

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	<p>01.04.2019</p>	<p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p align="center">Appeal No. 310/2015</p> <p>Date of Institution ... 10.04.2015 Date of Decision ... 01.04.2019</p> <p>Mr. Bashirullah Assistant, Office of the Commissioner Bannu Division, Bannu.</p> <p align="right">-----Appellant</p> <ol style="list-style-type: none"> <li>1. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.</li> <li>2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.</li> <li>3. The Commissioner, Bannu Division Bannu.</li> <li>4. The Deputy Commissioner, Bannu.</li> <li>5. The Secretary-I, Government of Khyber Pakhtunkhwa, Board of Revenue, Peshawar.</li> </ol> <p align="right">-----Respondents</p> <p><b>Mr. Hamid Farooq Durrani.....Chairman</b> <b>Mr. Hussain Shah.....Member</b></p> <p align="center"><b><u>JUDGMENT</u></b></p> <p><b><u>HUSSAIN SHAH, MEMBER (E):</u></b> - Appellant, learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney on behalf of the respondents present.</p> <p>2. The appellant was appointed as Assistant in the office of Commissioner Bannu vide order dated 09.09.1992. Due to devolution plane the offices of Divisional Commissioner, were disbarred and the appellant was adjusted in the office of Assistant Coordination Officer however after recreation of the offices of the Commissioner in the province the appellant was posted as</p>

Superintendent on OPS basis on 18.04.2014. According to the final joint seniority list of Assistants as stood on 31.12.2013 the appellant was at serial No.2 while one Mr. Naimat Ullah was working at that time as Naib Tehsildar in the capacity of OPS. According to the District Ministerial Service Rule 2001 the post of superintendent was meant to be filled by promotion on the basis of seniority come fitness from amongst the holder of the post of Assistant with at least five year service in the offices of DCO, DRO/Collector and EDO (F&P) and Political Agent Offices in the Province. However the then existing rules were amended vide impugned notification dated 23.01.2015 to the disadvantage of the appellant in terms of debarring the appellant for promotion to the post of Superintendent (BPS-17). Being aggrieved by the impugned notification the appellant preferred a departmental appeal against the impugned notification which was rejected on 07.04.2015 and hence the instant service appeal before this Tribunal on 10.04.2015

3. Learned counsel for the appellant argued that the impugned notification appears to be having no rational and is against the law, facts, norms of justice and the objective reality on grounds. The rejection order dated 07.04.2014 is not a speaking order and without any legally rational basis/grounds which impliedly means that the appellate authority failed to present any convincing reasons or giving any judicious justification for depending the newly notified service rules. He further argued that in view of the seniority position of the appellant at divisional level a working

paper was in process to finalized the promotion case of the appellant but due to the tragic incident of APS Peshawar the meeting of the Promotion Committee could not held at the schedule that viz 16.12.2014. It was further contended that the impugned notification of 23.01.2015 restricted the already accrued right of seniority for promotion to the post of superintendent in the office of Commissioner Bannu. The learned counsel for the appellant presented the judgment of superior courts i.e. 2012 SCMR-965 wherein the Hon'ble Supreme Court established the proposition that *"amended rules did not permit the department to over look the rights of employees created under the law by applying the amended rule to the extend benefit to those who were not in run for promotion at the time when the right of the employees for promotion matured on basis of the seniority list."*

The learned counsel submitted at the bar the case laws in the judgment of 2010 PLC(C.S.) 760, 2012 PLC(C.S.) 142, 1997 SCMR-515, 2015 PLC (C.S.) 215 and Appeal No. 323/2015.

4. The learned Deputy District Attorney contested the argument of the learned counsel for the appellant and the facts and grounds of the appeal and argued that the amended rules notified vide Notification No. Esst: I/II/135/SSRC/2033 dated 23.01.2015 on the direction of the government so that the post of Superintendent is to be filled on the basis of seniority maintained separately in each office and the competent of joint seniority was changed. He further stated that the competent authority is empowered under Section 26

of the Civil Servant Act to make such rules as appear to the competent authority to be necessary or expedient for carrying out for the purpose of the Civil Servant Act as such the amended rules notified by the Board of Revenue is according to law/rules. In Para wise comments on behalf of respondent No.2 it has been admitted that the Assistant of the Office of Commissioner and Deputy Commissioner were illegible for promotion to the post of Superintendent on the basis of joint seniority list in divisional level but the amended rules 23.01.2015 the post of Superintendent was reserved for promotion for the Assistants of the office of Commissioners while the post of Superintendent in the office of Deputy Commissioner were made reserved for the promotion of the Assistant in the offices of Deputy Commissioner. It is also admitted that the promotion case of the appellant was under process between Board of Revenue, Commissioner Bannu and Deputy Commissioner Lakki Marwat. It has further been stated that the meeting of Departmental Promotion Committee was schedule to consider the promotion case of the appellant but he was not consider due to being a permanent employee of the Deputy Commissioner Office.

5. Arguments heard. File perused.

6. The case under consideration was examined in the light of the record of the case and the arguments of the counsel of the appellant and learned DDA. The key question before the tribunal is as to whether the amended service rules could affect judiciously

the appellant at the time his promotion case was in pipe line and even the date of the meeting of DPC was fixed but the said meeting could not held due to tragic incident of APS on the same date 16.12.2014 and the amended rules were notified on 23.01.2015, after a time of a month or so, this question is analyzed in the context of the Hon'ble Supreme Court judgment report as 2012 SCMR-695. This judgment and so many other judgments, relied by the learned counsel for the appellant, categorically resolve the controversy and prohibit the competent authorities not to debar the appellant from the right of seniority position in the joint seniority list.

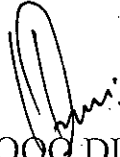
7. The Tribunal also noted that the amended rules notified on 23.01.2015 appears to be an attempt to create a new tiers of ministerial staff i.e. at the commissioner offices level which is not in consonance with the devolution plan because presently there are two types of governments in the province viz provincial level and district level cadres.

8. In view of the above discussion this tribunal is of the firm opinion that denying the appellant from the right of seniority on the basis of joint seniority list for promotion is not according to the basic canon of justice hence the appeal is accepted as prayed.

9. This tribunal also suggest to the provincial government to review the amended rules, notified on 23.01.2015 in the light of the two tiers of employees i.e. Provincial level employee and District level employees.

10. The present service appeal is disposed off in the above terms.

Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)  
CHAIRMAN



(HUSSAIN SHAH)  
MEMBER

ANNOUNCED  
01.04.2019

01.04.2019

Appellant, learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Vide our detail ~~or~~ separate judgment of today of this tribunal placed on file, the present service appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.


  
Member

  
Chairman

ANNOUNCED  
01.04.2019

05.10.2018

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Assistant present. Learned counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 12.11.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

12.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018.

  
READER

31.12.2018

Appellant with counsel and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn .To come up for arguments on 21.02.2019 before D.B.


  
Member

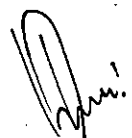
  
Member

21.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Due to paucity of time the matter is adjourned to 01.04.2019 before D.B

  
Member

  
Chairman



15.05.2018

Appellant absent. Counsel for the appellant is also absent. However, clerk of the counsel for appellant present and seeks adjournment. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Attaullah, Assistant Secretary and Mr. Arshed Ali, Assistant for the respondents also present. Adjourned. To come up for arguments on 13.07.2018 before D.B.



(Muhammad Amin Khan Kundi)

Member



(Muhammad Hamid Mughal)

Member

13.07.2018

Learned counsel for the appellant and Mr. Usman Ghani, learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on ~~06.09~~ 13.07.2018 before D.B



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

06.09.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Atta Ullah Assistant Secretary for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 05.10.2018 before D.B.



(Muhammad Amin Kundi)

Member



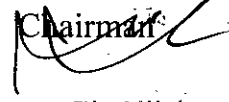
(Muhammad Hamid Mughal)

Member

14.11.2017

Junior counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned Senior counsel for the appellant was stated to be busy before the august Supreme Court of Pakistan and seeks adjournment. Granted. To come up for arguments before the D.B on 24.01.2018.

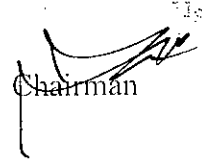
  
Member

  
Chairman

24.01.2018

Clerk of the counsel for appellant present. Mr. Zia Ullah, DDA for the respondents present. Clerk of the counsel for appellant seeks adjournment as his senior counsel is not available today. Adjourned. To come up for arguments on 28.03.2018 before D.B.


  
Member

  
Chairman

28.03.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney alongwith Asghar Ali H.C for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available. Adjourn. To come up for arguments on 15.05.2018 before D.B

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

310/2015

10.03.2017

Counsel for appellant, M/S Muhammad Ibrar, Assistant Secretary, Amjid Imran, Reader and Kaleem-ur-Rehman, Reader alongwith Mr. Ziaullah, Government Pleader for respondents present. Learned counsel for appellant requested for adjournment. Adjournment granted. To come up for arguments on 21.06.2017 before D.B.


  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

21.06.2017


Counsel for the appellant and Mr. Amjad Imran, Reader & Mr. Kaleem Ur Rahman, Reader alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 21.09.2017 before D.B.


  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

21.09.2017

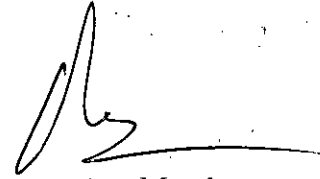
Junior to counsel for the appellant present. Learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 14.11.2017 before D.B.

  
Member  
(Executive)

  
Member  
(Judicial)

04.05.2016

Counsel for the appellant, M/S Mukhtiar Ali, Supdt, Kaleemur-ur-Rehman, Reader for respondent No.4 and Amjad Imran, Reader for respondent No.3 alongwith Addl: AG for respondents present. Arguments could not be heard due to leaned Member (Judicial) <sup>MR</sup> is on leave, therefore, the case is adjourned to 19.08.2016 for arguments.



Member.

19.08.2016

Counsel for the appellant M/S Mr. Kaleem ur Rehman, Reader for DC Bannu and Amjad Imran, Reader for Commissioner Bannu alongwith Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 28.11.2016.



Member



Member

28.11.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on

~~10.3.17~~



(ABDUL LATIF)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

15.05.2015

None present for appellant. M/S Mukhtiar Ali, Supdt, for respondents No. 1, 2 and 5, Amjad Imran, Reader to Commissioner for respondent No. 3 and Kaleem-ur-Rehman, Reader to D.C for respondent No. 4 alongwith Addl: A.G present. Requested for adjournment. To come for written reply/comments on 12.8.2015 before S.B.

  
Chairman

12.08.2015

Counsel for the appellant, M/S Mukhtiar Ali, Supdt, Amjad Imran, Reader and Kaleem-ur-Rehman, Reader alongwith Assistant A.G for respondents present. Comments on behalf of respondents No. 2, 3 and 4 submitted while learned Assistant A.G requested for adjournment on behalf of respondent No. 1. Last opportunity granted. To come up for written reply/comments on behalf of respondent No. 1 on 14.10.2015 before S.B.

  
Chairman


14.10.2015

Counsel for the appellant, M/S Mukhtiar Ali, Supdt. and Kaleem-ur-Rehman, Reader alongwith Assistant A.G for respondents present. The learned Assistant A.G relies on the written reply already submitted by respondent No. 2 on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 9.2.2016.

  
Chairman

09.02.2016

Counsel for the appellant and Mr. Kaleem-ur-Rehman, Reader alongwith Mr. Ziaullah, GP for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. To come up for arguments on 4-5-16

  
MEMBER

  
MEMBER

3

15.04.2015

Agent of counsel for the appellant present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing to 16.04.2015 before S.B.

  
Chairman

4

16.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that appellant is serving as Assistant BPS-16 in the officer of Commissioner and was entitled to promotion to the post of Superintendent BPS-17 in the light of notification date 02.07.2010 which stood amended vide impugned notification dated 23.01.2015 to the disadvantage of the appellant thereby debaring the appellant to be considered for promotion to the post of Superintendent BPS-17. That the appellant preferred departmental appeal against the impugned notification on 03.02.2015 which was rejected on 07.04.2015 and hence the instant service appeal on 10.04.2015.

Appellant Deposited  
Security & Process Fee



That the impugned notification dated 23.01.2015 is adverse to the interest to the appellant who was entitled to promotion but deprived of the same on the strength of the said notification.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 15.05.2015 before S.B.



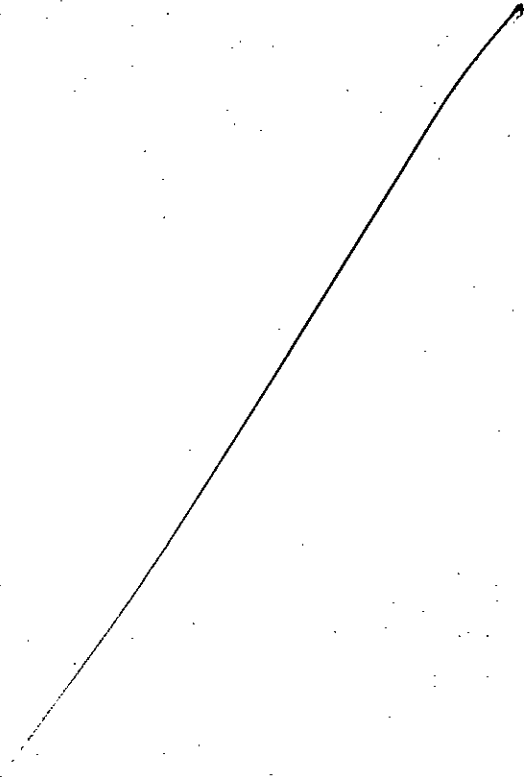
Notice of stay application be issued for the date fixed.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 310/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10.04.2015	<p>The appeal of Mr. Bashirullah presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	13-4-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>15-4-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

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

Appeal No. 310 /2015

Bashir Ullah Khan

V/S

Chief Secretary etc.

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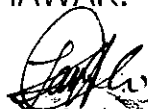
S.No	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-5
2.	Stay application.	-----	6-7
3.	Appointment order	A	8
4.	Posting order in ACO office	B	9 -10
5.	Posting order in Commissioner office.	C	11
6.	Seniority list.	D	12-16
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11	Letter to BOR	I	24
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13	Letter of BOR for promotion.	K	26
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17	Departmental appeal.	O	36-38
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19	Approved agenda.	Q	40-46
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APPELLANT

THROUGH:



( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

⚡   
TAIMUR ALI KHAN  
Advocate Peshawar



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

Appeal No. 310 /2015

Mr. Bashir Ullah Asistant,  
Office of the Commissioner,  
Bannu Division, Bannu.

**K.W.F. Province**  
**Service Tribunal**  
Diary No. 325  
Date 10-4-2015

**APPELLANT**

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Commissioner, Bannu Division Bannu,
4. The Deputy Commissioner, Bannu.
5. The Secretary-I, Government of KPK, Board of Revenue, Peshawar.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 7.4.2015 WHEREBY THE APPEAL AGAINST THE NOTIFICATION DATED 23.1.2015 TO THE EXTENT OF PROMOTION TO THE POST OF SUPERINTENDENT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

.....

**PRAYER:**

*[Handwritten signature]*  
16/4/15

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 7.4.2015 MAY BE SET ASIDE AND ALSO DECLARED THE NOTIFICATION DATED 23.1.2015 AS IRRATIONAL, MALAFIDE AND DISADVANTAGEOUS TO THE SERVICE CAREER OF THE APPELLANT. THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF SUPERINTENDENT W.E.FROM 18.6.2013 ON

THE BASIS OF RULES DATED 2.7.2010 AND ALSO TO CONSIDER THE PROMOTION OF APPELLANT UNDER THESE RULES AS THE PROMOTION OF THE APPELLANT WAS IN PIPELINE. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

1. That the appellant was appointed as Assistant in the Commissioner, Bannu Division, Bannu vide order dated 9.9.1992 and after devolution plan the appellant was adjusted as Assistant in the office of ACO. After re-establishment of the office of Commissioner, the appellant was posted as Superintendent (OPS) Commissioner Office, Bannu Division, Bannu vide order dated 18.4.2014. Copies of Orders are attached as Annexure-A, B and C.
2. That the appellant's record was good through out, no adverse entries against the appellant. It is also worth to mention here that the appellant remained on the top of seniority list of Assistant maintained at Divisional level till 2014. The official at Sl. No.1 is working as Naib Tehsildar AND has forgo his promotion, therefore, the appellant comes to Sl. No.1 of the seniority list. Copy of Seniority list is attached as Annexure-D.
3. That previously in the rules the post of Superintendent was required to be filled in by promotion on the basis of seniority cum fitness from amongst the holder of the posts of Assistant (B-11) with at-least 5 years service as such in the offices of DCO, DOR, EDO, F&P and P.A in the Province, but vide Notification dated 2.7.2010 the amendments were brought against come Sl. No.1 in column-5 as by promotion on the basis of seniority cum fitness from amongst the Assistant (B-14) with at least 5 years service in the offices of Divisional commissioner, Additional Commissioner, DCO, DOR, and ACs, and DEDO, F&P, PA at divisional level, which means that the post is to be filled in on the basis of joint seniority list of Assistant in the offices

mentioned in Column -5 to be maintained at divisional level. Since then the appellant has been enjoyed top position in the seniority list. Copy of Rules and Amended rules are attached as Annexure-E and F.

4. That keeping in view the amended rules of 2007, the Commissioner office Bannu vide letter dated 27.3.2014 requested the BOR to fill the vacant post of Superintendent on the basis of promotion and in the said letter the appellant name was recorded at Sl. No.1. The Commissioner Bannu Division Bannu again on 25.4.2014 wrote a letter to DC Lakki Mawat in which he was directed to sent ACR synopsis of one Niamatullah, Naib Tehsildar for promotion and resolve the issue of promotion to the post of Superintendent which had been delayed inordinately. Similarly on 9.5.2014, the Commissioner Bannu Division Bannu requested the DOR to make promotion to the post of Superintendent line vacant since long and work was suffering badly. The Commissioner Bannu vide order dated 19.11.2014 again made similar request. Copy of letters are attached as Annexure-G, H, I and J.
5. That on 2.12.2014, the BOR in reference to the previous correspondence asked the Commissioner Bannu to sent the working pay of the concerned official for placing before the same DPC for promotion to the post of Superintendent. The Commissioner office on 3.12.2014 submitted the detailed working paper to the BOR for the purpose of promotion to the post of superintendent. Copies of letter and working paper are attached as Annexure-K and L.
6. That the BOR vide letter dated 9.12.2014 informed the concerned offices to attend the DPC meeting for the said purpose scheduled on 16.12.2014 at 11.00 am but to incident of Army Public School on 16.12.2014, the DPC meeting could not convened. Copy of letter is attached as Annexure – M.
7. That the appellant promotion under consideration in pipeline and during that period the impugned notification dated 23.1.2015 was issued in which the

promotion to the post of Superintendent was notified on the basis of seniority of the Assistant of the Commissioner office by excluding the offices of the DC office etc, Against the said Notification, the appellant filed Departmental Appeal on 3.2.2015 but the same has been rejected for no good ground on 7.4.2015, hence the present appeal on the following grounds amongst the others. Copies of Notification, Appeal and Rejection order are attached as Annexure-N, O and P.

**GROUND:**

- A) That the impugned orders dated 7.4.2014 and Notification dated 23.1.2015 are against the law, facts, norms of justice and material on record, therefore, liable to be set aside.
- B) That the rejection order dated 7.4.2014 is not a speaking order which against the spirit of Section-24(A) of the General Clauses Act and Hon'ble Supreme Court's judgement reported as 1991 SCMR Page-2330.
- C) That the appellant has attained top seniority position on the divisional level and his promotion case was also in pipeline, therefore, the respondent were required to first finalize the promotion case of the appellant, keeping in view the verdict in a case by the Hon'ble Supreme Court of Pakistan reported as 2012 SCMR 965. Thus, that aspect and verdict of the Supreme Court has also been violated.
- D) That the valuable rights in the shape of seniority as well as promotion on the basis of divisional seniority were accrued to the appellant which under the principle of fair play and equity can not be damaged.
- E) That the impugned Notification dated 31.1.2015 is discriminatory and irrational case for promotion to the post of Superintendent and seniority of the commissioner office is to be sought which no doubt limit the prospect of promotion in Commissioner

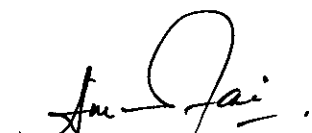
office, whereas through same notification for promotion to the post of Private Secretary (B:-17) sonority is to be sought on divisional basis of the offices of Commissioner, DC, P.A. in which no doubt the prospect of promotion increased for P.S of all the three offices, therefore, the impugned notification is damaging the services career of the appellant in case of promotion the post of Superintendent.

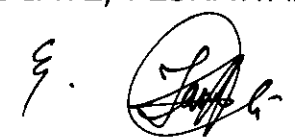
- F) That even otherwise in a meeting dated 20.2.2015 it is approved at Sl. No.15 of the minutes, chaired by the Honourable Chief Secretary of the province, that Commissioner will be the competent authority for BPS-16 and 17 official but despite that the SMBR office indulges itself in promotion case which is in total violation of the approved Agenda. Copy of Agenda is attached as Annexure-Q.
- G) That the appellant has not been treated fairly and has been kept deprived from the benefit of promotion from his due date in an arbitrary manner which is totally unwarranted in the eyes of law.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT  
Bashir Ullah Khan

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

  
TAIMUR ALI KHAN  
Advocate, Peshawar

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

Appeal No. \_\_\_\_\_/2015

Bashir Ullah Khan

V/S

Chief Secretary, KPK etc.

.....

**APPLICATION FOR RESTRAINING THE  
RESPONDENT NOT TO FILL THE POST OF  
SUPERINTENDENT BY PROMOTION UNDER  
THE IMPUGNED NOTIFICATION IN THE  
OFFICES OF COMMISSIONER BANNU AND  
DC BANNU.**

**Respectfully Sheweth,**


1. That the appellant has been filed an appeal along with application in which no date has been fixed so far.
2. That the appellant has questioned the Notification dated 23.1.2015 which has affected the seniority and promotion of the appellant and the claim of the appellant is based on cogent legal grounds.
3. That if the respondents are not restrained from making promotion to Superintendent post in the offices of Commissioner Bannu and DC Bannu then the main cause of appeal of the appellant will become infructuous.
4. That the grounds of main appeal may also be considered as integral part of this application.

It is, therefore, prayed that the respondent may very graciously be restrained from making promotion to the post of Superintendent in the offices of Commissioner Bannu and DC Bannu to meet the ends of justice. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of appellant.

Appellant  
Bashir Ullah Khan



Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

  
Deponent

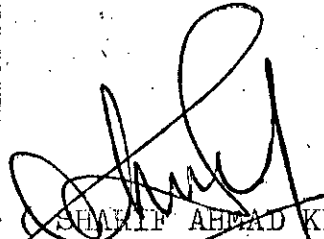
OFFICE ORDER

Ann: **(A)**

**(8)**

Mr. Bashir-Ullah Khan s/o Nasrullah Khan r/o Faiz Talab Abbas Mandan Tehsil and District Bannu is hereby appointed as Assistant in BPS-11(1275-86-2565) in the office of the Commissioner Bannu Division, Bannu with immediate effect on temporary basis and on the following terms and conditions :-

- i) The appointment is subject to the approval/confirmation of the Selection/Promotion Committee;
- ii) He will be on probation for a period of one year which may be extended if deemed necessary by the appointing authority;
- iii) The offer is subject to the condition that he is domiciled in N.W.F.P. ( Bannu Division);
- iv) He has to join duty at his own expenses;
- v) He will have to produce medical certificate of fitness;
- vi) His services will be governed by such rules and orders as may be issued by government for the category of government servants to which he will belong.

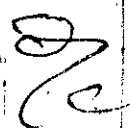
  
( SHARIF AHMAD KHAN )  
Commissioner  
Bannu Division Bannu

No. 565-67/PA/(G),

Dated 9/19/1992.

Copies to :

1. District Accounts Officer Bannu
2. Mr. Bashir-Ullah Khan appointtee.
3. Office file.

  
( SHARIF AHMAD KHAN )  
Commissioner  
Bannu Division, Bannu.

.....  
A T T E N D



Ann: (B)

(9)

OFFICE OF THE DISTRICT COORDINATION OFFICER BANNU

No. PS/DCO-Estab/2001.

Dated. Saturday, June 23, 2001.

OFFICE ORDER


Following staff is hereby adjusted on temporary basis as stop gap arrangements, in the office of the District Coordination Officer Bannu against the posts mentioned in front of their names with immediate effect till further orders.

S. No.	Name and Designation	Post
1.	Mr. Ikram Ullah Khan Computer Operator Commissioner Office Bannu	Computer Operator Cum PS Office of the DCO Bannu
2.	Mr. Sher Baz Khan Steno, Commissioner Office Bannu	Steno Office of the DCO Bannu.
3.	Mr. Saher Din Khan Assistant, Commissioner Office Bannu	Assistant/Cypher, Office of the DCO Bannu
4.	Mr. Muhammad Ali Khan Driver, Commissioner Office Bannu	Driver, Office of the DCO Bannu.
5.	Mr. Ikhlaz Ali Khan Naib Qasid, Commissioner Office Bannu	Naib Qasid, Office of the DCO Bannu.
6.	Mr. Muhammad Ali Khan, Steno, ADRD Office Bannu	Steno. ACO Office Bannu
7.	Mr. Muhammad Farid Khan Steno, Commissioner Office Bannu	Steno, ACO Office Bannu
8.	Mr. Atta Ullah Khan Assistant, ADRD Office Bannu	Assistant, ACO Office Bannu.
9.	Mr. Bashir Ullah Khan Assistant, Commissioner Office Bannu	Assistant, ACO Office Bannu.
10.	Mr. Afsar Ali Khan, Assistant, Commissioner Office Bannu	Assistant ACO Office Bannu
11.	Mr. Ishaq Ali Khan Assistant, Commissioner Office Bannu.	Assistant ACO Office Bannu
12.	Mr. Irshad Ali Khan, Assistant, Commissioner Office Bannu	Assistant ACO Office Bannu.
13.	Mr. Asal Mir Khan, Assistant, Commissioner Office Bannu.	Assistant ACO Office Bannu.
14.	Akhter Zaman Junior Clerk, ADRD Office Bannu.	Junior Clerk, ACO Office Bannu.
15.	Mr. Ghaffar Ali Khan Junior Clerk, DC Office Bannu	Will work against the vacant post of Computer Operator in his own pay and scale in ACO Office Bannu.
16.	Mr. Amjad Khan, Naib Qasid, ADRD Office Bannu	Naib Qasid, ACO Office Bannu.
17.	Mr. Abid Khan Naib Qasid, ADRD Office Bannu	Naib Qasid, ACO Office Bannu.
18.	Mr. Umer Jan Naib Qasid, ADRD Office Bannu	Naib Qasid, ACO Office Bannu.
19.	Muhammad Rafeeq s/o Raqeeb Naib Qasid, ADRD Office Bannu.	Naib Qasid, ACO Office Bannu.
20.	Mr. Asmat Ullah Khan Naib Qasid, Commissioner Office Bannu.	Naib Qasid, ACO Office Bannu.
21.	Mr. Umer Farooq, Naib Qasid, Commissioner Office Bannu	Naib Qasid, ACO Office Bannu.

10

22.	Mr. Laeeq Zaman, Naib Qasid, Commissioner Office Bannu	Naib Qasid, ACO Office Bannu
23.	Mr. Pilladar, Naib Qasid, ADRD Office Bannu	Driver, ACO Office Bannu
24.	Mr. Hameed Khan Driver, Commissioner Office Bannu	Driver, ACO Office Bannu

Note : Mr. Niaz Khan and Sher Bhader Khan, both Naib Qasid Deputy Commissioner office Bannu will work in the office of the DCO Bannu.

  
(Sayed Khan Orakzai)  
District Coordination Officer,  
Bannu

fNo. PS/DCO-Estab/2001.

Dated. Saturday, June 23, 2001.

Copy to.

1. The Secretary to Govt. of NWFP, LG&RDD, Peshawar.
2. The Secretary to Govt. of NWFP, S&GAD (Estab.), Peshawar.
3. The Commissioner Bannu Division, Bannu.
4. The Deputy Commissioner Bannu.
5. The Secretary Board of Revenue, NWFP, Peshawar.
6. The Coordinator (Devolution) LG&RDD NWFP, Peshawar.
7. The P.S to Chief Secretary NWFP, Peshawar.
8. The District Accounts Officer, Bannu.
9. The Official Concerned.
10. Office File.

  
District Coordination Officer,  
Bannu

**ATTESTED**  


OFFICE OF  
THE COMMISSIONER  
BANNU DIVISION

P.O.Box.12. Postal code 28100. Bannu  
NO. 393/AG-I/F.7

Dated. 18 /April, 2014.  
Phone 0928 - 9270044 & 9270220  
Fax 0928 - 9270041  
e-mail : [commissioner-bannu@hotmail.com](mailto:commissioner-bannu@hotmail.com)

OFFICE ORDER:

Posting/transfer of the following ministerial staff of this Division is hereby ordered in the public interest with immediate effect.

S No.	Name of Official	From	To
1.	Mr. Bashirullah Khan, Assistant	DC Office Bannu	Superintendent (OPS) Commissioner Office Bannu
2.	Mr. Abid Nawaz, Assistant, Commissioner Office Bannu	Relieving him of the additional charge of Superintendent. Assigning him the charge of Reader to Commissioner in addition to his own duties i.e. AG-II & AG-III.	

Sd/-  
Commissioner  
Bannu Division

Even No. & Date.

Copy to.

1. The Deputy Commissioner Bannu.
2. The District Comptroller of Accounts, Bannu.
3. Official concerned.
4. PS to Commissioner, Bannu Division.

*[Signature]*  
Assistant to Commissioner (R/GA)  
Bannu

**ATTESTED**

OFFICE OF THE  
COMMISSIONER  
BANNU DIVISION

P.O. Box. 12, Postal Code 28100, Bannu  
Phone: 0928-9270044 & 621144  
Fax: 0928-9270041  
E-mail: commissioner-bannu@hotmail.com

12

No. 462-66/A9-7  
Dated: 27-02-2014

OFFICE ORDER:

In pursuance of Section 8 (I) of Civil Servant Act: 1973, final joint seniority list of Assistants (BPS-14) of Bannu Division as stood on 31-12-2013 is hereby notified for information of all concerned.

Sd/-  
COMMISSIONER  
BANNU DIVISION

Even No. & Date:

Copy forwarded to:

1. Deputy Commissioner, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. Political Agent, North Waziristan Agency, Miranshah.
4. Assistant Secretary (Estt), Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
5. All concerned.

4-4-16-2014  
Assistant to Commissioner (Rev/GA)  
Bannu Division

BC

2623  
2822/14

DC Bannu  
28/2

ATTESTED

14

10.	Kamii Ghulam	DC Office, Bannu	15/12/1954	S.S.C.	20/11/1975	25/05/2001	-
11.	Khandan Khan	PA, NWA	02/01/1959	-	29/12/19992	17/06/2003	Working as PNT in OPS
12.	Arif Khan	DC Office, Bannu	13/09/1955	F.A.	01/04/1974	09/10/2003	-
13.	Naseeb Jan	DC Office, Lakki Marwat	25/03/1955	B.A.	13/11/1977	01/01/2004	-
14.	Faridullah	DC Office, Lakki Marwat	01/09/1976	B.A.	06/08/2004	06/08/2004	-
15.	Ihsan Ullah	DC Office, Lakki	01/10/1968	B.A.	28/07/1993	01/10/2004	-
16.	Amir Jan	Commissioner Office, Bannu	05/10/1956	F.A.	11/12/1975	20/05/2006	-
17.	Noor Sade Jan	PA Office, NWA	01/01/1599	-	10/06/1975	22/01/2007	-
18.	Abdullah Khan	DC Office, Bannu	01/11/1954	F.A.	21/04/1976	19/06/2007	-
19.	Kalim Rahman	DC Office, Bannu	03/09/1957	B.A.	12/03/1979	19/06/2007	-
20.	Abid Nawaz Khan	Commissioner Office, Bannu	20/02/1979	M.SC, M.A.	27/09/2008	27/09/2008	Working as Superintendent in his own pay and scale in Commissioner Office, Bannu Division.

WIL

15


21.	Naseem Ullah Shah	Commissioner Office, Bannu	13/08/1982	M.Sc.	27/09/2008	27/09/2008	
22.	Amjad Imran	Commissioner Office, Bannu	20/05/1984	M.Sc.	27/09/2008	27/09/2008	
23.	Zahid Ali Khan	Commissioner Office, Bannu	11/03/1985	M.Sc.	27/09/2008	27/09/2008	
24.	Abdur Rashid	DC Office, Lakki	12/09/1958	B.A.	01/09/1980	01/01/2009	
25.	Sadullah Khan	DC Office, Bannu	12/04/1960	M.A.	20/02/1980	11/04/2011	
26.	Umer Daraz Khan	DC Office, Bannu	01/10/1956	F.Sc	01/03/1980	11/04/2011	
27.	Zafar Ahmad	DC Office, Lakki Marwat	28/01/1955	F.A.	06/12/1976	28/01/2012	
28.	Rehan Gul	DC Office, Lakki Marwat	07/05/1962	F.A.	01/09/1980	28/01/2012	
29.	Nasruminallah	Commissioner Office, Bannu	11/05/1985	M.A.	14/02/2012	14/02/2012	
30.	Abdul Mumeem	PA Office, NWA	01/01/1973	-	27/03/2012		
31.	Ihsanullah Khan	DC Office, Lakki Marwat	30/03/1986	M.Sc, Biology	03/04/2012	03/04/2012	

DL  
28/2/14

16

4

32.	Sher Bahader	PA Office, NWA	02/09/1954		01/03/1978	10/05/2012	
33.	Mohammad Ayub Khan	DC Office, Lakki Marwat	07/10/1959	Matric	07/10/1981	20/09/2012	
34.	Basharat Ali.	DC Office, Bannu	24/01/1957	B.A.	19/03/1980	06/09/2013	
35.	Intiaz Khan	DC Office, Bannu	03/05/1955	F.A.	07/04/1980	26/09/2013	

  
COMMISSIONER  
BANNU DIVISION

(13)

**FINAL JOINT SENIORITY LIST OF ASSISTANTS (BPS-14) AT DIVISIONAL LEVEL AS STOOD ON 31/12/2013.**

S. No	Name of Official	Establishment to which belongs	Date of Birth	Qualification	Date of 1 <sup>st</sup> entry into Govt. service	Date of regular appointment /selection / promotion as Assistant	Remarks
1.	Naimatullah	DC Office, Lakki Marwat	22/09/1965	B.A.	01/09/1992	01/09/1992	The official is working as Naib Tehsildar in his own pay and scale
2.	Bashirullah Khan	DC Office, Bannu	13/09/1969	M.A.	12/09/1992	12/09/1992	
3.	Ishaq Ali Khan	DC Office, Bannu	14/10/1963	B.A.	13/09/1992	13/09/1992	
4.	Farmar Ullah	DC Office, <del>Baloch</del>	03/03/1969	M.A.	14/09/1992	14/09/1992	
5.	Mubammad Zaman	DC Office, Bannu	01/04/1968	B.A.	25/10/1992	25/10/1992	
6.	Abbas Khan	DC Office, Lakki	08/04/1956	B.A.	07/04/1974	30/07/1995	
7.	Sahar Din	DC Office, Bannu	02/01/1969	M.A.	12/09/1992	05/12/1997	
8.	Mohammad Ismail Shah	DC Office, Bannu	27/01/1967	B.A.	14/07/1987	16/08/1999	
9.	Sana Ullah Khan	DC Office, Bannu	10/01/1967	B.A.	26/10/1992	14/02/2001	

**ATTESTED**

*[Signature]*

18/12/13



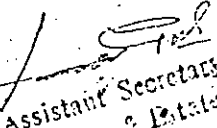
7

District Ministerial Service Rules, 2001.

①

S.No	Nomenclature of Post with pay scale	Prescribed qualification	Age	Method of recruitment
1	Superintendent (BPS-16)			By promotion on the basis of seniority cum-fitness from amongst holders of the post of Assistant-BPS-11 with at least five years service as such in the offices of DCO, District Officer (Revenue & Estate)/ Collector, and EDO (F&P) Department and Political Agents Offices in the Province.
2	Private Secretary (BPS-16)			By promotion on the basis of seniority cum fitness from amongst holders of the post of Senior Scale Stenographer (BS-15) with at least five years service as such in the offices of D.C.O, D.O(R&E) and EDO (F/P) Department and Political Agents offices in the Province.
3	Senior Scale Stenographer (BPS-15)	i. BA, or equivalent qualification from a recognized university and A Speed of (100) words per minute in shorthand and (40) words per minute in typing in English. ii. Knowledge of Computer in using MS Word and MS Excel.		(a) By promotion on the basis of seniority-cum-fitness from amongst stenographer (B-12) with at least five years service as such or (b) By initial recruitment if no suitable stenographer is available for promotion.

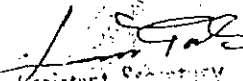
ATTESTED

  
 Assistant Secretary  
 Revenue & Estate Deptt.  
 NWER.

18/1

	Junior Scale Stenographer (BPS-12)	i. 2 <sup>nd</sup> class Bachelor Degree or equivalent - qualification from a recognized University ii. A speed of 50 words per minute in short hand in English and 30 words per minutes in typing. iii. Knowledge of Computer in using MS Word and MS Excel.	(18-30) year	By initial recruitment
5.	Data Control Assistant (BPS-12)	i) 2 <sup>nd</sup> Class Bachelor Degree with Computer Science, Mathematics, Physics, Statistics or Economics as one of the subject and ii) one year diploma in Computer/ Course recognized by the Board of Technical Education.	(21-30) Year	i) Fifty percent by initial recruitment and ii) Fifty percent by promotion on basis of seniority cum fitness from amongst the holders of the posts of Computer Operator/ K.P.O with at least two years service as such.
6.	Assistant (BPS-11)	2 <sup>nd</sup> class Bachelor Degree or equivalent qualification from a recognized University.	(18-30) year *	(i) 75 % by promotion on the basis of Seniority cum fitness from amongst Senior Clerks with at least five years service as Junior/ Senior Clerk, and 25 % by initial recruitment

TESTED

  
Assistant Secretary  
Revenue & Public Deptt.

19

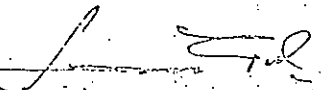
7	Computer Operator/ Key Punch Operator (EPS-11)	i) BA/ BSc with Statistics/ Economics/ Mathematics/ Physics as one of the subject and ii) A minimum speed of 10000 key depressions per hour for Punch/ data entry/ verification.	(18 to 25) year	By initial recruitment.
8.	Senior Clerk (EPS-7)			By promotion on the basis of seniority- cum-fitness from amongst holders of the posts of Junior Clerks having at least 3 years service as such.
9.	Junior Clerk (EPS-05)	i. 2 <sup>nd</sup> division in S.S.C or equivalent qualification from recognized Board. ii. A speed of 30 words per minutes in English typing.	(18-30) year	i. 80 % by initial recruitment and ii. 20% by promotion from amongst the Qasids and holders of equivalent posts who possess S.S.C 2 <sup>nd</sup> Division and have at least three years service as such. Provided that where no official is available for promotion the vacancy may be filled in by initial recruitment. <u>EXPLANATION.</u> For the purposes of promotion there shall be maintained a common seniority list of eligible Qasids or holders of other equivalent post with particular reference to the dates of their continuous appointment. provided that officials in BPS-2 shall rank senior to officials in BPS-1 irrespective of their length of service.

*[Handwritten signature]*

20

10	Driver (BPS-4)	Literate and possessing a valid driving licence with five years experience, preference will be given to person who are literate.	(25-40) year	By initial recruitment.
11.	Naib Qasid/ Chowkidar/ Bcheshi/ Mali/ Sweeper (BPS-1)	Literate	(21-40)	By initial recruitment.

It is further stated that quota for female candidate be reserved as per Government policy.

  
 Assistant Secretary  
 Revenue & Estate Deptt.  
 N.W.F.P.

ATTESTED

Old policy/rules F

(21)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 07/07/2010

NOTIFICATION

No. 13045 /Admn:II/I/296/Amendment.

In pursuance of the provisions contained in Sub-Rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment, Law and Finance Departments, Khyber Pakhtunkhwa, hereby direct that in this Department's Notification No. 5869/Admn:II/I/296/Admendment, dated 13.06.2006, the following amendments shall be made, namely:

AMENDMENTS

1. In the preamble, for the word "District" the word "Division" shall be substituted.

2. In the Appendix:-

i. in the heading, for the word "District", the word "Divisional" shall be substituted.

ii. against serial No. 1, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of Seniority-cum-fitness from amongst the Assistants (BPS - 14) with at-least five year service, in the offices of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (F&P) and Political Agents at Divisional level."

iii. against serial No. 2, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of Seniority-cum-fitness from amongst Senior Scale Stenographers (BPS - 15) with at-least five year service as such in the offices of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (F&P) and Political Agents at Divisional level" and,

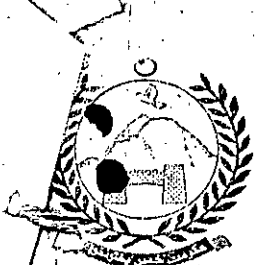
iv. against serial No. 3, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of Seniority-cum-fitness from amongst Junior Scale Stenographers (BPS - 12) with at least five year service as such in the offices of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (F&P) and Political Agents at Divisional level and Data Control Assistant (BPS - 12) of the office of District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (F&P) Department and Political Agents at Divisional level with at-least five year service as such and Date Control Assistants/ Commissioners, Additional Commissioners at Divisional

RECEIVED

829

07-10



OFFICE  
COMMISSIONER  
BANNU DIVISION

**Ann.**  
P.O. Box. 12, Postal Code 28100, Bannu  
Phone: 0928-9270044 & 621144  
Fax: 0928-9270041  
E-mail: commissioner-bannu@hotmail.com  
No. 770-73/AG-I/F.114/4  
Dated: 23-3-2014  
**22**  
**69**

Secretary,  
Board of Revenue,  
Peshawar.

Subject: FILLING UP OF VACANT POST OF SUPERINTENDENT (BPS-16).

I am directed to refer to your letter No. Estt: II/DPC/Bannu/16154, dated 09/09/2013, and to enclose herewith the subject final/un-disputed divisional seniority list of Assistants (BPS-14) as stood on 31/12/2013 alongwith synopsis and original A.C.Rs of the following two Assistants:

- (i) Mr. Bashir Ullah Khan Assistant in D.C. Office, Bannu A.C.Rs from 1992 to 2012
- (ii) Mr. Ishaq Ali Khan Assistant in D.C. Office, Bannu A.C.Rs from 2011 to 2012 while  
his rest of A.C.Rs have already been provided by this office vide letter No. 552/GB/AG-II/F.104, dated 24/02/2011.

I am further directed to intimate that at present only one post of Superintendent (BPS-16) is lying vacant in this office/division.

Note: A.C.Rs and synopsis of Mr. Naimat Ullah Khan Assistant in D.C Office Lakki Marwat (N.T (O.P.S)) has not yet been received in this office. For the purpose Deputy Commissioner, Lakki Marwat is being reminded.

*[Signature]*  
Assistant to Commissioner (Rev/GA)  
Bannu Division

**ATTESTED**

Even no. & date:  
Copy forwarded to the

1. Deputy Commissioner, Lakki Marwat with reference to this office letter No. 2679-82/AG-I/F.114, dated 07/10/2013 with the request to provide the necessary A.C.Rs and synopsis in respect of Mr. Naimat Ullah Khan Assistant of your office (N.T. OPS) direct to the quarter concerned under intimation to this office, please.
2. Deputy Commissioner, Bannu with the request to provide other necessary documents if any direct to the quarter concerned under intimation to this office, please.
3. Political Agent, North Waziristan Agency, Miranshah for information, please.

General Diary  
Dy: No. 1816  
Date 31-3-14  
Revenue & Estate  
Khuzar Dakhlan Khawra

*Received all*  
*31/3/14*  
*13/0/14*

*[Signature]*  
Assistant to Commissioner (Rev/GA)  
Bannu Division



166

OFFICE OF THE  
COMMISSIONER  
BANNU DIVISION

P.O. Box 28100, Bannu.  
Phone: 0928-9270044 & 621144  
Fax: 0928-9270041  
E-mail: commissioner-bannu@hotmail.com

No. 1001-03/AG-I/F.114

Dated: 25-04-14

H 23

Deputy Commissioner,  
Lakki Marwat.

Subject: FILLING UP OF VACANT POST OF SUPERINTENDENT (BPS-16).

Reference this office letter No. 2679-82/AG-I/F.114, dated 07/10/2013, followed by a reminder No. 770-73/AG-I/F.114, dated 27/03/2014 and enclosed herewith, in this connection, a copy of letter No. Estt:II/DPC Bannu/8477, dated 16/04/2014, on the subject noted above, received from Assistant Secretary (Estt.), Board of Revenue Peshawar. The requisite A.C.Rs, synopsis and certificate in respect of Mr. Naimat Ullah Khan Assistant of your office (N.T (O.P.S) is still awaited since long resultantly the whole case of promotion of Superintendent has been delayed in ordinately.

It is, therefore, requested to furnish the above documents in respect of the said official to this office within seven (07)-days through special messenger positively so that to finalise the said case accordingly without further loss of time, please.

  
Assistant to Commissioner (Rev/GA)  
Bannu Division

Even no. & date:  
Copy forwarded to the

1. Deputy Commissioner, Bannu with the request to provide necessary certificates in respect of Mr. Bashir Ullah Khan and Ishaq Ali Khan Assistants direct to the quarter concerned under intimation to this office, please.
2. Assistant Secretary (Estt.), Board of Revenue Peshawar w/r to above for information.

  
Assistant to Commissioner (Rev/GA)  
Bannu Division

ATTESTED



OFFICE OF THE  
COMMISSIONER  
BANNU DIVISION

P.O. Box. 12, Postal Code 28100, Bannu.  
Phone: 0928- 9270044 & 621144  
Fax: 0928 - 9270041  
E-mail : commissioner-bannu@hotmail.com

No. 1118 - 20 / AG-I/F.114

Dated: 9-5-2014

24

Secretary-I,  
Board of Revenue,  
Peshawar.

Subject: FILLING UP OF VACANT POST OF SUPERINTENDENT (BPS-16).

I am directed to refer to your letters No. Estt: II/DPC/Bannu/16154, dated 09/02/2013, and No. Estt:II/DPC Bannu/8477, dated 16/04/2014, and this office letter No. 770-73/AG-I/F.114, dated 27/03/2014, on the subject noted above.

In this regard I am directed to enclose herewith the requisite ACRs for the year 2013, updated synopsis and non-involvement certificate in respect of Mr. Bashir Ulalh Khan and Ishaq Ali Khan Assistants in Deputy Commissioner Office Bannu. While their ACRs and synopsis upto the year 2012 have already been furnished vide our letter cited above.

Furthermore, Deputy Commissioner Lakki Marwat vide letter No. 2926/DC/LM/PS/P dated 8/05/2014, has furnished non-willingness certificate (copy enclosed for ready reference) for promotion to the post of Superintendent in respect of Naimat Ullah Assistant in DC, Office Lakki Marwat at S.No. 1 of the subject divisional seniority list as stood on 31/12/2013 copy of which has already been furnished to your office.

Since the post of Superintendent at Commissioner Office Bannu is lying vacant since long and resultantly the work is suffering badly, I am, therefore, further directed to request you to promote an official to the subject post as per the seniority list, please.

Assistant to Commissioner (Rev/GA)  
Bannu Division

Even no. & date:

Copy forwarded to the

1. Deputy Commissioner, Bannu.
2. Deputy Commissioner, Lakki Marwat.

Assistant to Commissioner (Rev/GA)  
Bannu Division

**ATTESTED**



OFFICE OF THE  
COMMISSIONER  
BANNU DIVISION

P.O. Box. 12, Postal Code 28100, Bannu  
Phone: 0928-9270044 & 621144  
Fax: 0928-9270041  
E-mail: commissioner-bannu@hotmail.com

No. 2547/AG-I/F-114

Dated: 19-11-14

(T)  
(25)

Assistant Secretary (Estt.),  
Board of Revenue,  
Peshawar.

Subject: FILLING UP OF VACANT POST OF SUPERINTENDENT (BPS-17).

I am directed to refer to this office letter No. 770-73/AG-I/F.114, dated 27/03/2014, and No. 1465-66/AG-I/F.114, dated 20/06/2014, on the subject noted above and to state that the post of Superintendent at Commissioner Office Bannu is lying vacant since long and resultantly the work is suffering badly.

I am, therefore, further directed to request you to promote an official to the subject post as per the seniority list which has already been forwarded alongwith complete case vide this office letters referred above, please.

  
Assistant to Commissioner (Rev/GA)  
† Bannu Division

Ann:

(K)

(26)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

No. Estt:II/DPC/Commir:Bannu/ 23799

Peshawar dated the 2 /12/2014

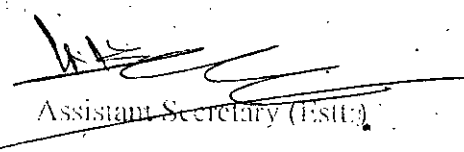
2.12.2014

To

The Assistant to Commissioner (R)/GA,  
Bannu Division, Bannu.

SUBJECT: FILLING OF VACANT POST OF SUPERINTENDENT (BPS-17).

I am directed to refer to your letter No. 1118-20/AG-1/F, dated-9/5/2014,  
and to request you send working paper complete in all respect to enable this Department to  
place the case before the Departmental Promotion Committee for consideration please.

  
Assistant Secretary (Estt.)

ATTESTED  




OFFICE OF THE  
COMMISSIONER  
BANNU DIVISION

Ann: (L)  
(27)

No. 2714 /AG-I/F-114

Dated: 3 /12/2014

To

The Senior Member Board of Revenue  
Government of Khyber Pakhtunkhwa  
Peshawar.

Subject: **FILLING OF VACANT POST OF SUPERINTENDENT  
(BPS-17).**

Memo:

I am directed to refer to your department letter No. Estt:II/DPC/Commir/Bannu/23799 dated, 02/12/2014 and this office letter No.770-73/AG-I/F-114 dated, 27/3/2014 and No.118-20/AG-I/F-114 dated, 09/5/2014 on the subject cited above.

I am further directed to enclose herewith the requisite working paper complete in all respect regarding promotion of Assistant (BPS-16) to the vacant post of Superintendent (BPS-17) in Commissioner Office Bannu as desired please.

The original ACRs along with synopsis have already been sent vide this office letters under reference. However copies of the same are enclosed for ready reference.

o/c

Assistant to Commissioner (Rev/GA)  
Bannu Division

Received today on  
04/12/2014 at: 11:30am  
Mondar

ATTESTED



OFFICE OF THE  
COMMISSIONER  
BANNU DIVISION

WORKING PAPER

SUBJECT: PROMOTION OF ASSISTANT (BPS-16) TO THE POST OF SUPERINTENDENT (BPS-17) IN COMMISSIONER, OFFICE BANNU.

In terms of the provision of Notification No. 13045/Admn:II/296/Amendment dated, 02/07/2014, the following method of promotion has been prescribed for the post of Superintendent.

*By promotion on the basis of seniority-cum-fitness from amongst the Assistant with at-least five years service as such in the offices of Divisional Commissioner, Additional Commissioner, District Coordination Officer, District Officer (R&E)/Collector, Executive District Officer (F&P), (Now Deputy Commissioners offices) and Political Agent in the province.*

2. There are total 04 sanctioned posts of Superintendent (BPS-17) in Bannu Division in the current financial year 2014-15, out of which 01 post is lying vacant in Commissioner Office Bannu Division due to promotion of Mr. Sher Qadir Superintendent as Tehsildar vide Board of Revenue Notification No.12402-25/Estt:1/26, Dated,18/6/2013 . The details of posts are as under:-

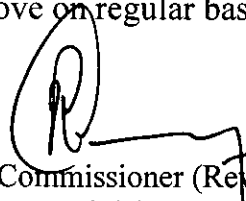
Sanctioned Strength	Existing Strength	Vacant.
04	03	01

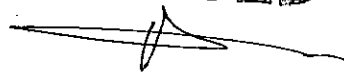
3. The post is required to be filled in by way of promotion under the provision of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules-1989. A panel of three (03) Assistant in order of Joint Divisional Seniority issued vide Office Order No.462-66/AG-I dated, 27/02/2014 by Commissioner Bannu Division (Annexure-A) is given below:-

ATTESTED		Seniority Position	Date of Promotion as Assistant	Whether or not 05 years length of service as Assistant completed	Whether or not already appointed on ACB	Remarks
S#	Name					
1	Mr. Nimatullah	1 <sup>st</sup>	01.9.1992	Yes	No	Opted not to be promoted as Superintendent (copy attached)
2	Mr. Bashirullah	2 <sup>nd</sup>	12.9.1992	Yes	No	-
3	Mr. Ishaq Ali Khan	3 <sup>rd</sup>	13.9.1992	Yes	No	-

4. It is certified that:-

- i. The officials included in the panel have the prescribed minimum length of qualifying service experience as required under the service recruitment rules.
  - ii. Neither disciplinary / departmental proceedings / pending against any of them nor any penalty imposed on any one of them during service.
  - iii. They are regular members of the service / cadre and presently working in his respective service cadre.
  - iv. Joint seniority list of Assistant (BPS-16) at Divisional level as stood on 31.12.2013 is final and not under dispute, already annexed as **Annexure- A**.
5. Synopsis from ACRs duly attested in respect of the recommendees are placed on board.
6. The Departmental Promotion Committee is requested to determine the suitability of one Assistant (BPS-16) for promotion to the post of Superintendent (BPS-17) in Commissioner Office Bannu Division from the penal above on regular basis.

  
Assistant to Commissioner (Rev/GA)  
Bannu Division

**ATTESTED**  


Ann. N (31)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE /REVENUE AND ESTATE DEPARTMENT.

NOTIFICATION  
Peshawar, dated 23/01/2015.

No. Estt: I/II/135/SSRC/2033. In pursuance of provisions contained in Sub-Rule (2) of rule 3 of the North West-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all rules issued in this behalf, the Revenue Department in consultation with the Establishment and Administration Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the appendix to the notification which shall be applicable to post born in the cadre of Commissioners Specified in Column 2 of the said appendix.

AMENDMENTS

In the Appendix:-

S.No	Nomenclature of post with pay scale	prescribed qualification	Age	Method of recruitment
1.	Superintendent (BPS - 17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) with five years service as such in the offices of Commissioners of the Division concerned.
2.	Private Secretary (BPS - 17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers (BPS-16) with at least five years service in the offices of Commissioners, Deputy Commissioners and Political Agents of the Division concerned
2A	Accounts Officer (BPS-16).		---	By transfer from the Treasury Department/ Accountant General Office Khyber Pakhtunkhwa. Provided that an official earlier adjusted from surplus pool will be considered as rightly adjusted.

ATTESTED

S.No	Nomenclature of post with pay scale	prescribed qualification	Age	Method of recruitment
32	Assistant (BPS-15)	At least Second Class Bachelor's Degree from a recognized University.	20 to 32 years.	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with at least five years service as Junior and Senior Clerk in the Offices of Commissioner of Division concerned; and (b) twenty five percent by initial recruitment.
	Senior Scale Stenographer (BPS - 16)	(j) At least Second Class Bachelor's Degree, from a recognized University;  (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and  knowledge of computer using MS Word, MS Excel.	20 to 32 years.	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst Stenographers with atleast five years service as such in the offices of Commissioners concerned; and (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the office of Commissioner concerned.  Provided that if no suitable candidate is available for promotion, then by initial recruitment.
5.	Stenographer (BPS - 14)	(i) At least second class Intermediate or equivalent qualification from a recognized Board  (ii) A speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and  Knowledge of computer in using MS Word, MS Excel.	18 to 30 years.	By initial recruitment.
6.	Senior Clerk (BPS-14).	....	....	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the offices of Commissioner concerned with at least two years service as such.
"6A	Head Vernacular Clerk / Head Clerk (BPS-14).		....	(a) By transfer from amongst Senior Clerk (BPS-14) of the offices of Commissioner and Deputy Commissioner having at least one year experience of Revenue and Land acquisition matters; or  (b) Naib Tehsildars (BPS-14) of the Division concerned.

REVENUE AND LAND ACQUISITION

S.No	Nomenclature of post with pay scale	prescribed qualification	Age	Method of recruitment
7.	Computer Operator (BPS - 12)	i. At least second Class Bachelor Degree in Computer Science/ Information Technology (BCS/BIT four years), from a recognized university; or  ii. At least Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-28 Years.	By initial recruitment.
"8A	Caretaker (BPS-11).	At least second class Bachelor Degree or equivalent qualification from recognized university alongwith Certificate / Diploma in Housekeeping / hotel management from a recognized institute.	18-30 Years.	By initial recruitment.
8.	Junior Clerk (BPS - 11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and  (ii) A speed of 30 words per minute in typing.	18 - 30	a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the Division concerned with two years service as such, who have passed Secondary School Certificate Examination; and  b) Sixty seven percent by initial recruitment.  <u>Note:</u> For the purpose of promotion there shall be maintained a common seniority list of Qasids and Naib Qasids etc with reference to the date of their regular appointment:  Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment:  Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials.
9.	Driver BPS - 4)	Literate having LTV driving license issued by the competent authority. preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18 - 32 years	By initial recruitment.

33



S.No	Nomenclature of post with pay scale	prescribed qualification	Age	Method of recruitment
10A	Cook / Waiter (BPS-4).	Literate with three years practical experience in any hotel or guest house as cook / waiter.	18-32 Years.	By initial recruitment.
10B	Qasid	---	---	By promotion on the basis of seniority-cum-fitness, from amongst the Naib Qasids with two years service as such."; and
10.	Naib Qasid / Chowkidar / Behishti / Mali / Sweeper (BPS - 01)	Literate	18-32 Years.	By initial recruitment.

34

Sd/-  
SECRETARY TO GOVERNMENT  
REVENUE AND ESTATE DEPARTMENT

CIS

- 1- Promotion pipeline
2. accrued rights.
3. Seniority byfer
4. Staff provincial level is to be joint one.
5. Disadvantages rules.

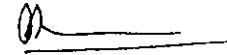
ATTESTED

No. Estt:II/135/SSRC/2034-73

35

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All Deputy Commissioners, Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 printed copies thereof to the undersigned for record.



**DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT**

**BEFORE THE HONOURABLE CHIEF SECRETARY GOVERNMENT OF KHAYBER  
PAKHTUNKHWA, PESHAWAR**

Bashir Ullah Khan (Assistant BPS-16) DC Office Bannu presently working as Superintendent (OPS) in Commissioner Office Bannu Division .....Appellant/Petitioner

**Versus**

Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar .....Respondent

**REPRESENTATION/DEPARTMENTAL APPEAL AS PROVIDED IN SECTION- 4(a)  
OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE  
NOTIFICATION NO.Estt:I/II/135/SSRC/2033 Dated, 23/01/2015 WHEREBY  
APPELLANT / PETITIONER DEPRIVED FROM PROMOTION TO THE POST OF  
SUPERINTENDENT BPS-17 IN COMMISSIONER OFFICE BANNU.**

**Prayer:**

**That on acceptance of this Appeal / Representation the appellant may be promoted to the vacant post of Superintendent with effect from 18/6/2013 in Commissioner Office Bannu Division being the senior most Assistant BPS-16 in Bannu Division to save his accrued fundamental rights of promotion.**

Respectfully sheweth:

1. That the petitioner was appointed as Assistant in Commissioner Office Bannu Division vide order No. 565-66/PA/G dated 09/09/1992 (copy of appointment order is Annexed as -A).
2. That after devolution of Commissioner Offices, the petitioner was adjusted in DCO Office vide order No. PS/DCO/Estab:/2001 dated 23/06/2001 (Annexed as -B).
3. That the petitioner was posted as In-charge Superintendent w.e.f 25/11/2004 to 31/12/2012 in DCO Office being a senior most Assistant in the District Bannu without any additional emolument of the post. This fact is evident from all ACRs which reflects the petitioner as "In-charge Superintendent".
4. That a post of Superintendent was fallen vacant in Commissioner Office Bannu Division on 18/06/2013 due to promotion of Mr. Sher Qadir Khan to the post of Tehsildar by BOR vide order No. 12402-25 dated 18/06/2013.
5. That the petitioner being a senior most Assistant in Bannu Division vide joint seniority list issued dated 27/02/2014, was posted as Superintendent (OPS) against the vacant post in Commissioner Office Bannu Division vide order No. 393/AG dated 18/04/2014 (Copy is attached as Annexure-C).
6. That the case was earlier taken up with BOR by Commissioner Bannu Division for promotion of the petitioner/appellant to the post of Superintendent and in this connection various requests/reminders were issued to Board of Revenue for early filling of the said post by promotion as office work of Commissioner Office Bannu Division was being badly suffered vide letters dated 27/03/2014, 25/04/2014, 09/05/2014 and 19/11/2014.

37

(copies are attached as Annexure-D,E,F&G) but the BOR turned its deaf ears towards the request of Commissioner Bannu Division.

7. That the petitioner / appellant submitted petition / representation on 13/06/2014 to SMBR KPK through Commissioner Bannu Division vide No. 1465 dated 20/06/2014, but of no avail (copy is attached as Annexure-H).
8. That even the BOR asked Commissioner office for sending working papers for placing before Departmental Promotion Committee for promotion of the petitioner/appellant vide No. Estt:II/DPC/Comm: Bannu/23799 dated 02/12/2014 (copy attached as Annexure-I).
9. That the working papers along with complete case were submitted to BOR vide Commissioner Office letter No. 2714/AG-I/F-114 dated 03/12/2014 (copy attached as Annexure-J).
10. That the BOR accordingly fixed DPC meeting on 16/12/2014 vide their letter No. Estt:II/DPC/Suptd:/BXU dated 09/12/2014 (copy Annexed as-K), but the DPC meeting deferred the case. APS  
occurrence
11. That in the meanwhile the respondent issued new policy vides notification No. Estt:I/II/135/SSRC/2033 dated 23/01/2015 (Annexed as-L), whereby post of the Superintendent will be filled by promotion on the basis of seniority amongst Assistants in the respective cadres of Commissioners, DCs / Political Agents and not on Divisional level due to which preserved rights of promotion accrued to the petitioner on the basis of Divisional level seniority in light of previous rules / policy vide notification No. 13045 dated 02/07/2010 (copy Annexed as-M) were violated.
12. That as such for upgraded posts of Superintendent from BPS-16 to 17 the Divisional level seniority was thus dismantled and District/office level seniority was introduced by new law/policy to deprive the senior most official from promotion at Divisional level and to benefit their junior favorites on District offices level on the basis of favoritism and nepotism.
13. That the case of promotion of the petitioner/appellant was in pipeline for promotion since one & half year with Board of Revenue which was neglected and deferred but on the other hand a same nature case of Mr. Mohammad Aslam Assistant BPS-16 of Deputy Commissioner office Peshawar was submitted in later dates to Board of Revenue was honored and promoted to the post of Superintendent BPS-17 vide notification No. Estt:II/DPS/Supdt:/19655-59 dated, 29/9/2014 (copy attached as Annexure-N) which is discrimination and double standard as well as repugnant to rule and justice.
14. That according to Article-264 Sub Class-C of constitution of 1973 of Islamic Republic of Pakistan and Section-6 of general classes Act which categorically stated "*where a law is repealed or is deemed to have been repealed, the repeal shall not, except as otherwise*

provided, affect any right, privilege, obligation etc. acquired, accrued or incurred under the law" (copies are attached as Annexure-O&P), hence the new policy can not affect the due right of promotion of appellant to the post of Superintendent in Commissioner Office Bannu Division. 38

15. That the case of appellant/ petitioner is old one, was lying in pipeline for promotion, but due to the inordinate delay in the case by Board of Revenue/respondent, the petitioner was deprived not only from Divisional level accrued right of seniority but also confirm promotion to the post of Superintendent BPS-17 due to promulgation of new rules/policy issued on 23/01/2015 by Board of Revenue.

That the petitioner/appellant is still working as Superintendent against the vacant post in Commissioner office Bannu in his own pay and scale, it is therefore humbly prayed that the departmental appeal / representation may please be accepted and the appellant may be promoted to the post w.e.f due date i.e. 18/06/2013 (date of vacancy) so that his seniority as well as service carrier could not be affected.

Dated, 03/2/2015.

(B)  
3.7.2.015

(Bashirullah Khan)  
Assistant BPS-16/Superintendent (OPS)  
Commissioner Office Bannu Division Bannu

**ATTESTED**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

No. Estt: II/DPC/Commissioner/Bann 7926  
Peshawar dated the 27/04/2015.

To

Mr. Bashirullah Khan Assistant,  
Commissioner Office Bannu Division.

Attested to  
be true only

Seen

SUBJECT: REPRESENTATION DEPARTMENTAL APPEAL AS PROVIDED **PS to SMR**  
IN SECTION-4(A) OF KHYBER PAKHTUNKHWA SERVICE **BOR. KPK**  
TRIBUNAL NOTIFICATION NO.ESTT:II/II/135SSRC/2033 DATD  
23.01.2015 WHEREBY APPELLANT /PETITIONER DEPRIVED  
FROM PROMOTION TO THE POST OF SUPERINTENDENT  
BPS-17 IN COMMISSIONER OFFICE BANNU.

Your appeal dated 03.02.2015 has been examined, and filed by the  
Competent Authority.

  
Secretary-I

ATTACHED

47

VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Bachirullah (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Chief Secretary etc (Respondent)  
(Defendant)

I/We Bachirullah (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** <sup>by Taimur Ali Khan Adw</sup>  
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 \_\_\_\_\_/20

B  
F

( CLIENT )

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate

Taimur Ali Khan  
**TAIMUR ALI KHAN**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

Appeal No. 310 of 2015

Bashir Ullah Assistant, Deputy Commissioner Office Bannu

(Appellant)

Versus

Chief Secretary, Khyber Pakhtunkhwa & Others .....

(Respondents)

*REPLY ON BEHALF OF RESPONDENTS NO.3 & 4 i.e. COMMISSIONER BANNU  
DIVISION & DEPUTY COMMISSIONER, BANNU.*

Respectfully shewith:

PRELIMINARY OBJECTIONS:

1. That the instant appeal has no merits.
2. That the appellant has got no cause of action.
3. That the appellant has got no locus standi.
4. That the instant appeal is barred by law.
5. That the instant appeal is bad for mis-joinder and non-joinder of necessary parties.
6. That the appellant has filed the instant appeal with malafide intention.
7. That the appeal is not maintainable under the law.
8. That the appellant is estopped to file the instant appeal by his own conduct.

FACTS:

1. Correct.
2. Correct.
3. Correct to the extent of up gradation but after the up gradation announced by the Govt. of Khyber Pakhtunkhwa on 20/05/2014, Board of Revenue Khyber Pakhtunkhwa was directed by the Govt. to amend its service rules and Board of Revenue Khyber Pakhtunkhwa then issued its



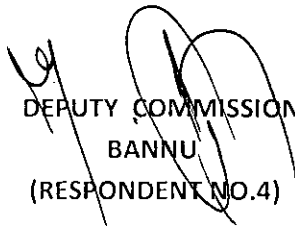
amended rules vide Notification No. Estt:II/135/SSRC/2033, dated 23/01/2015 according to which the post of Superintendent is to be filled on the basis of seniority maintained separately in each office and the concept of joint seniority is no longer valid.

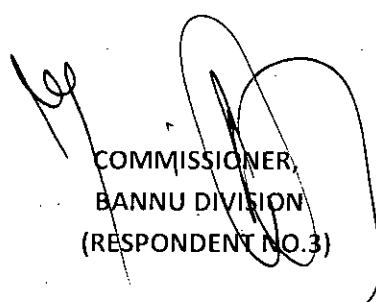
4. Correct but after the up gradation of the ministerial staff Board of Revenue had to amend its rules as explained above.
5. Correct.
6. No comments. Relates to respondent No. 2.
7. Relates to respondent No. 2.

**Grounds:**

- a. Incorrect. The impugned orders are in accordance with law and justice.
- b. Incorrect. The order is very much speaking.
- c. Relates to respondent No.2, needs no comments.
- d. Incorrect. The appellant has been treated in accordance with the prevailing law/rules.
- e. Incorrect. The said notification issued by the Board of Revenue is according to law/rules.
- f. No comments. It relates to respondent No.1.
- g. Incorrect. Appellant has been treated in accordance with law/rules.
- h. No comments.

In view of the above, it is requested that appeal of the appellant may be dismissed.

  
DEPUTY COMMISSIONER,  
BANNU  
(RESPONDENT NO.4)

  
COMMISSIONER,  
BANNU DIVISION  
(RESPONDENT NO.3)

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No. 310 of 2015

Bashir-Ullah Assistant, Deputy Commissioner Office Bannu

(Appellant)

Versus

Chief Secretary, Khyber Pakhtunkhwa & Others .....

(Respondents)

*REPLY ON BEHALF OF RESPONDENTS NO.3 & 4 i.e. COMMISSIONER BANNU  
DIVISION & DEPUTY COMMISSIONER, BANNU.*

Respectfully shewith:

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2. Correct.
3. Correct to the extent of up gradation but after the up gradation announced by the Govt. of Khyber Pakhtunkhwa on 20/05/2014, Board of Revenue Khyber Pakhtunkhwa was directed by the Govt. to amend its service rules and Board of Revenue Khyber Pakhtunkhwa then issued its

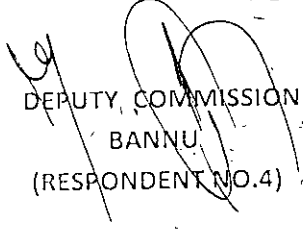
amended rules vide Notification No. Estt:I/II/135/SSRC/2033, dated 23/01/2015 according to which the post of Superintendent is to be filled on the basis of seniority maintained separately in each office and the concept of joint seniority is no longer valid.

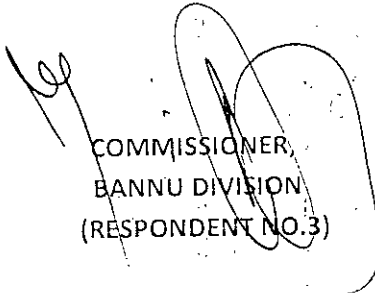
4. Correct but after the up gradation of the ministerial staff Board of Revenue had to amend its rules as explained above.
5. Correct.
6. No comments. Relates to respondent No. 2.
7. Relates to respondent No. 2.

Grounds:

- a. Incorrect. The impugned orders are in accordance with law and justice.
- b. Incorrect. The order is very much speaking.
- c. Relates to respondent No.2, needs no comments.
- d. Incorrect. The appellant has been treated in accordance with the prevailing law/rules.
- e. Incorrect. The said notification issued by the Board of Revenue is according to law/rules.
- f. No comments. It relates to respondent No.1.
- g. Incorrect. Appellant has been treated in accordance with law/rules.
- h. No comments.

In view of the above, it is requested that appeal of the appellant may be dismissed.

  
DEPUTY COMMISSIONER,  
BANNU  
(RESPONDENT NO.4)

  
COMMISSIONER,  
BANNU DIVISION  
(RESPONDENT NO.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No. 310/2015.

Bashir Ullah Assistant office of the Commissioner, Bannu Division.

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa, and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.2.

Preliminary objection.

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.
5. That appellant has not come to the Tribunal with clean hands.

ON FACTS.

1. Pertain to record of the office of Respondent No. 3 & 4.
2. Pertains to record.
3. Correct to the extent that Assistant of the office of Commissioner and Deputy Commissioners were eligible for promotion to the post of Superintendent on joint seniority list at Divisional level, but on 23.01.2015 rules were amended and Assistant of the office of Commissioners were made eligible for promotion to the post of Superintendent in Commissioner offices while Assistant of the offices of Deputy Commissioners were made eligible for promotion to the post of Superintendent in Deputy Commissioner offices to remove discrimination..
4. Incorrect The promotion case of the appellant was under process between Board of Revenue, Commissioner Bannu and Deputy Commissioner Lakki Marwat for want of Annual Confidential Reports, synopsis and other necessary documents/information.

5. Correct to the extent that on receipt of working paper from Respondent No.3, the promotion case of the appellant was placed before Departmental Promotion Committee , but he was not considered due to non-existence of District Cadre Ministerial Service Rules, as the appellant was permanent employee of the office of Deputy Commissioner, Bannu.
6. No comments.
7. Incorrect. Prior to the Notification dated 23.01.2015, there were no rules for the employees of the Deputy Commissioners, therefore the appellant had no right to be promoted against the post of Superintendent in the office of Commissioner Bannu, Division. The Departmental Appeal of the appellant was properly examined and rejected by the appellate authority.

GROUND.

- A. Incorrect. Order dated 07.4.2015 is according to law/rules..
- B. Incorrect. Order dated 07.4.2015 is based on the orders of Chief Secretary, Khyber Pakhtunkhwa recorded on a note to Chief Secretary, Khyber Pakhtunkhwa (Annexure-A).
- C. Incorrect. The appellant case for promotion to the post of Superintendent BPS-17 against the vacant post in Deputy Commissioner office Bannu will be placed before Departmental Promotion Committee on receipt of request from Deputy Commissioner, Bannu as the appellant is permanent employee of the office of Deputy Commissioner, Bannu.
- D. Right of promotion of the appellant has not been damaged. The Appellant cannot be promoted on the basis of joint seniority list at Divisional level.
- E. Incorrect Notification dated 23.01.2015 is rules regarding method of promotion/appointment of the staff working in the offices of Deputy Commissioners which were approved by SSFC in consultation with Law Finance Establishment Department and Public Service Commission.
- F. Incorrect. Decision at S.No. 15 of the minutes of the meeting is to be notified by the Establishment Department which has not yet been done.
- G. Incorrect. The appellant will be considered for promotion as Superintendent in light of District Cadre Ministerial Service Rules, notified on 23.01.2015.

H. Respondent will also seek permission to advance additional grounds at the time of arguments.

It is requested that the appeal may be dismissed with costs.



Respondent No.2

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No. Estt: II/DPC/Commissioner/Bann 792-6  
Peshawar dated the 27/04/2015

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To

Mr. Bashirullah Khan Assistant,  
Commissioner Office Bannu Division.

Attested to  
be true copy

Seen

SUBJECT:

REPRESENTATION DEPARTMENTAL APPEAL AS PROVIDED IN SECTION-4(A) OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL. NOTIFICATION NO. ESTT-II/II/135SSRC/2033 DATED 23.01.2015 WHEREBY APPELLANT/PETITIONER DEPRIVED FROM PROMOTION TO THE POST OF SUPERINTENDENT BPS-17 IN COMMISSIONER OFFICE BANNU. PS to SMRR BOR. KPK

Your appeal dated 03.02.2015 has been examined, and filed by the  
Competent Authority.

Secretary-I

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1310/2015

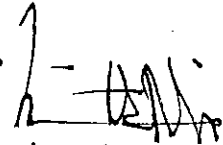
Bashir Ullah, Assistant Office of the Commissioner Bannu..... Appellant

VERSUS

Senior Member Board of Revenue & others..... Respondents

AFFIDAVIT

I Mukhtiar Ali, Superintendent (Lit-II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me and nothing has been deliberately concealed from this Hon'able Tribunal.



Superintendent (Lit-II)  
Board of Revenue



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 852 /ST

Dated 29-4- / 2019

To


The SMBR,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 310/2017, MR. BASHIR ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 01.04.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.