa

Address: Mohallah Pathana wala, Sarai
Saleh, District Haripur

Ph: 03339960747

Email: masudrahman3@gmail.com



BEFORE THE HONORABLE CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: PETITION FOR ANTEDATING THE PROMOTION TO DUE DATE

Through: Proper Channel

Respectfully Sheweth:

The petitioner, most respectfully submits as under:

FACTS

1. That the petitioner was appointed as Superintendent District Jail (BPS-17) in Khyber Pakhtunkhwa Prisons Department wef 23/01/1988;
2. That the petitioner was promoted to the rank of Superintendent Central Prison (BPS-18) wef 23/01/1993 vide Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department Notification dated 29th July 2011 (**Annex A**);
3. That upon upgradation of the post of Superintendent Central Prison from BPS-18 to BPS-19, the petitioner was promoted to BPS-19 vide Home and Tribal Affairs Department Notification dated 21/12/2005 (**Annex B**);
4. That the petitioner's seniority dispute, which was adjudicated in KP Service Tribunal, was finally decided in his favor by KP Service Tribunal on 19/08/2008 and the Honorable Supreme Court of Pakistan on 29/04/2011 where after Final Seniority List was issued vide Home and Tribal Affairs Department Notification dated 29th July 2011 (**Annex C**) according to which the petitioner was the senior most Superintendent Central Prison in BPS-19;
5. That the following mode of appointment of IG Prisons has been prescribed under the KP Prisons Department Service Rules (**Annex D**):
 - i. "By Promotion on the basis of selection on merit from amongst Assistant Inspector General of Prisons and Superintendents Central Prison with at least 17 years' service in BPS-17 and above; OR
 - ii. If no suitable candidate is available, then by transfer."
6. That despite final settlement of seniority dispute in favor of the petitioner, his case for promotion to the rank of Inspector General of Prisons (BPS-20) was not placed before the Provincial Selection Board;
7. That the petitioner submitted representation on 23/02/2012 for consideration of promotion of the petitioner to the post of IG Prisons (BPS-20) being senior most and eligible on all counts (**Annex E**);
8. That on a writ petition No. 1001-P/2012, the Honorable Peshawar High Court vide order dated 06/06/2012 directed the respondents to decide the departmental representation of the petitioner within 20 days. A copy of the said order is (**Annex F**);
9. That the said order dated 06/06/2012 of the Peshawar High Court, Peshawar was also forwarded to Home and Tribal Affairs Department vide IG Prisons letter dated 01/08/2012 for necessary action (**Annex G**);
10. That application of the petitioner for promotion to BPS-20 based on the said order of the Honorable Peshawar High Court was forwarded to Home and Tribal Affairs Department vide IG Prisons letter dated 25/07/2013 (**Annex H**);

11. That upon posting of another PCS Officer as IG Prisons by transfer on 26/12/2013 (Annex I) without considering suitability of the petitioner in violation of the Prisons Department Service Rules, the petitioner submitted departmental representation on 27/12/2013 for setting aside the said posting order and for considering the petitioner for promotion to the post of IG Prisons (BPS-20) in accordance with the rules which representation was duly received in the offices of all concerned (Annex J);
12. That no action was taken by Home and Tribal Affairs Department on the said representation. Consequently, the petitioner filed writ petition No. 629-P of 2014 in Peshawar High Court, Peshawar challenging the illegal posting order and non-consideration of the petitioner for promotion to BPS 20. The said writ petition was decided in favor of the petitioner as prayed for vide PHC judgement/order dated 24/12/2014 (Annex K);
13. That in compliance of the said orders of the Peshawar High Court, case of promotion to the rank of IG Prisons BPS-20 of the petitioner was placed before the Provincial Selection Board in its meeting on 30/01/2015 which deferred promotion of the petitioner stating that the petitioner had not attended Senior Management Course (SMC) as it was not provided in service rules of Prisons Department. further observed that service rules may be amended and the petitioner may be nominated for the coming SMC by Home and Tribal Affairs Department and that the seat will be reserved for the petitioner. A copy of the minutes of PSB meeting dated 30/01/2015 are (Annex L);
14. That the petitioner was not nominated for the coming SMC by Home and Tribal Affairs Department. Service rules were also amended after long delay vide Home and Tribal Affairs Department Notification dated 30/11/2016 (Annex M). However the petitioner was nominated for SMC in February 2018 which the petitioner successfully attended
15. That the petitioner was finally considered for promotion in the meeting of PSB held on 17/09/2018 and the notification of the promotion of the petitioner to the post of IG Prisons (BPS-20) was issued by the Government of Khyber Pakhtunkhwa Establishment Department on 03/10/2018. A copy of the impugned notification is (Annex N);
16. That the posting orders of the petitioner as IG Prisons Khyber Pakhtunkhwa (BPS-20) were issued vide Establishment Department notification dated 09/11/2018 (Annex O);
17. That the post of IG Prisons (BPS-20) remained occupied by the officers of other services on transfer basis from 29/07/2011 to 09/11/2018 when the petitioner was eligible on all counts for promotion to the rank of IG Prisons (BPS-20) according to the rules despite repeated requests of the petitioner for consideration for promotion to the post of IG Prisons (BPS-20) in accordance with the rules;
18. That, while posted as Inspector General of Prisons KP, the petitioner retired from service on 14/04/2021 on attaining the age of superannuation vide Home Department Notification dated 08/04/2021 (Annex P).

The instant petition is submitted, besides others, on the following grounds:-

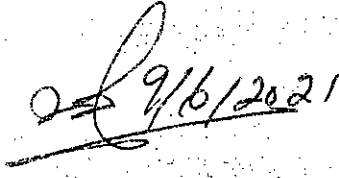
Grounds

- i. That as per the Prisons Department Service Rules, the petitioner had become eligible for consideration for promotion to the post of IG Prisons (BPS-20) with the issuance of Notification of final seniority list of Superintendents Central Prison on 29/07/2011;
- ii. That after Notification of the final seniority list on 29/07/2011 and in the light of the rules, the petitioner was eligible for consideration for promotion to the post of IG Prisons (BPS-20) and as such his case was due for placement for promotion before the PSB in its very next meeting held on 04/08/2011;
- iii. That as per the detail of meetings of PSB provided by Establishment Department (Annex Q), 28 meetings of PSB were held from 29/07/2011 to 31/12/2014 wherein the promotion case of the petitioner to the post of IG Prisons (BPS-20) was not placed for consideration despite repeated requests allowing thereby the officers of other services to illegally occupy the position of IG Prisons and thereby depriving the petitioner of his legal right of being considered for promotion with effect from the due date in accordance with the rules;
- iv. That after the recommendation of PSB in its meeting on 30/01/2015 regarding deferment of promotion of the petitioner for want of SMC and directions of PSB for amending the rules and for nomination of the petitioner for coming SMC, rules were amended after deliberate delay of 22 months and the petitioner was nominated for SMC after 3 years of the PSB recommendations;
- v. That from 01/02/2015 to 17/09/2018 i.e. from the date of recommendation of the PSB for nomination of the petitioner for SMC till the date of PSB meeting wherein promotion of the petitioner to the post of IG Prisons (BPS-20) was recommended, 29 meetings of PSB were held but due to indifferent attitude of the concerned authorities, the promotion case of the petitioner was not placed before the PSB;
- vi. That insertion of the mandatory provision of SMC in service rules of Prisons Department for promotion to the post of IG Prisons (BPS-20) or nomination of the petitioner for SMC was neither the responsibility of the petitioner nor within the powers or control of the petitioner;
- vii. That nothing adverse was on record against the petitioner from 29/07/2011 till the formal promotion of the petitioner to BPS 20;
- viii. That during the entire period i.e. 29/07/2011 to 17/09/2018, the post of IG Prisons was occupied by the officers of other services in contravention of the service rules of Prisons Department as they were posted without determining the suitability or otherwise of the petitioner although the petitioner was fully eligible for promotion and posting as IG Prisons (BPS-20);
- ix. That during this period i.e. 29/07/2011 to 17/09/2018, the petitioner was never superseded;
- x. That deferment on 30/01/2015 was not due to any fault or failure on part of the petitioner;
- xi. That the only shortcoming pointed out by PSB on 30/01/2015, though beyond control of the petitioner, was removed after attending the SMC by the petitioner;
- xii. That from 29/07/2011 till 30/01/2015, the petitioner was neither considered for promotion nor was ever superseded nor he was nominated to undergo SMC;

- xiii. That due to indifferent attitude and malafides on part of the concerned authorities, the petitioner was not only deprived of timely promotion but also suffered financial loss including loss on account of pension and gratuity as a consequence thereof;
- xiv. That having been recommended for promotion to the post of IG Prisons (BPS-20) on 17/09/2018 on the basis of the same record, and after removal of the deficiency which was beyond the control of the petitioner, his promotion becomes due on the date of the PSB meeting dated 04/08/2011 having never been superseded as the petitioner may not suffer financial losses due to inaction and malafides and arbitrary and illegal conduct of others.

PRAYER

In view of the above, it is humbly prayed that the petitioner may be considered to have been promoted to the post of IG Prisons (BPS-20) wef 04/08/2011 with all attending benefits to save him from undue financial loss and the impugned notification at (Annex N) may be amended accordingly please.


9/6/2021

(Masud Ur Rahman)

(Rtd) Inspector General of Prisons,

Khyber Pakhtunkhwa

(Petitioner)

Address: Mohallah Pathana wala, Sarai
Saleh, District Haripur

Ph: 03339960747



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
No. SO (P&R) HD/1-1/2017/Vol-II/PSB

Dated Peshawar the 09th November, 2021

To

✓ The Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar.

SEEN	
I.G.	
A.I.G.	
D.D.	
A.D.	

11.11.21

Subject:-

PETITION FOR ANTEDATING THE PROMOTION TO DUE DATE IN
RESPECT OF MR. MASUD UR REHMAN, EX-INSPECTOR GENERAL
OF PRISONS, KHYBER PAKHTUNKHWA.

I am directed to refer to your letter No.01/2J-1988-17699-WE dated 14.06.2021 on the subject noted above and to state that the petition for antedating promotion in respect of Mr. Masud ur Rehman, Ex-Inspector General of Prisons was examined, which is not covered under the Rules and the competent authority is pleased to file the instant petition of the officer.

Yours Faithfully

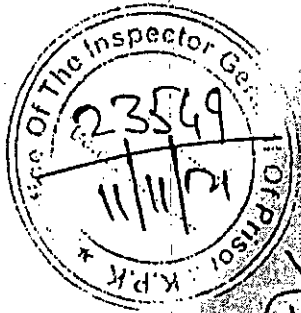
[Signature]
Section Officer (P&R)

Endst: of even No & date:-

Copy forwarded for information to the:

1. PS to Secretary Home & TAs Department, Peshawar.
2. PS to Special Secretary-I Home & TAs Department, Peshawar.
3. Ex-Officer concerned.
4. Master file.

[Signature]
Section Officer (P&R)



**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

☎ 091-9210334, 9210406 📠 091-9213445
No. 37257 WE
Dated 16-11-2021



To,

Mr. Masud Ur Rahman,
Ex-Inspector General of Prisons Khyber Pakhtunkhwa,
Mohallah Pathana Wala, Sarai Saleh, District Haripur.


Subject:

PETITION FOR ATTENDING THE PROMOTION TO DUE DATE IN RESPECT OF
MR.MASUD UR RAHMAN EX-INSPECTOR GENERAL OF PRISONS KHYBER
PAKHTUNKHWA

Dear Sir,

I am directed to refer to this office letter No. 17700 dated 14-06-2021 on the subject and to forward herewith a copy of Home Department letter No. SO(P&R) HD/1-1/2017/Vol-II/PSB dated 09-11-2021 on the captioned subject (self-explanatory) for information please.


Your's obediently,


**DEPUTY DIRECTOR(E)
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR**

Endst: No. 1-

Copy of the above is forwarded to:

1. The Secretary to Government of Khyber Pakhtunkhwa Home & TA's department for information with referred to above please.
2. PS to Special Assistant to Chief Minister (For Prisons) Khyber Pakhtunkhwa for information.


**DEPUTY DIRECTOR(E)
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT D.I.KHAN.

Appeal No. 731/2015

Date of Institution ... 09.06.2015
Date of Decision ... 25.10.2017



Umar Khitab (Retired Office Assistant),
Office of OFWM Director HRD, D.I.Khan.

(Appellant)

VERSUS

1. The Secretary Agriculture & Live Stock Peshawar,
and 3 others.

(Respondents)

SYED NOMAN ALI SHAH BUKHARI,
Advocate

--- For appellant.

MR. FARHAJ SIKANDAR,
District Attorney

... For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER - Arguments of the learned counsel for the

parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Office Assistant and later on posted as Superintendent on 30.07.2010 in his own pay and scale. Though he was eligible for promotion against the said post but not considered in time for unknown reasons. That the appellant preferred departmental appeal on 11.02.2015, but was not responded within the stipulated period, hence, the instant service appeal.

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS

3. Learned counsel for the appellant argued that appellant stood at sr. no. 1 of the seniority list of Office Assistant circulated in 2014. He was appointed as Superintendent in own pay and scale vide order dated 03.07.2010. Working paper for promotion of the appellant against two available vacant posts of Superintendent was sent for placement before DPC meeting scheduled for 19.01.2015. Case of his promotion was not decided in time by the respondents, hence, delayed intentionally. Subsequently post was upgraded in 2014. Thereafter on reaching the age of superannuation the appellant got retired from service on 19.03.2015. He further contended that appellant was denied promotion by deferring the case on the pretext of amending the existing service rules after upgradation of post of Superintendent by the provincial government. According to promotion policy case of a civil servant can be deferred, if inter se-seniority is disputed/ subjudice, disciplinary proceedings are pending and PER is incomplete. Similarly, vide notification dated 17.02.2016 four Superintendents were promoted on regular basis except sr. no. 2 Mr. Hukam Khan, who was promoted w.e.f 02.12.2015 i.e date of retirement. It is a clear case of discrimination as enshrined in Article-25 of the constitution. Reliance was placed on case law as reported in 2007 PLC (C.S) 1267, 2009 PLC (C.S) 229, 2008 SCMR 1535, 1997 SCMR 515, 1985 SCMR 1158, 2006 SCMR 1938 and judgment of this Tribunal dated 31.08.2016 passed in service appeal no. 323/2015.

4. Learned District Attorney argued that the appellant became eligible for promotion as Superintendent in 2013. His promotion case was discussed in DPC meeting held on 17.04.2014 but deferred due to a dispute regarding two wings of the department. Again his case was placed before DPC on 19.01.2015 and deferred because as a result of general up-gradation of posts amendments were required in the services rules. On both the occasions his promotion case was deferred due valid justification highlighted above.

ATTESTED

Handwritten signature and official stamp of the District Attorney.

CONCLUSION.

5. Careful perusal of record would reveal that the appellant was eligible for promotion to the post of Superintendent against the available vacant posts. Promotion case of the appellant was not finalized in time and on reaching the age of superannuation he retired from service on 19.03.2015. Thereafter, the post of Superintendent was up-graded to BPS-17. Meeting of DPC was held on 09.01.2015 but case of promotion of Superintendents was deferred for making amendments in service rules due to general up-gradation of posts in 2014. Amendments were required to be made in time but due to red tapism case was dragged/ delayed unnecessarily. It merits to mention there that promotion can only be deferred in case inter-se-seniority is disputed/subjudice, disciplinary proceedings are pending and PER is incomplete. Hence, promotion case of the appellant was not deferred on a valid ground and is also a serious departure from laid down procedure. Moreover, vide notification dated 17.02.2016 Mr. Hukum Khan was promoted to the post of Superintendent w.e.f 02.12.2015 i.e from the date of his retirement. It is established beyond doubt that the appellant eligible for promotion but his case was intentionally and deliberately delayed by the respondents on one pretext or the other. He became a victim of apathy, indifferent and casual attitude of respondents thus failed to get his due right in time.

6. As a sequel to above, we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for notional promotion to the post of Superintendent BPS-17 from the due date. Parties are left to bear their own costs. File be consigned to the record room.

SD/- Ahmad Hassan, Member
causing A.D.I. Khan

SD/- M. Hamid Mughal, Member

(M) Certified to be true copy

ANNOUNCED
 25.10.2017

[Signature]
 K...
 ...
 ...

Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	3
31.08.2016	<p style="text-align: center;"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 323/2015</p> <p>Mr Inayatullah Versus The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and 3 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Usman Ghani, Senior Government Pleader alongwith M/S Khurshheed Khan, SO and Hameedur Rahman, A.D for the respondents present.</p> <p>2. Mr. Inayatullah, S.C.T, GHS Nasapa Payan, District Peshawar hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with a prayer to direct the respondents to consider him for promotion to the post of SST (General) on the basis of batch-wise/year-wise merit or on the basis of provincial-wise seniority against 40% quota fixed by the Government, from due date with all back and consequential benefits.</p> <p>3. Brief facts of the case of the appellant are that he was appointed as C.T teacher in Education Department vide order dated 04.10.1989. That the respondent-department made promotions/appointments to the post of SSTs/SETs on batch-</p>

~~31.08.16~~

wise merit till year 2004 where-after no such orders were passed till 2012. That new rules were promulgated in the year, 2012 for promotion of SST (General) wherein 40% quota was allocated for promotion of SCT/CT to SST (General) and there-after promotions of SST (General) were made on the basis of the said rules on 28.10.2014 wherein rules were not followed as the posts of SSTs were of provincial cadre and required to be filled in by provincial-wise seniority while the same were filled in on the basis of district-wise seniority and as such the appellant deprived from his due right of promotion where-against he preferred departmental appeal on 27.11.2014 which was not responded and hence the instant service appeal on 24.03.2015.

[Handwritten signature]
 21.08.16

4. Learned counsel for the appellant has argued that the post of SST is a provincial cadre post which was erroneously treated as district cadre post. That no promotion after the year, 2004 till 2012 were made despite the fact that the appellant was entitled to consideration for promotion as he was fulfilling pre-requisites and vacancy for his promotion was available. That the appellant was having legitimate expectancy of consideration for promotion. That delay on the part of the respondents from the year, 2004 till the year 2012 would not deprive the appellant from his right for consideration of promotion against a vacancy accruing at that time. That rules framed in the year, 2012 cannot be given retrospective effect for filling the vacancy accrued for promotion prior to promulgation of the new rules.

5. Reliance was placed on cases-law reported as 2002-PLC(C.S) 1388 (Punjab Service Tribunal), 2015 PLC (C.S) 215 (Peshawar High Court), 2010 PLC (C.S) 760 (Supreme Court of Pakistan), 2012-SCMR-965 (Supreme Court of Pakistan), 2009-PLC (C.S) 178 (Federal Service Tribunal) and 1997-SCMR-515 (Supreme Court of Pakistan).

6. Learned Senior Government Pleader for respondents has argued that the appellant is to be promoted in due course and that his promotion is to be considered in the light of newly promulgated rules. That the appellant cannot be considered for promotion with retrospective effect. That the policy of the provincial government at the relevant time was appointment through initial recruitment. That the appeal of the appellant is time-barred and as such the same is liable to dismissal.

7. We have heard arguments of learned counsel for the parties and perused the record.

8. It was not disputed before us that no promotions whatsoever were made after the year 2004. We are however not in a position to undertake exercise to ascertain as to whether such promotions were not made due to non-availability of vacancies for promotion or for want of non-availability of eligible civil servants. In case of Government of Punjab through Secretary Education and another Versus Rana Ghulam Sarwar Khan and 111 others reported as 1997-SCMR-515, the August Supreme Court of Pakistan has observed that delay in making promotion occurring due to failure of department in carrying out

31.08.16

simple exercise within a reasonable period would not justify setting aside the judgment of Punjab Service Tribunal directing the Government to promote civil servants from specified date. In case of WAPDA Lahore through its Chairman and others Versus Haji Abdul Aziz and others reported as 2012-SCMR-965 (Supreme Court of Pakistan) it was observed that amendment in rules affecting seniority of employees would not be given retrospective effect to the dis-advantage of employees who were entitled to promotion prior to the amendment against vacancies available at that time. In the case of Muhammad Amjad and others Versus Dr. Israr Ahmad and others reported as 2010-PLC (C.S) 760 (Supreme Court of Pakistan) it was observed by the August Supreme Court of Pakistan that State functionaries were mandated to act with certain amount of reasonableness. It was also observed that a civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available. The August Supreme Court of Pakistan declined to interfere in the judgment passed by the Service Tribunal wherein authorities were directed to consider case of promotion of concerned civil servant from the date when vacancy in his quota was available. In case of Engineer Musharaf Shah Versus Government of Khyber Pakhtunkhwa through Chief Secretary and 2 others reported as 2015-PLC(C.S)215 (Peshawar High Court) it was observed that a civil servant had a right to be considered for promotion and refusal of such right of petitioners of consideration for promotion is to be deemed as a final order. In

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case of Hafiz. Sanauallah Versus Director (Admn) Power-II, WAPDA, Lahore and another reported as-2009-PLC (C.S) 178 (Federal Service Tribunal) it was observed that the prayer of the appellant seeking move-over w.e.f. 1.12.1986 through service appeal instituted on 13.09.2000 was maintainable as the appellant was having continuous cause of action as he stood deprived of extension of his pay by move-over and a fresh cause of action was accruing in his favour every month. In case of Muhammad Hasnain-Shah Versus the Deputy Inspector General of Police, Multan Range and 27 others reported as 2002-PLC (C.S) 1388 (Punjab Service Tribunal) it was observed that in matter of promotion and other emoluments cause of action was recurring and limitation would therefore not fore-close such right.

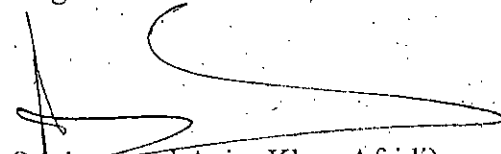
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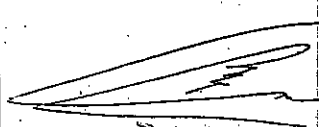
9. Since the new rules were promulgated vide notification dated 13.11.2012 and, therefore, in view of the case-law discussed above such rules cannot be given retrospective effect. Therefore such rules cannot be applied to civil servant having legitimate expectancy of consideration for promotion against a vacant post available for promotion prior to the date of promulgation of the said rules. It is also made clear from the cases-law referred to above that un-reasonable delay on the part of the department in conducting fairly simple exercise within reasonable period would not deprive a civil servant from his right of consideration for promotion from a specified date. We therefore, hold that delay spreading over a period of more than

7 years would not deprive the appellant from seeking consideration for promotion from a specified date i.e. a date when vacancy for promotion has become available..

10. Withholding or delaying the process of promotion would neither entitle the respondents to agitate the plea of limitation nor, such a delay, would deprive the appellant from claiming his right for consideration for promotion more particularly when such a claim is based on a recurring and continuous cause of action:

11. In the light of the afore-stated discussion we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for promotion and in case he is found eligible for promotion against a seat available for promotion on a date prior to promulgation of new rules notified vide order dated 13.11.2012 then appellant shall be considered for promotion against such vacancy in the light of rules in vogue at the relevant time. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Azim Khan Afridi)
Chairman


(Pir Bakhsh Shah)
Member

ANNOUNCED
31.08.2016

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP SERVICE TRIBUNAL, PESHAWAR.

Masud Ur Rahman (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

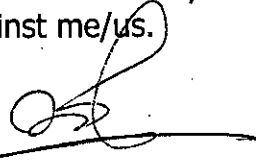
Government of KP etc. (Respondent)
(Defendant)

I/We, Masud Ur Rahman

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 10-12-2021



(CLIENT)

ACCEPTED



M. ASIF YOUSAFZAI
Advocate Supreme Court Peshawar.

&

TAIMUR AET KHAN
Advocate High Court, Peshawar

&

SYED NOMAN ALI BUKHARI
Advocate High Court

&

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