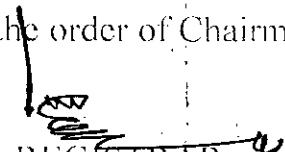


FORM OF ORDER SHEET

Court of _____

Case No.- _____ 880/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	2	3
1:-	19/04/2023	<p>The appeal of Mr. Zeeshan Ullah resubmitted today by Mr. Zia-ur-Rehman Tajik Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on-</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

The appeal of Engineer Zeeshan Ullah SDO office of the Chief Engineer Merged Area Irrigation Peshawar received today i.e. on 17.04.2023 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Annexures of the appeal are unattested.
- 2- Affidavit be got attested from Oath Commissioner.
- 3- Memorandum of appeal be got signed by the appellants.
- 4- Addresses of respondents no. 4, 5, 7, 8 & 9 are incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 5- Copy of recommendation letter dated 9.7.2021 mentioned in para-1 of the memo of appeal is not attached with the appeal.
- 6- Annexure-D of the appeal is illegible which may be replaced by legible/better one.
- 7- Wakalat nama is blank which be filled up.


No. 1221 /S.T,

Dt. 18/4 /2023


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zia-ur-Rehman Tajik Adv.
High Court Peshawar.

Relevant Para No 29 of Annexure D is legible and is easily readable. Hence no need of filing better copy.
Address of R No 9 has been corrected and address of rest of the respondents is correct for the purpose of summons service.
Recommendation letter has been attached as annexure D "C", in which reference to earlier Recommendation letter dated 9.7.2021 has been made.
Rest of the deficiencies are fulfilled hence may kindly be fixed before the court.


Zia-ur-Rehman Tajik
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 880 /2023

Engineer Zeeshan Ullah ,SDO/Assistant Engineer O/D Chief Engineer Merged Area
Irrigation , Department Peshawar

Versus

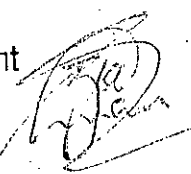

Chief secretary Government of Khyber pukhtonkhawa etc

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	Memo of Appeal		1-5.
2.	Affidavit		6
3.	Copies of Appointment, posting, recommendation letter/order	A, B, C	7-13.
4.	Copy of the judgment of this Honorable tribunal	D	14-38
5.	Copy of the antedated promotion	E	39
6.	Copy of the departmental appeal	F	40-44
7.	Copy of Tentative and final seniority list	G, H, A	45-56
8.	Wakalatnama		57

through

Appellant


Zia-ur-Rehman Tajik
L.L.B, L.L.M, Diploma in Sharia law
Advocate Supreme Court of Pakistan
& 
Jabir Khan
LLB(HONS)
Advocate, Peshawar
Office ; Cantt Mall plaza Peshawar sadar

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 880 /2023

Engineer Zeeshan Ullah ,SDO/Assistant Engineer O/O Chief Engineer Merged Area
Irrigation , Department Peshawar

-----**Appellant.**

Versus

1. Chief Secretary ,Government ,of Khyber Pukhtunkhwa, Peshawar.
2. . Secretary Irrigation Government of Khyber Pukhtunkhwa, Peshawar
3. Government of Khyber Pakhtunkhwa through its Chief Secretary, civil Secretariat, Peshawar.
4. Departmental Promotion Committee through its Chairman,Irrigation ,Department Peshawar.
5. Engineer Inam ullah Khan, Assistant Engineer Office of chief Secretary North, Peshawar.
6. Engineer Shahid Ali khan,SDO, Irrigation ,Sub Division, Saidu Sharif Swat.
7. Engineer Rizwan ,SDO, Canal Sub Division,Pharpur, District DI Khan .
8. Engineer Javed Ullah khan , SDO Warsak Left Canal, Peshawar.
9. Engineer Wajahat Hussaian , SDO, irrigation Sub Division

-----**Respondents.**

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED NOTIFICATION DATED 29.11.2022 WHEREBY**

SENIORITY OF APPELLANT WAS DISTURBED AND WAS PLACED
AT SERIAL NO.30 FROM SERIAL NO.25 WITHOUT ANY
LEGAL JUSTIFICATION WHEREAFTER DEPARTMENTAL
APPEAL OF THE APPELLANT WAS NOT DECIDED BY
RESPONDENT NO.1 TILL DATE.

Prayer in Appeal:-

On acceptance of instant appeal the impugned seniority list dated 29.11.2022 may kindly be modified/ corrected to the extent of appellant and the appellant may be re-legated to his original position in the seniority list, and the Respondents may further be directed to give back benefits and promotion which have been effected from impugned seniority list.

Respectfully Sheweth;

1. That the appellant was appointed as Assistant Engineer on 24.09.2021 and posted as Assistant Engineer (BPS 17) O/O Chief Engineer, 13.10.2021 on the recommendation letter dated 09.07.2021. **(Copies of Appointment, posting, recommendation letter/order is annexed as Annexure A, B & C).**
2. That the appellant is performing his duties regularly, devotedly and to the entire satisfaction of official respondent without any complaint from any quarter from the date of his appointment.
3. That Departmental promotion committee of the respondent department refused promotion to the post of assistant Engineer to the private respondents along-with other employees and the private respondents had challenged their non-recommendation before this Honourable Tribunal and their appeal was allowed by this Honourable Tribunal on 15.04.2022 with the direction to the official respondents to consider the private respondents for promotion against the vacant post. **(Copy of the judgment of this Honorable Tribunal is attached as annexure D).**
4. That after the decision of this Honorable Tribunal DPC was held on 19.07.2022 in which the private respondents were recommended for antedated promotion with the effect from 23.06.2021 and through Notification antedated promotion was granted by the respondent No. 2 on

3

26.08.2022 to the private respondents (**Copy of the antedated promotion is attached as annexures E**).

5. That the appellant being aggrieved from antedated promotion order of private respondents had filed appeal before the respondents No 1&2 on 06.09.2022 but wasn't considered and thereafter file service appeal before this Honorable Tribunal and is pending adjudication. **(Copy of the Departmental Appeal is attached as annexure "F")**.
6. That after issuance of Notification dated 26.08.2022 seniority of appellant was disturbed and was placed at serial No 30 of the seniority list from serial No 25 through impugned seniority list dated 29.11.2022 **(Copy of Tentative and final seniority list are attached from as annexure "G")**
7. That the appellant being aggrieved from seniority list, challenged the same before respondent No 1 on 26.12.2022 but till date no response was given.

Now the appellant being aggrieved from impugned seniority list approached this Hon'ble Tribunal in present service appeal for redressal of his grievances inter-alia on the following grounds:

Grounds:

- A. That the appellant has not been treated in accordance with law and the impugned seniority list has been issued and disturbed the seniority of appellant without providing any chance of hearing and also no reason has been given for issuing the impugned seniority list.
- B. That the appellant is appointed much earlier to the private respondents and could not be relegated to the junior position as per the principles laid down Supreme Court of Pakistan in the case of Secretary Labor Department V/s Raja Muhammad pasha junijo and others

2005 SCMR 1142 (Para 4)

- C. That the Engineer Bakhtiar was promoted to the post of Engineer on the basis of recommendation of DPC meeting dated 13.01.2022 and was promoted w.e.f 28.03.2022 and was placed junior in the seniority list as compared to the appellant in the impugned seniority list but the respondents due to mala fide, ulterior motives and inimical towards appellant had disturbed their seniority.

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- D. That the appellant was appointed through public service commission much earlier to the promotion of private respondents and could not be relegated to the junior position in the seniority list

2012 SCMR 1545 (Para No 6)

- E. That in the case of Majid Akhtar V/S Province of Sindh it was held by the Sindh High Court " direct recruited could claim seniority from the date of his appointment seniority in service , cadre or post to which an official was promoted was to take effect from the date of regular promotion to the service , cadre or post and not from the date of any Adhoc induction"

2019 PLC (CS) 771 para 28 , 32

- F. That antedated seniority is violative of law and as per rule 17(2) of APT Rules seniority in case of initial recruitee and departmental promotees shall be determined with reference to their regular appointment to a post or cadre.

2016 SCMR 1525 PARA NO 1

- G. That seniority is not a vested right and would take effect from the date of regular appointment to a post and seniority from retrospective date is not permitted and is beyond the power of the government

2011 SCMR 389 PARA NO 7

- H. That the impugned seniority list has been issued and seniority of the appellant has been disturbed in violation of seniority Rules and principle laid down for grant of seniority by the superior court and is also hit by the rules of propriety , fair play and natural justice.
- I. That nay other ground will be adduced at the time of arguments with the kind permission of this Hon'ble Tribunal.

It is, therefore, respectfully prayed that on acceptance of instant appeal;

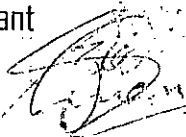
- i. The impugned seniority may kindly be corrected and modified to the extent of appellant and the appellant may be relegated to his original position in the seniority list from serial No 30 to serial No 25.

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- ii. Impugned seniority list may kindly be declared illegal, against the law and ineffective on rights of the appellant
- iii. Any other relief not specifically prayed for to which the appellant is entitled in the facts and circumstances of the case may also be granted.

through

Appellant



Zia-ur-Rehman Tajik
L.L.B, L.L.M, Diploma in Sharia law
Advocate Supreme Court of Pakistan

& 
JABIR KHAN
LLB (HONS)

Advocate, Peshawar
Office:- Flat No. 1, 4rth Floor, Cantt Mall
Plaza
Fakhr-e-Alam Road, Peshawar Cantt.
Cell No. 0300-9357932

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. _____ /2023

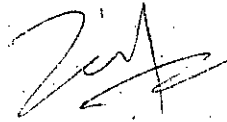
Engineer Zeeshan Ullah, SDO/Assistant Engineer, O/O Chief Engineer Merged Area
Irrigation Department Peshawar

Versus

Chief secretary Government of Khyber pukhtonkhawa etc

AFFIDAVIT:

I, Engineer Zeeshan ullah, do hereby affirm and declare on oath that the contents of
the instant Appeal are true and correct to the best of my knowledge and belief.



Deponent Zeeshan ullah

CNIC : 16101-7620875-9

Cell : 0315-2425126

Annex - A

(7)



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

Dated Peshawar the 24th September, 2021

NOTIFICATION

No. SO(E)/IRRI/4-14/73/PSC/Vol-V: The Competent Authority on the recommendations of the Khyber Pakhtunkhwa Public Service Commission and in pursuance of the provisions contained in Sub Section (2) of Section 19 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 Civil Servants (Amendment) Act, 2005 (Khyber Pakhtunkhwa Act No. IX of 2005) and further amended by the Khyber Pakhtunkhwa, Civil Servants (Amendment) Act, 2013, the Government of Khyber Pakhtunkhwa in the Irrigation Department is pleased to offer the appointment to the following candidates as Assistant Engineers/Sub Divisional Officers BFS-17 (Rs. 30370-2300-76370) with usual allowances admissible under the rules in the Irrigation Department, subject to the terms & conditions mentioned below: -

S. #.	Name with Father's Name	Domicile/Zone	Address
1	Mr. Sadiq Ali S/o Javed Khan	Mardan/2	Mohallah Barbuki, Village Machl P.O Rustam Tehsil & District Mardan.
2	Mr. Saif Ur Rehman S/o Said Janan	Orakzai Agency/1	Ziarat Stop, Town Pabbi District Nowshera.
3	Mr. Zeeshan Ullah S/o Farman Ullah	Mardan/2	House # 2, By pass road Sarwar Abad Muqam Mandi Mardan.
4	Mr. Faisal Pervez S/o Muhammad Pervez	Charsadda/2	Village Sarwani P.O Shabqadar Fort, Tehsil & District Charsadda.
5	Mr. Salman Ahmad S/o Intiaz Ahmad	Swabi/2	Village Gohati Mohallah Mehmood Abad, Irrigation Colony Tehsil & District Swabi.
6	Mr. Naveed Ullah S/o Naseeb Ur Rehman	Karak/1	Dad (W) Field Office Askari-6 Phase-II, Nasir Bagh Road, Peshawar.
7	Mr. Amjad Ali S/o Jehan Sardar	Dir Lower/3	Post Office Bishegram Gumbat Banda Tehsil Lal Qilla District Lower Dir.
8	Syed Atiq Ahmad S/o Syed Tahmeed Gul	Charsadda/2	Mohallah Miankaly Village & P.O Sherpao Tehsil Tangi District Charsadda.
9	Mr. Noor Yaseen S/o Salah Ud Din	SW Agy/1	Room No. 169, Iqbal Hall UET Lahore.
10	Mr. Manzoor Elahi S/o Jehan Zeb Khan	Peshawar/2	Civil Engineering Department UET Peshawar Civil office.
11	Mr. Siddique Umar S/o Anwar Khan	Kohat/4	Village Ghorzal Payan Town Senl Gumbat Tehsil & District Kohat.
12	Mr. Farhan Alam S/o Tajul Alam	Malakand/3	House No. 374, Street 14, Sector F7 Phase-VI, Hayatabad, Peshawar
13	Mr. Babar Saani S/o Atiq Ullah	Charsadda/2	Village Amlrabad Rajjar, Tehsil & District Charsadda
14	Muhammad Suhail Khan S/o Muhammad Naem Khan	Dir Lower/3	Village & P.O Markhanal Tehsil Lal Qilla Maldan Dir

Attested

to be true copy

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15	Mr. Riaz Ud Din S/o Asam Ud Din	Kurram Agy/1	Amin Medcose 1 st Floor Khushal Medical Center Dabgarl Gardan Peshawar
16	Muhammad Mustajab Khan S/o Khanzada Khan	Haripur/5	Village & P.O Kholian Bala Tehsil & District Haripur.
17	Muhammad Wajahat Ali Khan S/o Ahmad Ali	Haripur/5	House # C-33, Snober Colony, Tarbela Dam, Tehsil Ghazi District Haripur
18	Miss. Shazla Batool D/o Jawad Ali	Kurram Agy/1	House No. 2 adjacent to Army Public School & College Warsak Road, Peshawar
19	Miss. Hafsa Wadood D/o Fazli Wadood	Malakand/3	House No. CA-1 near Masjid Bilal University Campus Peshawar.
20	Miss. Alman Afridi D/o Naeem Afridi	Khyber Agency/1	House No. 2 Baba Jee Road Academy Town, Peshawar.
21	Mr. Arif Gul S/o Fazal Gul	Swat/3	Mehboob Super Store Village Rasha Gatta Tehsil Babozai District Swat.

TERMS & CONDITIONS:

- i. They will get at the minimum pay of BPS-17 including usual allowances as admissible under the Rules. They will also be entitled to annual increment as per existing policy.
- ii. The above posts, for all intents and purposes, shall be within the definition of Civil Servants.
- iii. They will be governed by the Khyber Pakhtunkhwa Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules framed there-under.
- iv. They will initially be on probation for a period of one year under rule-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- v. Their services shall be liable to termination at any time without assigning any reason, before the expiry of the period of probation, if their work or conduct during this period is found unsatisfactory. In such an event, they will be given one month's prior notice of termination from service or one month's pay in lieu thereof. In case they wish to resign at any time, one month's notice shall be necessary or in lieu thereof one month's pay shall be forfeited.
- vi. They will undergo for 4-months pre-service training. Training schedule will be issued separately.
- vii. Their appointment will be subject to the verification of their domicile and testimonial from the concerned authorities/Institutions.
- viii. They will not be entitled to any TA/DA on their first appointment as Assistant Engineer/Sub Divisional Officer. They will join duty at their own expenses.

2. In case the above terms and conditions are acceptable, an **UNDERTAKING** to the effect on a Stamp Paper worth Rs. 100/- signed & duly attested by the Oath Commissioner, should be produced to the Irrigation Department Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar within a month time without fail.

3. In case of failure of response to the above offer within stipulated period as mentioned above, the offer shall stand cancelled subject to the extension for the acceptance by the Government.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Attested

to be true copy

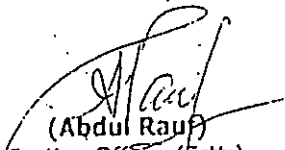
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(9)

Endst. No. & date even.

Copy forwarded for information & necessary action to:-

1. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Chief Engineer (South) Irrigation Department, Peshawar.
4. The Chief Engineer (North) Irrigation Department, Peshawar.
5. The Director General, Small Dams, Peshawar.
6. The Chief Engineer, Merged Areas, Irrigation Department.
7. All Superintending Engineers of Irrigation Department.
8. The Director (Tech.), Planning & Monitoring Cell, Irrigation Department.
9. All Project Directors in Irrigation Department.
10. The Director Recruitment, Khyber Pakhtunkhwa Public Service Commission, Peshawar w/r to letters No. PSC/SR-II/008565 dated 06.07.2021 and No. PSC/SR-II/010005 dated 11.08.2021.
11. The PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
12. The Manager, Government Printing Press, Peshawar.
13. The Section Officer (General), Irrigation Department.
14. PS to Secretary Establishment Department, Peshawar.
15. PS to Secretary Irrigation Department.
16. PA to Additional Secretary Irrigation Department.
17. The Candidates concerned.
18. Office Order File/Personal Files.
19. Master file.


(Abdul Rauf)
Section Officer (Estt.)
24/9/2021

Attested

TO THE SECRETARY

32

Annex - B



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

Dated Peshawar the 13th October, 2021

NOTIFICATION

No. SO(E)/IRRI/A-14/73/PSC/Vol-V

The Competent Authority is pleased to authorize the following newly appointed Assistant Engineers/Sub Divisional Officers (BS-17) Irrigation Department to draw their monthly salaries and allowances with effect from the date of arrival reports against the vacant posts noted against each during pre-service training, in the best public interest, till further orders. -

S. #.	Name with Father's Name	Date of arrival report	Against the post
1	Mr. Sadiq Ali S/o Javed Khan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
2	Mr. Saif Ur Rehman S/o Said Janan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
3	Mr. Zeeshan Ullah S/o Farman Ullah	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
4	Mr. Faisal Pervez S/o Muhammad Pervez	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
5	Mr. Salman Ahmad S/o Imtiaz Ahmad	27.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
6	Mr. Naveed Ullah S/o Naseeb Ur Rehman	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
7	Mr. Amjad Ali S/o Jehan-Sardar	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer, Merged Areas Irrigation Department.
8	Syed Atiq Ahmad S/o Syed Tahmeed Gul	24.09.2021	Against the vacant post of SDO-II, Gomal Zam Irrigation Division, D.I. Khan.
9	Mr. Noor Yaseen S/o Salah Ud Din	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
10	Mr. Manzoor Elahi S/o Jehan Zeb Khan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
11	Mr. Siddique Umar S/o Anwar Khan	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (South) Irrigation.
12	Mr. Farhan Alam S/o Tajul Alam	24.09.2021	Against the vacant post of Sub Divisional Officer (BS-17) Irrigation Sub Division, Chitral (Upper).
13	Mr. Babar Saani S/o Atiq Ullah	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.

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	Muhammad Suhail Khan S/o Muhammad Naeem Khan	01.10.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer, Merged Areas Irrigation Department.
15	Mr. Riaz Ud Din S/o Asam Ud Din	24.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
16	Muhammad Mustajab Khan S/o Khanzada Khan	27.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
17	Muhammad Wajahat Ali Khan S/o Ahmad Ali	27.09.2021	Against the vacant post of Assistant Engineer (BS-17) O/o Chief Engineer (North) Irrigation.
18	Miss. Shazia Batool D/o Jawad Ali	24.09.2021	Against the vacant post of Monitoring Officer (BS-17), Planning & Monitoring Cell, Irrigation Department.
19	Miss. Hafsa Wadood D/o Fazli Wadood	24.09.2021	Against the vacant post of Sub Divisional Officer (BS-17), Head Works Irrigation Sub Division, Malakand.
20	Miss. Aiman Afridi D/o Naeem Afridi	24.09.2021	Against the vacant post of Planning Officer (BS-17), Planning & Monitoring Cell, Irrigation Department.
21	Mr. Arif Gul S/o Fazal Gul	24.09.2021	Against the vacant post of Sub Divisional Officer (BS-17), Irrigation Sub Division, Shangla.

**Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department**

Encls. No. & date even.

Copy forwarded for information & necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer (South) Irrigation Department, Peshawar with the request to arrange pre-service training for newly recruited Assistant Engineers as per rules under Intimation to this Department.
3. The Chief Engineer (North) Irrigation Department, Peshawar.
4. The Director General, Small Dams, Peshawar.
5. The Chief Engineer, Merged Areas, Irrigation Department.
6. All Superintending Engineers of Irrigation Department.
7. The Director (Tech.), Planning & Monitoring Cell, Irrigation Department.
8. The Section Officer (General), Irrigation Department.
9. The District Accounts Officer concerned.
10. PS to Secretary Irrigation Department.
11. PA to Additional Secretary Irrigation Department.
12. PA to Deputy Secretary (Admn.), Irrigation Department.
13. The Officers concerned.
14. Personal Files of the officers.
15. Master file.

Attested

to be true

32

(Abdul Rauf)

Annexure - C

12

Phone: 091-9213551
Ext : 110
Website : www.kppsc.gov.pk

IMMEDIATE

KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-Fort Road, Peshawar Cantt.
No. PSC/SR-11/ 01/1995



Recruitment
Dir. No. 5428
Date 11-8-21
Dated: 11/08/2021

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department, Peshawar.

Subject: RECRUITMENT OF TWENTY (20) ASSISTANT ENGINEER / SDO (CIVIL
(UPS-17) (GENERAL: FIFTEEN (15), FEMALE QUOTA: THREE (03), MINORITY
QUOTA: ONE (01) AND DISABLE QUOTA ONE (01) IN IRRIGATION
DEPARTMENT, ADVT. NO. 10/2019, S.NO. 90 (a,b,c,d)

Dear Sir,

In continuation of this office No.PSC/SR-11/008878 dated. 09.07.2021 on the subject
noted above and to state that the recommendation of Mr. Muhammad Anees S/O Muhammad Naqeeb
District Peshawar/2 and Mr. Muhammad Abdulah Ilyas S/O Muhammad Ilyas of District Haripur/5 is here
by withdrawn with immediate effect and their recommendation may be returned to this office
immediately. Further more the Commission recommends Mr. Babar Sani S/O Atiq Ullah of District
Charsadda/2 and Mr. Muhammad Wajhat Ali Khan S/O Ahmad Ali of District Haripur/5 to the govt for
appointment. The revised allocation shall be as under:-

2nd BLOCK:

Vacancy Rotation	Allocation	Merit Order	Name with Father's Name	District / Zone
10 th	Zone-2	01	Zeeshan Ullah S/O Farman Ullah	Mardan/2
11 th	Zone-3	05	Amjad Ali S/O Jehan Sardar	Dir Lower/3
12 th	Zone-4	04	Naveed Ullah S/O Naseeb Ur Rehman	Karak/4
13 th	Merit	02	Faisal Pervez S/O Muhammad Pervez	Charsadda/2
14 th	Zone-5	19	Muhammad Mustajab Khan S/O Khanzada Khan	Haripur/5
15 th	Zone-1	07	Noor Yaseen S/O Salah Ud Din	SW Agy/1
16 th	Zone-2	03	Salman Ahmad S/O Imtiaz Ahmad	Swabi/2
17 th	Merit	06	Syed Atiq Ahmad S/O Syed Tahmeed Gul	Charsadda/2
18 th	Zone-3	10	Farhan Alam S/O Tajul Alam	Malakand/3
19 th	Zone-4	09	Siddique Umar S/O Anwar Khan	Kohat/4
20 th	Zone-5	31	Muhammad Wajhat Ali Khan S/O Ahmad Ali	Haripur/5
21 st	Merit	08	Manzoor Elahi S/O Jehan Zeb Khan	Peshawar/2
22 nd	Zone-1	14	Riaz Ud Din S/O Asam Ud Din	Kurram Agy/1
23 rd	Zone-2	11	Babar Sani S/O Atiq Ullah	Charsadda/2
24 th	Zone-3	13	Muhammad Suhail Khan S/O Muhammad Naeem Khan	Dir Lower/3

2. Female Quota and Disable Quota are both intact.

FEMALE QUOTA (04) POSTS)

Merit Order	Name with Father's Name	District / Zone
56	Shazia Batool D/O Jawad Ali	Kurram Agy/1
62	Hafsa Wadood D/O Fazil Wadood	Malakand/3
63	Aiman Afridi D/O Naeem Afridi	Khy Agy/1

DISABLE QUOTA

Merit Order	Name with Father's Name	District / Zone
64	Arif Gul S/O Fazal Gul	Swat/3

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3. Recommendation in favour of the above recommendees is provisional subject to their medical fitness and verification of all essential documents by the department, before appointment.

4. Upto date zonal state will be as under:

	Merit	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total
Share	12	08	08	08	06	06	48
Adjusted	12	08	08	08	06	06	48
Balance	--	--	--	--	--	--	Nil

5. Revised Inter-se seniority of the above selectees is as under:-

Inter Se-Merit Order	Name With Father Name	Domicle
1.	Zeeshan Ullah S/O Farman Ullah	Mardan/2
2.	Faisal Pervez S/O Muhammad Pervez	Charsadda/2
3.	Salman Ahmad S/O Imtiaz Ahmad	Swabi/2
4.	Naveed Ullah S/O Naseeb Ur Rehman	Karak/4
5.	Amjad Ali S/O Jehan Sardar	Dir Lower/3
6.	Syed Atiq Ahmad S/O Syed Tahmeed Gul	Charsadda/2
7.	Noor Yaseen S/O Salah Ud Din	SW Agency/1
8.	Manzoor Elahi S/O Jehan Zeb Khan	Peshawar/2
9.	Siddique Umar S/O Anwar Khan	Kohat/4
10.	Furhan Alami S/O Tajul Alam	Malakand/3
11.	Babar Saani S/O Atiq Ullah	Charsadda/2
12.	Muhammad Suhail Khan S/O Muhammad Naeem Khan	Dir Lower/3
13.	Riaz Ud Din S/O Asam Ud Din	Kurram Agy/1
14.	Muhammad Mustajab Khan S/O Khanzada Khan	Haripur/5
15.	Muhammad Wajid Ali Khan S/O Ahmad Ali	Haripur/5
16.	Shazia Batool D/O Jawad Ali (F/Q)	Kurram Agy/1
17.	Hafsa Wadood D/O Fazli Wadood (F/Q)	Malakand/3
18.	Aiman Afridi D/O Naeem Afridi (F/Q)	Khy Agy/1
19.	Arif Gul S/O Fazal Gul (D/Q)	Swat/3

6. One post reserved for Minority Quota remained unfilled which will be re-advertised after suitable interval.

7. Original applications (with enclosures) of the above two (02) recommendees are enclosed herewith for your record.

Yours faithfully,

(Ilyas Shah)

Director Recruitment

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Annex. D

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Service Appeal No. 7659/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwanullah vs Government of KP & others", Service Appeal No. 7661/2021 titled "Wajidullah vs Government of KP & others", Service Appeal No. 7662/2021 titled "Shawadullah vs Government of KP & others", and Service Appeal No. 7663/2021 titled "Ismailullah and Government of KP & others", decided on 13.04.2022 by Hon'ble Bench comprising Mr. Kalim Arshad Khan, Chairman and Mr. Rozina Reuman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

**BEFORE: KALIM ARSHAD KHAN, CHAIRMAN
ROZINA REUMAN, MEMBER(J)**
Service Appeal No. 7659/2021

Shahid Ali Khan (Sub Divisional Officer, Shiqubaz Garhi Irrigation Subdivision, District Mardan) son of Jehan Safdar.....(Appellant)

Versus

1. Government of KhyberPakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate...For appellant.
Mr. Muliatunad Riaz Khan Painsa Khel,
Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021
Date of Hearing.....14.04.2022
Date of Decision.....15.04.2022

2. Service Appeal No. 7660/2021

Rizwanullah (Sub Divisional Officer, Flood Irrigation Subdivision No.11, District D.I.Khan) son of Abdul Rehman.....(Appellant)


Versus

1. Government of KhyberPakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate...For appellant.
Mr. Muhammad Riaz Khan Painsa Khel,
Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021
Date of Hearing.....14.04.2022
Date of Decision.....15.04.2022

ATTESTED:

Chairman
Khyber Pakhtunkhwa Service Tribunal
Peshawar

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Service Appeal No. 7661/2021
Wajjaht Hussain (Sub Divisional Officer, Irrigation and Hydel Power Subdivision, Orakzai) son of Malik ur Rehman... (Appellant)



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Versus

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
- 3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate...For appellant.
 Mr. Muhammad Riaz Khan Pinda Khel,
 Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021
 Date of Hearing.....14.04.2022
 Date of Decision.....15.04.2022

4. Service Appeal No.7662/2021

15/4/22

Javedullah (Assistant Engineer OPS, Irrigation and Hydel Power Subdivision, Jamrud and Landi Kotal, District Khyber) son of Asad Malook Khan..... (Appellant)

Versus

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
- 3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate..For appellant.
 Mr. Muhammad Riaz Khan Pinda Khel,
 Assistant Advocate GeneralFor respondents.

Date of Institution.....18.10.2021
 Date of Hearing.....14.04.2022
 Date of Decision.....15.04.2022

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Signature of Assistant Advocate General

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Service Appeal No. 766/2021
 (Government of K.P. & others vs Government of K.P. & others)
 Service Appeal No. 766/2021 titled "Wajahat Hussain versus Government of K.P. & others", Service Appeal No. 766/2021 titled "Rizwan versus Government of K.P. & others", and Service Appeal No. 766/2021 titled "Shahid Ali Khan versus Government of K.P. & others" decided on 11.04.2022 by Divisional Officer, Peshawar, Peshawar.

5. Service Appeal No. 766/2021

Iqbalullah (Sub Divisional Officer, Irrigation Sub-Division, Tehsil Shangla District Swat) son of Purdil Khan..... (Appellant)
 Peshawar

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Civil Secretariat, Peshawar.
3. Chief Engineer (South), Irrigation Department, Warsak Road, Khyber Pakhtunkhwa, Peshawar..... (Respondents)

Present:

Mr. Amin ur Rehman Yousafzai, Advocate... For appellant.
 Mr. Muhammad Riaz Khan Pinda Khel, Assistant Advocate General For respondents.

Date of Institution..... 18.10.2021
 Date of Hearing..... 14.04.2022
 Date of Decision..... 15.04.2022

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE DECISION/RECOMMENDATION OF THE DEPARTMENTAL PROMOTION COMMITTEE, IN ITS MEETING DATED 23.06.2021, REGARDING AGENDA ITEM NO.III, ON THE BASIS OF WHEREOF, CASE OF PROMOTION OF THE APPELLANTS OF ALL THE APPEALS AS ASSISTANT ENGINEER/SUB-DIVISIONAL OFFICERS (BS-17) WAS DEFERRED.

CONSOLIDATED JUDGEMENT

KALIM AIRSHAD KHAN CHAIRMAN. Through this single judgment the instant Service Appeal No. 7659/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 7660/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Wajahat Hussain versus

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 Irrigation Department
 Peshawar
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Service Appeal No. 7662/2020 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7663/2020 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Hajrat Hussain versus Government of KP & others", Service Appeal No. 7662/2020 titled "Javedullah versus Government of KP & others", and Service Appeal No. 7663/2020 titled "Inamullah and Government of KP & others", decided on 13.06.2021 by Division Bench comprising Mr. Kalim Ashraf Khan, Chairman and Mr. Razzar Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Government of KP & others, "Service Appeal No. 7662/2020 titled "Javedullah versus Government & others" and Service Appeal No. 7663/2020 titled "Inamullah and Government of KP & others" are decided because all are similar in nature and outcome of the same decision.

2. Facts, surrounding the appeals, are that the appellants were serving as Sub-Engineers in BPS-14 (upgraded to BPS-16 on 07.03.2018) in the Irrigation Department; that they passed departmental examination Grade-A & Grade-B and became eligible for promotion to the post of Assistant Engineer (BS-17), as per the rules in vogue; that the respondents initiated the cases of the appellants along with others for promotion and prepared working paper, alongwith panel of eligible Graduate Sub engineers, for consideration against 12% quota reserved for the holders of BSc Engineering Degree; that synopses of the appellants were placed before the Departmental Promotion Committee (DPC), in its meeting held on 23.06.2021, under Agenda Item No.III, but the appellants were not recommended for promotion rather the Agenda Item No.III was deferred on the pretext to seek guidance from the Establishment Department, on the following:

- i. As per amended service rules of Irrigation Department notified on 25.06.2012, twelve posts of Assistant Engineer (BS-17) come under 12% share quota of Graduate Sub Engineers, along with passing of departmental grade B and A examination against which

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BY ANJUM KHAN
Khyber Pakhtunkhwa
Service Tribunal
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Service Appeal No. 163/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 166/2021 titled "Bisram versus Government of KP & others", Service Appeal No. 168/2021 titled "Munirul Hujain versus Government of KP & others", Service Appeal No. 169/2021 titled "Jawadullah versus Government of KP & others", and Service Appeal No. 169/2021 titled "Jawadullah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Khalid Ayub Khan, Chairman and Mr. Farzana Hameed, Member Justice, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

six officers are working on regular basis while seven officers, included in the panel at serial No. 1 to 6 & 9 are working as Assistant Engineer (BS-17) on acting charge basis since 2011.

ii. Before 25.06.2012 the passing of grade B&A examination was not mandatory for promotion to the post of Assistant Engineer and the above mentioned seven Graduate Sub Engineers were appointed to the post of Assistant Engineer (BS-17) on acting charge basis in 2011.

iii. The departmental B&A examination is conducted after every two years. The last examination was held in 2020 and the next will be held in 2022. The officers of panel at serial No. 1 to 6 & 9 (except No. 4 B&A passed) have passed their mandatory grade B examination and will appear in the A examination in 2022.

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3. The DPC in paragraph 8 of the minutes sought advice of the establishment through a separate letter that:

a. As to whether the amended rules notified on 25.06.2012 are applicable to the above employees who were appointed in the year 2011 on acting charge basis or the present Service Recruitment rules will be applicable in the instant case.

b. If the present service rules are applicable upon the officers appointed on acting charge basis then before

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Chairman
Service Tribunal
Peshawar

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Service Appeal No. 7436/2021 titled "Shri. S. S. Kulkarni vs. Government of AP & others", Service Appeal No. 2000/2021 titled "Shri. S. S. Kulkarni vs. Government of AP & others", Service Appeal No. 7581/2021 titled "Shri. S. S. Kulkarni vs. Government of AP & others", Service Appeal No. 7436/2021 titled "Shri. S. S. Kulkarni vs. Government of AP & others", and Service Appeal No. 2000/2021 titled "Shri. S. S. Kulkarni vs. Government of AP & others", decided on 13.07.2021 by Hon'ble Member, Industrial Disputes Commission and Government of AP & others, decided on 13.07.2021 by Hon'ble Member, Industrial Disputes Commission and Government of AP & others, decided on 13.07.2021 by Hon'ble Member, Industrial Disputes Commission.

completion of mandatory examination of these officers, the officers junior to them can be promoted to the post of Assistant Engineer on regular basis or otherwise.

4. It was then all the appellants preferred departmental appeals on 13.07.2021 to Respondent No.1 against the decision dated 23.06.2021 of the DPC, which, according to them was not responded within statutory period, compelling them to file these appeals:
5. It was mainly urged in the grounds of all the appeals that the appellants had been deprived of their right of promotion without any deficiency; that the department had no right to keep the promotion case pending for indefinite period; that the appellants were not treated in accordance with law; that the DPC departed from the normal course of law, which was malafide on their part; that the appellants were deferred for no plausible reasons.
6. On receipt of the appeals and their admission to full hearing, the respondents were directed to file reply/comments, which they did.
7. In the replies it was admitted that the appellants had passed Grade B&A examinations and had also completed 5 years' service for promotion as Assistant Engineer subject to considering their eligibility by the DPC and availability of posts as per service rules; that the agenda item for promotion was dropped due to non-availability of vacancies under 12% quota for promotion of Graduate Sub-Engineers to the rank of Assistant Engineers BS-17

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Service Appeal No. 7657/2021 titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No. 7657/2021 titled "Bismillah versus Government of KP & others", Service Appeal No. 7657/2021 titled "Wajid Hussain versus Government of KP & others", Service Appeal No. 7657/2021 titled "Jawadullah versus Government & others", and Service Appeal No. 7657/2021 titled "Ismaeel Khan and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Khalid Arshad Khan, Chairman and Mr. Nazim Rehman Member Judicial, Chief Justice of the Bench, Service Tribunal, Peshawar.

(i.e. 6 Nos Sub Engineers are working on regular basis while 7 Nos Sub Engineers are working on Acting Charge basis against 12 posts in the share quota of Graduate Sub Engineers which already exceeds by one number).

8. We have heard learned counsel for the appellants and learned Assistant Advocate General for the respondents and have also gone through the record.
9. Learned counsel for the appellants reiterated the facts and grounds detailed in the appeal and referred to above and submitted that the appellants had a genuine case to be considered for promotion and they had legitimate expectancy for the same. He prayed for acceptance of the appeals.
10. On the contrary the learned Assistant Advocate General opposed the arguments advanced by the learned counsel for the appellants and supported the stance taken by the respondents.
11. There is no dispute that the working paper, for promotion from the post of Sub Divisional Officers (BPS-16) to the post of Assistant Engineer (BPS-17), was prepared on proforma-I, wherein the details of the posts were given. According to the working paper six posts were shown vacant for making promotion under 12% Graduate quota. Along with the working paper, a panel of Graduate Engineers for consideration was also annexed on proforma-II (Annexure-J). The officers at serial number 1 to 3, 5 to 7, 9, 12 to 14 were shown in the panel to be not eligible while the appellants' names figure at serial No. 8, 10, 11, 13 and 15 of the panel. The panel bears

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Service Appeal No. 2019/2021 titled "Shahid Ali Khan vs. Government of P.P. & others", Service Appeal No. 1660/2021 titled "Dr. Mansoor Ahmad vs. Government of P.P. & others", Service Appeal No. 2481/2021 titled "Najabat Hussain vs. Government of P.P. & others", Service Appeal No. 1062/2021 titled "Javedullah vs. Government of P.P. & others", and Service Appeal No. 2004/2021 titled "Hussain and others vs. Government of P.P. & others", decided on 13.06.2022 by Division Bench comprising Jb. Justice Khalid Khan, Chairman and Jb. Justice Bahau Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

signature of the Additional Secretary, Irrigation Department, at the end of list and the appellants were shown in the working paper to be eligible for promotion. Similarly, the officer at serial No.4 named Dakhtlar was also shown to be eligible for promotion. The DPC held on 23.06.2021 recorded the minutes of the proceeding, which have been detailed in the preceding paragraphs and sought clarification from the Establishment Department vide letter No.SO(E)/Irr/4-3/DPC/2019/Vol-IX dated 04.10.2021, which was responded by the Establishment Department vide letter No.SOR-V(E&AD)/7-1/Irrlg: dated 23.11.2021, instead seeking the clarification from the Secretary Government of Khyber Pakhtunkhwa, Irrigation Department on the following observations:

- i. Why the employees were appointed on acting charge basis under APT Rules, 1989?
- ii. Why the matter remained linger on for more than ten years?
- iii. For how many times the departmental B&A exams for these employees in the intervening period were arranged by the Administrative Department and whether they appeared, availed opportunity of appearing the examination or deliberately avoid the opportunity of appearing in the subject examination or failed these examination?

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 Service Tribunal

12. Additional documents were placed during the pendency of the Attested appeals, whereby working paper was prepared for considering one

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Service Appeal No. 7639/2011 titled "Shehbaz Ali Khan vs. Government of KP & others", Service Appeal No. 7640/2011 titled "Rizwan vs. Government of KP & others", Service Appeal No. 7641/2011 titled "Wajid Ali Hussain vs. Government of KP & others", Service Appeal No. 7642/2011 titled "Javed Iqbal vs. Government of KP & others", and Bench comprising Mr. Kalan Arshad Khan, Chairman and Mr. Feroze Rehman, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Mr. Bakhtiar (at serial No.4 of the panel for consideration, wherein the names of the appellants also figured) for promotion, who was also deferred with the appellants. The DPC was stated to be held on 13.01.2022 and vide Notification No.SO(E)/IRRI/4-3/DPC/2019/Vol-IX dated 28.03.2022, Mr. Bakhtiar was promoted.

13. At this juncture it seems necessary to observe regarding the above referred advice sought by the DPC. As regards first query, whether the amended rules notified on 25.06.2012 were applicable to the employees who were appointed in the year 2011 on acting charge basis or the present Service Recruitment rules will be applicable in the instant case, it is observed that the administrative rules cannot be given retrospective effect. As regards the second query whether the junior officers could be promoted when the seniors already appointed on acting charge basis could not qualify either of departmental B&A examinations, it is in this respect found that the basic qualification for eligibility to be considered for promotion to the post of Assistant Engineer (BPS-17), is passing of departmental B&A examinations and when the seniors could not get through the both or any of them, they are not eligible and obviously next in the line were to be considered.

14. As to the observation of the Establishment Department:-

- (i) Why the employees were appointed on acting charge basis under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989?

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Service Appeal No. 7650/2021 filed "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7660/2021 filed "Khanon versus Government of KP & others", Service Appeal No. 7661/2021 filed "Wajid Hussain versus Government of KP & others", Service Appeal No. 7662/2021 filed "Jamuddin versus Government of KP & others", and Service Appeal No. 7663/2021 filed "Jamuddin and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Justice Arshad Khan, Chairman and Mr. Justice Rafiq Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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- (ii) Why the matter remained linger on for more than ten years?
- (iii) For how many times the departmental B&A examinations for these employees in the intervening period were arranged by the Administrative Department and whether they appeared, availed opportunity of appearing in the examination or deliberately avoided the opportunity of appearing in the examination or deliberately avoided the opportunity of appearing in the subject examination or failed these examination.

it is observed that no reply of the Administrative Department in this respect is found placed on the record. Whereas without replying the queries the Administrative Department promoted one Bakhtiar, referred to above.

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15. There seems lot of conflict in the working paper and minutes of the meeting of the DPC held on 23.06.2021 and that of the replies submitted by the respondents. In the working paper and the minutes six posts were shown vacant for filling, of which the DPC was convened and lengthy exercise of preparation of working paper, panel of officers for consideration and holding of DPC was undertaken; whereas in the replies the respondents took a U-turn and contended that the posts were not vacant. If the posts were not vacant then why the lengthy exercise of preparing working paper, panel of officers and above all holding of DPC was done? This is a question which could not have been answered by the respondents in their replies or for that matter during the course of arguments. It was

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Secretary, Government of Khyber Pakhtunkhwa

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Service Appeal No. 7619/2011 titled "Sahid Ali Khan vs. Government of KP & others", Service Appeal No. 7609/2011 titled "Rizwan vs. Government of KP & others", Government of KP & others vs. Service Appeal No. 7651/2011 titled "Yaqub Khan vs. Government of KP & others", Service Appeal No. 7663/2011 titled "Javedullah vs. Government of KP & others", and Bench comprising Mr. Khatun Arshad Khan, Chairman and Mrs. Beena Bibano, Member-Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Service Appeal No. 7661/2011 titled "Wajid Hussain vs. Government of KP & others", and dated on 13.04.2013 by Divisional Director, Khyber Pakhtunkhwa

the stance of the respondents in the replies that the Agenda Item No. III was dropped due to non-availability of vacancies under 12% quota for promotion of Graduate Sub Engineers to the rank of Assistant Engineers BS-17 (i.e. 6 Nos. Sub Engineers are working on regular basis while 7 Nos. Sub Engineers are working on Acting Charge basis against 12 posts in the share quota of Graduate Sub Engineers which already exceeds by one number). This stance is in clear negation to the working paper, panel list of the officers and minutes of the DPC wherein these 6 posts are shown vacant and were intended to be filled in by promotion. So far as contention of the respondents that the seats were occupied by the officers on acting charge basis, so those were not vacant, it is observed in this regard that rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 (the Rules) is quite clear and is reproduced below for facile reference:-

9. Appointment on Acting Charge or current Charge Basis. (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis. Provided that no such appointment shall be made, if the prescribed length of service is short by more than [three years]. (2) Sub rule (2) of rule-9 deleted vide by Notification No. SOR-VI(E&AD)-3/2009/Val-VIII, dated 22-10-2011. (3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota. (4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge

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Service Appeal No. 75/2001 titled "Abulhasan Khan vs Government of P.P. & others", Service Appeal No. 75/2001 titled "Munir vs Government of P.P. & others", Service Appeal No. 161/2001 titled "Waqar Hussain vs Government of P.P. & others", Service Appeal No. 162/2001 titled "Arifullah vs Government of P.P. & others", and Service Appeal No. 163/2001 titled "Imamullah vs Government of P.P. & others", decided on 13.01.2002 by Division Bench comprising Mr. Justice Arshad Khan, Chairman and Mr. Justice Farooq Ahmad, Member Justice, Service Tribunal, Pakistan.

- appointment may be made according to the orders issued from time to time.
- (5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.
- (6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

(Underlining is ours)

16. Sub rule (2) of the above rule was deleted vide Notification No. SOR-VI(E&AD)-3/2009/Vol-VIII, dated 22-10-2011. The deleted sub-rule is also reproduced as under:

"(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post."

17. Before deletion of sub rule (2) of the rules, a junior officer to a senior civil servant, so long as he (the senior) holds the acting charge appointment, could not be considered for regular promotion to a higher post. The provisions of Rule 9 of the rules though empowers the Appointing Authority to make appointment of a senior civil servant on acting charge basis but, even after deletion of sub rule (2) of the ibid rules, that will not disentitle a junior officer to be considered for regular promotion to a higher post.

18. Regarding the acting charge appointment, the august Supreme Court of Pakistan has a consistent view that such posts being a stopgap arrangement, could not be a hurdle for promoting the deserving officers on their availability. Reliance in this respect is placed on PLC 2015 (CS) 151 titled "Province of Sindh and others versus Ghulam Fareed and others", wherein the august Supreme Court was pleased to hold as under:

"12. At times officers possessing requisite experience to qualify

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Service Appeal No 1480/2021 titled "Chahid Ali Khan vs Government of P.F. & others", Service Appeal No 1502/2021 titled "Munir Raza Khan vs Government of P.F. & others", Service Appeal No 1524/2021 titled "Munir Raza Khan vs Government of P.F. & others", Service Appeal No 1546/2021 titled "Munir Raza Khan vs Government of P.F. & others", and Service Appeal No 1568/2021 titled "Munir Raza Khan vs Government of P.F. & others", dated 14.01.2022 by the competent authority consisting of: Chairman, Chairman and the two other Members, Dera Ghaat Shikar, Dera Ghaat Shikar, Dera Ghaat Shikar.

for regular appointment may not be available in a department. However, all such exigencies are taken care of and regulated by statutory rules. In this respect, Rule 8-A of the South Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, empowers the Competent Authority to appoint a Civil Servant on acting charge and current charge basis. It provides that if a post is required to be filled through promotion and the most senior Civil Servant eligible for promotion does not possess the specific length of service, appointment of eligible officer may be made on acting charge basis after obtaining approval of the appropriate Departmental Promotion Committee/Selection Board. Sub-Rule (1) of the aforesaid referred Rule 8 further provides that appointment on acting charge basis shall be made for vacancies lasting for more than 6 months and for vacancies likely to last for less than six months. Appointment of an officer of a lower scale on higher post on current charge basis is made as a stop-gap arrangement and should not under any circumstances, last for more than 6 months. This acting charge appointment can neither be construed to be an appointment by promotion on regular basis for any purposes including seniority, nor it confers any vested right for regular appointment. In other words, appointment on current charge basis is purely temporary in nature or stop-gap arrangement, which remains operative for short duration until regular appointment is made against the post. Looking at the scheme of the South Civil Servants Act and Rules framed thereunder, it is crystal clear that there is no scope of appointment of a Civil Servant to a higher grade on OPS basis except resorting to the provisions of Rule 8-A, which provides that in exigencies appointment on acting charge basis can be made, subject to conditions contained in the Rules."

19. The august Supreme Court of Pakistan in another judgment reported as 2022 SCMR 448 titled "Bashir Ahmed Badini, D&SJ, Dera Allah Yar and others Versus Hon'ble Chairman and Member of Administration Committee and Promotion Committee of hon'ble High Court of Balochistan and others", vis-à-vis the 'stopgap', 'ad hoc' and temporary nature, graciously observed that:

"This stopgap arrangement as a temporary measure for a particular period of time does not by itself confer any right on the incumbent for regular appointment or to hold it for indefinite period but at the same time if it is found that incumbent is qualified to hold the post despite his appointment being in the nature of precarious tenure, he would carry the right to be considered for permanent appointment through the process of selection as the continuation of ad hoc appointment for considerable length of time would create an impression in the mind of the employee that he was being really considered to be retained on regular basis. The ad hoc appointment by its

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Service Appeal No. 2531 of 2011 titled "Secretary to Government of K.P. & others", Service Appeal No. 2531 of 2011 titled "Secretary to Government of K.P. & others", Government of K.P. & others, Service Appeal No. 2531 of 2011 titled "Secretary to Government of K.P. & others", and Service Appeal No. 2531 of 2011 titled "Secretary to Government of K.P. & others", filed on 11.01.2012 by Director Beach groups living in: Koton at about Khatim, Chakras and 134. Railway Station, Member Jafarabad, Khairpur Taluk, District Hyderabad, Hyderabad, Pakistan.

very nature is transitory which is made for a particular period and creates no right in favour of incumbent with lapse of time and the appointing authority may in his discretion if necessary, make ad hoc appointments but it is not open for the authority to disregard the rules relating to the filling of vacancies on regular basis in the prescribed manner. In the case of Tariq Aziz-ud-Din and others: (in re: Human Rights Cases Nos. 8340, 9504-G, 13936-G, 13635-P and 14306-G to 143309-G of 2009) (2010 SCMR 1301), this Court held that in case where the appointing authority is satisfied that no suitable officer is available to fill the post and it is expedient to fill the same, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the cadre or service as the case may be. It is the duty and obligation of the competent authority to consider the merit of all the eligible candidates while putting them in juxtaposition to isolate the meritorious amongst them. Expression 'merit' includes limitations prescribed under the law. Discretion is to be exercised according to rational reasons which means that: (a) there be finding of primary facts based on good evidence; and (b) decisions about facts be made for reasons which serve the purposes of statute in an intelligible and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and misuse of power [Director Food, N.W.F.P. v. Messrs Madina Flour and General Mills (Pvt.) Ltd. (PLD 2001 SC 1).]

20. Similarly, in 2016 SCMR 2125 titled "Secretary to Government of the Punjab, Communication and Works Department, Lahore, and others versus Muhammad-Khalid Usmani and others" the august Supreme Court was pleased to have observed as follows:

"15. As is evident from the tabulation given in the earlier part of this judgment, we have also noted with concern that the respondents had served as Executive Engineers for many years; two of them for 21 years each and the two others for 12 years each. The concept of officiating promotion of a civil servant in terms of rule 73 of the Rules is obviously a stopgap arrangement where posts become available in circumstances specified in Rule 73(i) of the Rules and persons eligible for regular promotion are not available. This is why Rule 73(ii) of the Rules provides that an officiating promotion shall not confer any right of promotion on regular basis and shall

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Service Appeal No. 7663/2021, titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No. 7664/2021 titled "Rizwan, versus Government of KP & others", Service Appeal No. 7661/2021 titled "Wajidul Haq versus Government of KP & others", Service Appeal No. 7662/2021 titled "Jawshid versus Government & others", and Service Appeal No. 7665/2021 titled "Muhammad and Government of KP & others", decided on 13.01.2022 by Division Bench comprising Mr. Kalan Arshad Khan, Chairman and Mr. Rozmit Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

be liable to be terminated as soon as a person becomes available for promotion on regular basis."

The august Apex Court in paragraphs 20, 21 & 22 ruled as under:

"20. The record produced before us including the working paper produced before the DPC held on 11.08.2008 shows that the sanctioned strength of XENs in the appellant- Department at the relevant time was 151; out of which 112 were working on regular basis and 47 on officiating basis. It is also evident that 39 Executive Engineers' posts were available for regular promotion. This clearly shows that 39 Executive Engineers were working on officiating basis against regular vacancies. We have asked the learned Law Officer to justify such a practice. He has submitted that this modus operandi is adopted by most Government Departments to ensure that corruption and unprofessional conduct is kept under check. We are afraid the justification canvassed before us is not only unsupported by the law or the rules but also lends ample support to the observations made in the Jafar Ali Akhtar's case reproduced above. Further, keeping civil servants on officiating positions for such long periods is clearly violative of the law and the rules. Reference in this regard may usefully be made to *Sarwar Ali Khan v. Chief Secretary to Government of Sindh* (1994 PLC (CS) 411), *Punjab Workers' Welfare Board v. Mehr Din* (2007 SCMR 13), *Federation of Pakistan v. Anwar Zaman Shinwari* (2008 SCMR 1138) and *Government of Punjab v. Sameena Parveen* (2009 SCMR 1).

"21. During hearing of these appeals, we have noted with concern that the device of officiating promotion, ad hoc promotion/appointment or temporary appointment etc. is used by Government Departments to keep civil servants under their influence by hanging the proverbial sword of Damocles over their heads (of promotion on officiating basis' liable to reversion). This is a constant source of insecurity, uncertainty and anxiety for the concerned civil servants for motives which are all too obvious. Such practices must be seriously discouraged and stopped in the interest of transparency, certainty and predictability, which are hallmarks of a system of good governance. As observed in *Zahid Akhtar v. Government of Punjab* (PLD 1995 SC 530) "a tamed subservient bureaucracy can neither be helpful to the Government nor it is expected to inspire public confidence in the administration".

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Service Appeal No. 7663/2011, titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7664/2011 titled "Khan vs. Government of KP & others", Service Appeal No. 7665/2011 titled "Wajid Hussain vs. Government of KP & others", Service Appeal No. 7666/2011 titled "Jamshid vs. Government of KP & others", and Service Appeal No. 7667/2011 titled "Jamshid vs. Government of KP & others", decided on 11.04.2012 by Division Bench comprising Mr. Kalay Arshad Khan, Chairman and Mr. Rozina Siddiqui, Member, Jhulial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

22. This issue was earlier examined by this Court in Federation of Pakistan v. Rais Khan (1993 SCMR 609) and it was held that "it is common knowledge that in spite of institution of ad hoc appointments unfortunately being deeply entrenched in our service structure and the period of ad hoc service in most cases running into several years like the case of the respondent (8 years' ad hoc service in BPS-17), ad hoc appointees are considered to have hardly any rights as opposed to regular appointees though both types of employees may be entrusted with identical responsibilities and discharging similar duties. Ad hoc appointments belong to the family of "officiating", "temporary" and "until further orders" appointments. In Jafar Ali Akhtar Yousafzai v. Islamic Republic of Pakistan (PLD 1970 Quetta 115) it was observed that when continuous officiation is not specifically authorized by any law and the Government/competent authority continues to treat the incumbent of a post as officiating, it is only to retain extra disciplinary powers or for other reasons including those of inefficiency and negligence, e.g. failure on the part of the relevant authorities to make the rules in time, that the prefix "officiating" is continued to be used with the appointment and in some case for years together. And in proper cases, therefore, Courts (at that time Service Tribunals had not been set up) are competent to decide whether for practical purposes and for legal consequences such appointments have permanent character and, when it is so found, to give legal effect to it." In Pakistan Railways v. Zafarullah (1997 SCMR 1730), this Court observed that, "appointments on current or acting charge basis are contemplated under the instructions as well as the Rules for a short duration as a stop-gap arrangement in cases where the posts are to be filled by initial appointments. Therefore, continuance of such appointees for a number of years on current or acting charge basis is negation of the spirit of instructions and the rules. It is, therefore, desirable that where appointments on current or acting charge basis are necessary in the public interest, such appointments should not continue indefinitely and every effort should be made to fill posts through regular appointments in shortest possible time."

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Secretary to the Tribunal
Peshawar

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By way of the stated valuable judgment referred to above, the august Supreme Court maintained the decision of the Punjab Service Tribunal, Lahore, whereby the appeals filed by the

Service Appeal No. 28592021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 26602087 titled "Biswas vs Govt of Government of KP & others", Service Appeal No. 18612011 titled "Wajabat Hussain vs Govt of KP & others", Service Appeal No. 26622011 titled "Javed Iqbal vs Govt of KP & others", and Service Appeal No. 166320261 titled "Jumailah and Government of KP & others", decided on 11.01.2022 by District Bench & Bench of Mr. Kullam Anwar Khan, Chairman and Mr. Raza Farhan, Member Additional, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

respondents were allowed and the order, impugned before the Service Tribunal dated 25.08.2008 passed by the Secretary, Communication and Works Department, Government of the Punjab, Lahore, reverting them to their original ranks of Assistant Engineers, was set aside to their extent. As a consequence, all the respondents were deemed to have been promoted as Executive Engineers on regular basis with effect from the respective dates on which they were promoted 'on officiating basis' with all consequential benefits. It was further held that the condition of 'on officiating basis' contained in promotion orders of all the respondents shall stand deleted but it was a case where the persons promoted 'on officiating basis' were duly qualified to be regularly promoted against the promotion posts, therefore, wisdom is derived that in a case, like one in hand, where the persons promoted 'on acting charge basis' did not possess the requisite qualification or other prescribed criteria for promotion, should remain 'on acting charge basis' i.e. that made for stopgap arrangement till their qualifying for their eligibility and suitability for regular promotion or till the availability of the suitable and qualified officers. The officers promoted 'on acting charge basis' could not, unfortunately pass the requisite either grades B&A both examinations or any of the two grades' examination, therefore, they were not found eligible as per the working paper. And as they were 'on acting charge basis' for more than a decade, the

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Service Appeal No. 7642/2021 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 7642/2021 titled "Revised vs. Government of KP & others", Service Appeal No. 7642/2021 titled "Wajid Hussain versus Government of KP & others", Service Appeal No. 7642/2021 titled "Abdulhadi versus Government of KP & others", and Service Appeal No. 7642/2021 titled "Abdulhadi versus Government of KP & others", decided on 13.04.2022 by the Hon'ble Justice Mr. Justice Agha Ali Khan, Chief Justice and Mr. Justice Raza Raza, Members Justice, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

department seems reluctant to fill the vacancies, (occupied by them 'on acting charge basis') by regular promotion despite availability of suitable and qualified officers.

21. The honourable High Court of Sindh in a case reported as 2019 PLC (CS)-1157 titled "Attaullah Khan Chandio versus Federation of Pakistan through Secretary Establishment and another" observed as under:

"16. Admittedly, the Petitioner was encadred in Police Service of Pakistan on 19.10.2010 and his seniority would be reckoned from that date. We are mindful of the fact that acting charge promotion is virtually a stopgap arrangement, where selection is made pending regular promotion of an officer not available at the relevant time of selection and creates no vested right for promotion against the post held."

(Underlining is ours)

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22. Proceeding ahead; Rule 3 of the rules pertains to method of appointment. Sub rule (2) of rule 3 of the rules empowers the department concerned to lay down the method of appointment, qualifications and other conditions applicable to a post in consultation with the Establishment and Administration Department and the Finance Department.

23. While Rule 7 of the rules is regarding appointment by promotion or transfer. Sub rule (3) of rule 7 of the rules states that:

"(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be."

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Peshawar

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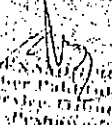
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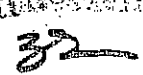
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Service Appeal No 2660/2011 titled "Mushid Ali Khan vs Government of KP & others", Service Appeal No 1600/2011 titled "Rezaee vs Govt of Government of KP & others", Service Appeal No 1601/2011 titled "Wajid Hossain vs Govt of KP & others", Service Appeal No 766/2010 titled "Imamullah vs Govt of Government of KP & others", and Service Appeal No 763/2010 titled "Imamullah vs Government of KP & others", decided on 13.04.2017 by Division Bench consisting Mr. Kullab Ashraf Khan, Chief Justice and Mr. Fayaz Rehman, Member Justice, High Court Peshawar. Service 2016/2017, Peshawar.

This means only the persons possessing the qualifications and fulfilling such conditions as laid down for the purpose of promotion shall be considered for promotion because it does not leave room for the persons, who do not possess such qualification and fulfilling such conditions, to be also considered for such promotion. Vide Notification No.SO(E)/IRR/23-5/73 dated 17.02.2011, the Irrigation Department of the Khyber Pakhtunkhwa, in consultation with the Establishment & Administration Department and Finance Department, laid down, the method of recruitment, qualification and other conditions specified in columns No.3 to 5 of Appendix (pages 1 to 5) to the above notification, made applicable to the posts in column No.2 of the Appendix. At serial No.4 of the Appendix the post of Assistant Engineer/Sub-Divisional Officer/Assistant Director (BPS-17) is mentioned. The qualification for appointment is prescribed to be BE/BSc Degree in Civil/Mechanical Engineering from a recognized University. Sixty-five percent of the posts were to be filled in through initial recruitment. Ten percent by promotion on the basis of seniority cum fitness from amongst the Sub Engineers who acquired, during service, degree in Civil or Mechanical Engineering from a recognized University. Five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineers who joined service as degree holders in Civil/Mechanical Engineering. Vide Notification

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Service Appeal No 2612/2011 titled "Shahid Ali Khan vs. Government of KP & others", Service Appeal No. 1660/2011 titled "Khan vs. Government of KP & others", Service Appeal No. 1661/2011 titled "Waqarul Hasan vs. Government of KP & others", Service Appeal No. 1662/2011 titled "Jaisakul vs. Government of KP & others", and Service Appeal No. 1663/2011 titled "Jasimullah vs. Government of KP & others", decided on 13.04.2012 by Division Bench comprising Mr. Kalim Zafar Khan, Chairman and Mr. Rasool Rahman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

No. SOE/IRRI/23-5/2010-11 dated 25.06.2012, the notification of 2011 was amended. The amendments, relevant to these appeals, are reproduced as under:

Amendments

In the Appendix,

1. Against serial No.4, in column No.5, for the existing entries, in clause (b), (c) and (d), the following shall be respectively substituted, namely:

(b) twelve percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized University and have passed departmental grade B&A examination with five-years' service as such.

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Note:- For the purpose of clause (b), a joint seniority list of the Sub Engineers having degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their appointment as Sub Engineer.

24. The working paper also contained the requirement of the rules and in view of the same, the panel of officers was prepared on proforma-II, which clearly shows that all the appellants were eligible and the officers, who were allegedly holding acting charge

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CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Service Appeal No. 1662/2011 titled "Shahid Ali Khan vs. Government of I.P.A. others", Service Appeal No. 1662/2011 titled "Rizwan versus Government of K.P. & others", Service Appeal No. 1662/2011 titled "Wajabat Hussain versus Government of K.P. & others", Service Appeal No. 1662/2011 titled "Wajabat Hussain versus Service Appeal No. 1662/2011 titled "Sawadullah versus Government & others", and Service Appeal No. 1662/2011 titled "Touqillab and Government of K.P. & others", decided on 11.01.2012 by Division Bench comprising Mr. Kalam Azhaf Khan Chairman and Mrs. Reema Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar

of the posts, were not eligible. Neither any deficiency of any of the appellants could be pointed out in the replies nor argued before us rather in paragraph 6 of the replies, the eligibility and fitness of the appellants was admitted in unequivocal terms. The only reason which was stated in the replies, the non-availability of the posts because the vacant posts, detailed in the working paper and in the minutes of the DPC, were occupied by the ineligible officers on acting charge basis since 2011 in utter violation of the rules and the method laid down by the department concerned.

25. In a recent judgment reported as 2022 SCMR 448 titled "Bashir Ahmed Badini, D&SJ, Dera Allah Yar and others Versus Hon'ble Chairman and Member of Administration Committee and Promotion Committee of hon'ble High Court of Balochistan and others", the august Supreme Court of Pakistan has held as under:

"13. According to Section 8 of the Civil Servants Act, 1973; for proper administration of a service, cadre or post, the appointing authority is required to make out a seniority list of the members, but no vested right is conferred to a particular seniority in such service, cadre or post. The letter of the law further elucidates that seniority in a post, service or cadre to which a civil servant is appointed shall take effect from the date of regular appointment to that post, whereas Section 9 is germane to the promotion which prescribes that a civil servant possessing such minimum qualifications, as may be prescribed shall be eligible for promotion to a higher post under the rules for departmental promotion in the service or cadre to which he belongs. However, if it is a Selection Post then promotion shall be granted on the basis of selection on merit and if the post is Non-Selection Post then on the basis of seniority-cum-fitness. A quick look and preview of Rule 8-B of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (1973 Rules) shows that an Acting Charge Appointment can be made against the posts which are likely to fall vacant for a period of six months or

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Service Tribunal

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Sp. Res. No. 1658/1991 titled "Status of posts of Government of P. & C. subject" passed by the Government of Punjab, 1991. Sp. Res. No. 1658/1991 titled "Status of posts of Government of P. & C. subject" passed by the Government of Punjab, 1991. Sp. Res. No. 1658/1991 titled "Status of posts of Government of P. & C. subject" passed by the Government of Punjab, 1991.

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more which appointment can be made on the recommendations of Departmental Promotion Committee or the Selection Board. The acting charge appointment does not amount to an appointment by promotion on regular basis for any purpose including seniority and also does not confer any vested right for regular promotion to the post held on acting charge basis. Under Rule 18, the method of making Ad-hoc Appointments is available with the procedure that if any post is required to be filled under the Federal Public Service Commission (Function) Rules, 1973, the appointing authority shall forward a requisition to the Commission immediately. However, in exceptional cases ad-hoc appointment may be made for a period of six months or less with prior clearance of the Commission as provided in Rule 19 wherein if the appointing authority considers it to be in public interest to fill a post falling within the purview of Commission urgently pending nomination of a candidate, it may proceed to fill it on ad-hoc basis for a period of six months. The reading of Balochistan Civil Servants Act, 1974 also reveals that the provisions made under Section 8 are similar to that of Civil Servants Act, 1973. Here also in Section 8, it is clarified that the seniority in the post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post and the criteria for promotion is also laid down with like prerequisites for the selection post and or non-selection post as provided in Civil Servants Act, 1973. So far as ad-hoc and temporary appointments are concerned, Rules 16 to 18 of Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009 also enlightened that in case a post is required to be filled through Commission, the Administrative Secretary of the Department shall forward a requisition in the prescribed form to the Commission, however, when an Administrative Department considers it to be in public interest to fill in a post falling within the purview of Commission urgently, it may, pending nomination of a candidate by the Commission, with prior approval of the competent authority, proceed to fill such post on ad-hoc basis for a period not exceeding six months by advertising the same. The Acting Charge appointment is encapsulated under Rule 8 with the rider that appointment on acting charge basis shall neither amount to a promotion on regular basis for any purpose including seniority, nor shall it confer any vested right for regular promotion to the post held on acting charge basis."

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Service Appeal No 7630/2021 titled "Shahid Ali Khan, vs. Government of KP & others", Service Appeal No 7569/2021 titled "Bhagwan versus Government of KP & others", Service Appeal No 7662/2021 titled "Wajidat Hussain versus Government of KP & others", Service Appeal No 7662/2021 titled "Wajidat Hussain versus Government of KP & others", Service Appeal No 7663/2021 titled "Jamullah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kalam Arshad Khan, Chairman and Mr. Razaqul Haq, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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26. Last but not the least, it seems quite astonishing that, while negating their own stance that there was no vacancy available so that the appellants could be promoted, the respondents, vide Notification No. SO(E)/IRRI/4-3/DPC/2019/Vol-IX dated 28.03.2022, promoted Engr. Bakhtiar, (only one of the eligible) Graduate Sub-Engineer/Assistant Engineer BS-17 (ACB means acting charge basis), to the post of Assistant Engineer (BS-17) on regular basis. This action of the respondents not only speaks volumes about their malafide but also proves the stance taken by the appellants that they were being discriminated and were not being dealt with equally or in accordance with law.

27. Before parting with the judgment we deemed it appropriate to address a possible question and that is whether the minutes of the meeting of the DPC, deferring the Agenda item-III pertaining to promotion, whereby the appellants were, in a way, ignored from promotion on the pretext discussed hereinabove, could be termed as 'final order' enabling the appellants to file appeal before this Tribunal. In this respect we will refer and derive wisdom from the judgment of the august Supreme Court of Pakistan reported as PLD 1991 SC 226 titled "Dr Sabir Zameer Siddiqui versus Mian Abdul Malik and 4 others". It was found by the honourable Supreme Court that:

"5. There is no requirement of law provided anywhere as to how a final order is to be passed in a departmental proceeding. In the present case, not only the representative of the competent authority considered the comments offered in the High Court to be the final

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EXAMINER
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Service Tribunal
Peshawar

Service Appeal No. 7619/2021 titled "Shahid Ali Khan vs Government of P.P. & others", Service Appeal No. 7640/2021 titled "Ijazat versus Government of KP & others", Service Appeal No. 7641/2021 titled "Wajid Hussain versus Government of KP & others", Service Appeal No. 7651/2021 titled "Javedullah versus Government & others", and Service Appeal No. 7652/2021 titled "Javedullah versus Government & others", decided on 13.04.2021 by Division Bench comprising Mr. Kalan Arshad Khan, Chairman and Mrs. Razia Behman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

order but the High Court itself acted on such representation thereby inducing the appellant to seek further relief in accordance with law. The appellants could, in the circumstances, approach the Service Tribunal for the relief."

(Underlining is ours)

28. We also refer to the judgment of the honourable High Court of Sindh reported as 2000 PLC CS 206 titled "Mian Muhammad Mohsin Raza versus Miss Riffat Shiekh First Senior Civil Judge and others", wherein the Honourable High Court of Sindh, while dealing with the term 'final order' observed as under:

"It would not be out of place to mention that appeals before the Service Tribunal are provided by section 4 of the Sindh Service Tribunals Act, 1973, against any "final order". The term "order" cannot be given any restricted connotation and as held in Muhammad Anis Qureshi v. Secretary Ministry of Communication 1986 PLC (C.S.) 664, the word "order" as used in section 4 of the Service Tribunals Act, 1973, is used in a wider sense to include any communication which adversely affects a civil servant."

(Underlining is ours)

For the foregoing reasons, we hold that the minutes of the meeting of the DPC dated 23.06.2021, deferring the Agenda Item No. III relating to promotion would amount to depriving/ignoring the appellants from promotion and is thus a communication adversely affecting them, therefore, it would be considered a 'final order' within the meaning of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

29. In the given circumstances, we allow these appeals and direct the respondents to consider the appellants for promotion against the

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 Khairul Haque
 Secretary (General)

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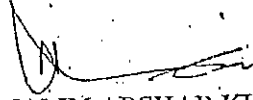
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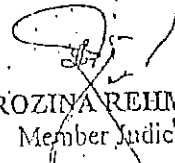
Service Appeal No. 7662/2021 titled "Shahid Ali Khan vs Government of KP & others", Service Appeal No. 7662/2021 titled "Rizwan versus Government of KP & others", Service Appeal No. 7661/2021 titled "Wajahat Hussain versus Government of KP & others", Service Appeal No. 7663/2021 titled "Javedullah versus Government of KP & others", and Service Appeal No. 7664/2021 titled "Imamullah and Government of KP & others", decided on 13.04.2022 by Division Bench comprising Mr. Kalim Arshad Khan, Chairman and Mrs. Rozina Rehman, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

vacant posts. The DPC shall be held at the earliest possible, but not later than a month of receipt this judgment. Copies of this judgment be placed on all the connected appeal files. Consign.

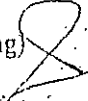
30. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 15th day of April, 2022.


KALIM ARSHAD KHAN
Chairman




ROZINA REHMAN
Member Judicial

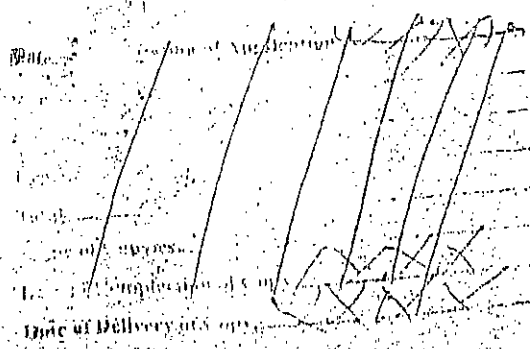
(Approved for Reporting)


15/4/22

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EX. CLERK,
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Annex-F



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

Dated Peshawar the 26th August, 2022

NOTIFICATION:

No. SO(E)/IRR/4-3/DPC/Vol-X: In light of the Khyber Pakhtunkhwa Service Tribunal Judgement dated 15.04.2022 and recommendations of Departmental Promotion Committee (DPC), in its meeting held on 19.07.2022, the competent authority is pleased to promote the following Graduate Sub Engineers (BS-12) to the post of Assistant Engineer/Sub Divisional Officer (BS-17) In Irrigation Department on regular basis with effect from 23.06.2021.

- i. Mr. Inamullah Khan,
- ii. Mr. Shahid Ali Khan
- iii. Mr. Rizwan
- iv. Mr. Javed Ullah Khan
- v. Mr. Wajahat Hussain

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

3. Consequent upon their promotion on regular basis as Assistant Engineer/Sub Divisional Officer (BS-17), they are allowed to continue duties against their already occupied posts.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst. No. & date even.

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineers (North/South/Merged Areas) Irrigation Department.
3. The Director General, Small Dams, Irrigation Department, Peshawar.
4. All Superintending Engineers of Irrigation Department.
5. All Project Directors, Irrigation Department.
6. The officers concerned.
7. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Establishment Department, Peshawar.
9. The District Accounts officer (concerned).
10. PS to Secretary Irrigation Department, Khyber Pakhtunkhwa.
11. Master file.
12. Personal files of the officers.

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(Signature)
(Ijaz Khan)
Section Officer (Estt: 26/8/22)

(40)

Annex - F

Date: 06-09-2022

To

The Secretary Irrigation Department,
Govt of Khyber Pakhtunkhwa Peshawar.

Subject:

APPEAL REGARDING CORRECTION OF REGULARIZATION DATE OF THE 5 NO'S GRADUATE SUB ENGINEERS PROMOTING TO THE ASSISTANT ENGINEERS (BS-17) ON REGULAR BASIS AS PER SERVICE TRIBUNAL JUDGEMENT DATED 15.04.2022.

Sub Head:

GRIEVANCE ON NOTIFICATION NO. SO(E)/IRR/4-3/DPC/VOL-X DATED PESHAWAR THE 26TH AUGUST, 2022 ISSUED BY ESTABLISHMENT SECTION, IRRIGATION DEPARTMENT KPK.

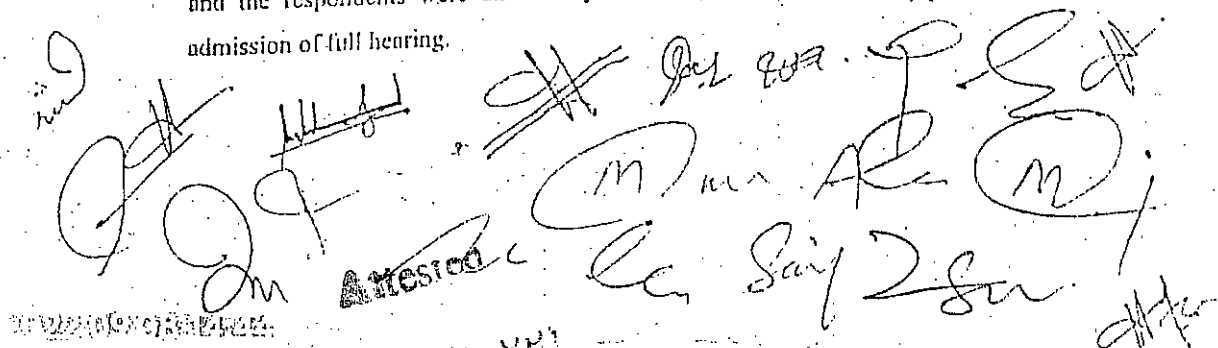
Reference:

The copy of each of the following is attached for ready reference please:

- I. Service Appeal No. 7659/2021 to 7663/2021, Pronounced in open court at Peshawar and given under our hand and the seal of the Tribunal on this 15th day of April, 2022.
- II. Notification No. SO(E)/IRR/4-3/DPC/VOL-IX DATED PESHAWAR THE 28TH MARCH, 2022.
- III. Notification No. SO(E)/IRR/4-3/DPC/VOL-X DATED PESHAWAR THE 26TH AUGUST, 2022.

It is submitted with great regards in your honor that The Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department, Establishment section has recently issued notification, vide notification No. SO(E)/IRR/4-3/DPD/Vol-X, dated Peshawar the 26th August, 2022 regarding promotion of 5 Graduate Sub Engineers (BS-12) to the post of Assistant Engineer/ Sub Divisional Officer (BS-17) in Irrigation Department on regular basis with effect from 23.06.2021, in light of the Khyber Pakhtunkhwa Service Tribunal Judgement dated 15.04.2022 and its recommendation for DPC held on 19.07.2022. Before proceeding further, the following is submitted please:

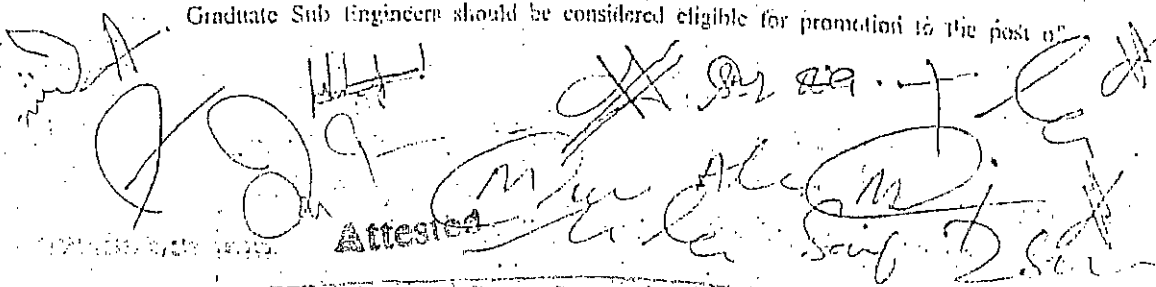
1. It is humbly submitted that the Graduate Sub Engineers submitted their appeals on 13.07.2021 regarding the deferring of agenda Item No. III of DPC in its meeting held on 23.06.2021 but the appeals were not submitted within statutory period.
2. The appellants filed appeals in the court of Service Tribunal for their right of promotion and the respondents were directed by the Hon'ble Court to file reply/comments in admission of full hearing.



 Attested by: *[Signature]*

 to be used for: *[Signature]*

3. It is submitted in the reply/comments of the respondent, that in this case the Agenda Item No. III for promotion was dropped due to non-availability of vacancies under 12% share quota of Graduate Sub Engineers for their promotion to the rank of Assistant Engineers (BS-17) i.e. 6 Nos Sub Engineers are working on regular basis while 7 Nos Sub Engineers are working on Acting Charge Basis against 12 posts in the share quota of Graduate Sub Engineers which already exceeds by one number.
4. For DPC held on 23.06.2021, the working paper for promotion was prepared on Proforma-I; wherein the details of the posts were given. According to the working paper, 6 Nos posts were shown vacant for making promotion under 12% Graduate quota. Along with the working paper, a panel of Graduate Engineers from serial No. 1 to 15 for consideration was also annexed on Proforma-II.
5. The DPC held on 23.06.2021 recorded the minutes of the proceeding, and sought clarification from the Establishment Department vide letter No. SO(E)/IR/4-3/DPC/2019/Vol-IX dated 01.10.2021, which was responded by the Establishment Department vide letter No. SOR-V(E&AD)/7-1/Irrig dated 23.11.2021 as desired from the Secretary Government of Khyber Pakhtunkhwa Irrigation Department.
6. After that, the additional documents were placed during the pendency of the appeals, where by the fresh working paper was prepared for Mr. Bakhtiar listed at Serial No. 4 of the panel list for promotion. In light of the reply from the Establishment Department, the DPC was stated to be held on 13.01.2022 and Mr. Bakhtiar was promoted to the vacant post of Assistant Engineer (BS-17) vide notification No. SO(E)/IR/4-3/DPC/2019/Vol-IX dated 28.03.2022 (copy attached)
7. The others at serial No. 1 to 3, 5 to 7, 9, 12 and 14 did not clear Departmental B & A exam upto DPC held on 13.01.2022 and officers at serial no. 4, 8, 10, 11, 13 and 15 cleared departmental B & A exam. From the above the 7 Nos Graduate Sub Engineers were working on Acting Charge Basis since 2011 but as per amended rules of Irrigation Department notified on 25.06.2012 stated as "(b) twelve percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed Departmental Grade B & A Examination with five years' service as such" Graduate Sub Engineers should be considered eligible for promotion to the post of



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Assistant Engineer (BS-17) if they fulfil above requirements, and subject to considering their eligibility by the DPC and availability of vacant post as per Service Rules.

8. Hon'ble Court directed in para 26 of Service Tribunal Judgment, that appellants should be dealt equally in accordance with law as Engr. Bakhtiar Graduate Sub Engineer working on Acting Charge Basis promoted to the post of Assistant Engineer (BS-17) on regular basis vide notification no. SO(E)/IRR/4-3/DPC/2019/Vol-IX dated 28.03.2022.
9. Para 28 of the Service Tribunal Judgment 15.04.2022, which stated that "It would be considered a 'final order' within the meaning of the section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974".
10. The Hon'ble Court of Service Tribunal has given a Final Order in para 29 of the Judgment (copy attached at serial No. 1) that "In the given circumstances, we allow these appeals and direct the respondents to consider the appellants for the promotion against the vacant posts. The DPC shall be held at the earliest possible, but not later than a month of receipt this judgment. Copies of this judgment be placed on all the connected appeal files. Consign."
11. As per Final Order of the Hon'ble Court of Service Tribunal quoted above stated that the fresh DPC should be held for the deprived eligible 5 Nos of officer mentioned at serial No. 8, 10, 11, 13 and 15. The deprived officers should also be dealt equally in accordance with law as per para 26 of Service Tribunal Judgment dated 15.04.2022, and these 5 appellants should also be promoted to the post of Assistant Engineers (BS-17) as dealt with Engr. Bakhtiar, who promoted to Assistant Engineer (BS-17) on regular basis vide notification no. SO(E)/IRR/4-3/DPC/2019/Vol-IX dated 28.03.2022.
12. In light of the above Judgment the fresh DPC was held on dated 19.07.2022 and the appellants 5 Nos officers were promoted to the post of Assistant Engineer (BS-17) on regular basis but with effective from 23.06.2021, it is quite astonishing that they are regularized from the date 23.06.2021 which negates the para 26, 29 of the Final Order of Hon'ble court of Service Tribunal Judgment. It is pertinent to mention hereby that the Final Order of Hon'ble Court states that these 5 No's Graduate Sub Engineers should be regularized to the post of Assistant Engineer (BS-17) with the DPC held not later than a

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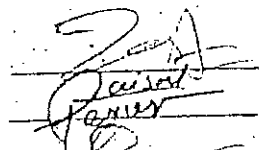
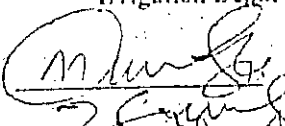

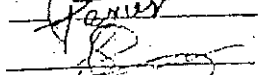
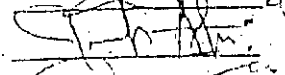
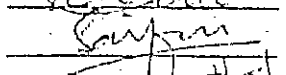
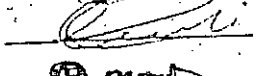
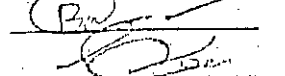
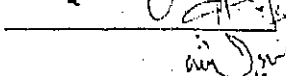
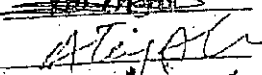

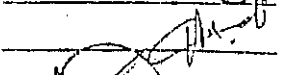

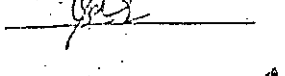



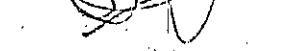
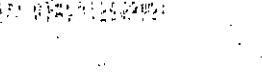
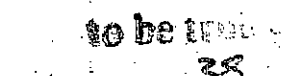
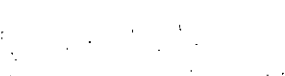
month time as dealt with Mr. Bakhtiar vide notification No. Notification No. SO(E)/IRR/4-3/DPC/VOL-IX dated Peshawar the 28th MARCH, 2022

It is therefore humbly requested in your honor that the Notification No. SO(E)/IRR-4-3/DPC/Vol-X on dated 26th August, 2022 should be corrected according to the Judgment of the Hon'ble Court of Service Tribunal on dated 15.04.2022, and corrigendum should be issued for the Notification No. SO(E)/IRR/4-3/DPC/Vol-X, Dated Peshawar the 26th August, 2022, and the effective date should be replaced by "WITH IMMEDIATE EFFECT" instead of "23.06.2021" as dealt with Mr. Bakhtiar vide notification No. SO(E)/IRR/4-3/DPC/VOL-IX dated Peshawar the 28th MARCH, 2022. We respect the Decision of Hon'ble Court of Service Tribunal, and its Final Order should be followed in true spirit. The 5 Nos deprived officers shall be regularized from the immediate effect after the DPC held on 19.07.2022 as per direction of Hon'ble Court of Service Tribunal Judgment on 15.04.2022, as it deprived our rights in the seniority lists of the Irrigation Department Khyber Pakhtunkhwa.

Copy for information and forwarded for your necessary action please:

- 1. Chief Engineers (South, North, Merged Areas) and Director General Small Dams
- 2. PSO to Hon'ble Chief Minister, Govt of Khyber Pakhtunkhwa.
- 3. PS to Chief Secretary Govt of Khyber Pakhtunkhwa Peshawar.
- 4. PS to Minister for Irrigation, Govt of Khyber Pakhtunkhwa.
- 5. PS to Secretary Establishment Department, Govt of Khyber Pakhtunkhwa Peshawar.
- 6. SOE Irrigation Department Peshawar.

Yours Sincere Officers
Assistant Engineer/SDO (BPS-17)
Irrigation Department Khyber Pakhtunkhwa

1.		8.		15.	
2.		9.		16.	
3.		10.		17.	
4.		11.		18.	
5.		12.		19.	
6.		13.		20.	
7.		14.		21.	

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S. No.	Name of Officer	Signature
1	Engr. Zeeshan Ullah	
2	Engr. Faisal Pervez	
3	Engr. Salman Ahmad	
4	Engr. Naveed Ullah	
5	Engr. Amjad Ali	
6	Engr. Syed Atiq Ahmad	
7	Engr. Noor Yaseen	
8	Engr. Manzoor Elahl	
9	Engr. Siddique Umar	
10	Engr. Farhan Alam	
11	Engr. Babar Saani	
12	Engr. Muhammad Suhall Khan	
13	Engr. Riaz Ud Din	
14	Engr. Sadiq Ali	
15	Engr. Muhammad Mustajab Khan	
16	Engr. Muhammad Wajahat Ali Khan	
17	Engr. Salf Ur Rehman	
18	Engr. Shazia Batool	
19	Engr. Hafsa Wadood	
20	Engr. Alman Afridi	
21	Engr. Arif Gul	

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ESTABLISHMENT SECTION)

Dated Peshawar the 20th January, 2022

TENTATIVE SENIORITY LIST OF ASSISTANT ENGINEER (BS-17) (DEGREE HOLDERS), IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA.

S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre			Remarks
				Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	
1.	Mr. Amir Mohammad, B.E (Civil)	26.11.1963 Lakki Marwat	12.12.1990	25.03.2003	17	By Promotion	Working as XEN (OPS)
2.	Mr. Khushal Khan, B.E (Civil)	12.04.1965 S. Waziristan	10.01.1989	01.11.2004	17	By promotion	-do-
3.	Mr. Masood Ahmad, B.E (Civil)	23.07.1979 Lakki Marwat	18.02.2010	18.02.2010	17	By initial recruitment	-do-
4.	Mr. Sohail Khan, B.E (Civil)	03.03.1982 Swabi	02.02.2010	02.02.2010	17	By initial recruitment	-do-
5.	Mr. Imtiaz Khan, B.E (Civil)	25.09.1984 Kohat	06.02.2010	06.02.2010	17	By initial recruitment	-do-
6.	Mr. Ali Ahmad, B.E (Civil)	03.03.1985 Chitral	01.02.2010	01.02.2010	17	By initial recruitment	-do-
7.	Miss Tabinda Nousheen, B.E (Civil)	05.01.1987 Charsadda	09.02.2010	09.02.2010	17	By initial recruitment	Working as S.O (Operation), Irrigation Department
8.	Mr. Taimoor Zahid, B.E (Mech)	11.02.1985 Swabi	08.02.2010	08.02.2010	17	By initial recruitment	Working as XEN (OPS)
9.	Mr. Fazli Maula, B. Sc (Civil)	20.01.1969 Malakand	19.01.1995	15.08.2011	17	By promotion	-do-

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Signature

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S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre.			Remarks
				Date	EPS	Method of recruitment	
1	2	3	4	5	6	7	
10.	Mr. Anwar Ullah Khan, B.E (Civil)	05.01.1979 N. Waziristan	17.05.2012	17.05.2012	17	By initial recruitment	-do-
11.	Syed Ahmad Amin Shah, B. Sc (Civil)	12.03.1988 Charsadda	17.05.2012	17.05.2012	17	By initial recruitment	-do-
12.	Mr. Mamriz Khan, B. Sc (Civil)	03.03.1986 Peshawar	17.05.2012	17.05.2012	17	By initial recruitment	-do-
13.	Miss. Ayisha Amir, B. Sc (Civil)/MS)	26.05.1988 Peshawar	17.05.2012	17.05.2012	17	By initial recruitment	Section Officer (Dev.), Irrigation Department.
14.	Mr. Mustafa Ali, B.E (Civil)	10.04.1987 Kurram	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)
15.	Mr. Hassan Khan, B. Sc (Civil)	03.04.1988 Swabi	17.05.2012	17.05.2012	17	By initial recruitment	-do-
16.	Mr. Mazhar Hussain, B. Sc (Civil)	14.04.1985 Kohat	17.05.2012	17.05.2012	17	By initial recruitment	Working as SDO
17.	Mr. Sherin Khan, B. Sc (Civil)	10.02.1989 Mohmand	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)
18.	Mr. Qamar Shehzad Hussain, B. Sc (Civil)	15.04.1983 Abbottabad	17.05.2012	17.05.2012	17	By initial recruitment	-do-
19.	Syed Suliman, B. E (Civil)	25.02.1988 Swat	17.05.2012	17.05.2012	17	By initial recruitment	-do-
20.	Mr. Rajab Ali, B. Sc (Civil)	11.03.1985 Swat	17.05.2012	17.05.2012	17	By initial recruitment	-do-
21.	Miss. Rabia Abbasi, M. Sc (Environmental Engineering)	01.03.1989 Manshara	17.05.2012	17.05.2012	17	By initial recruitment	-do-
22.	Mr. Abdul Shakoor, B.E (Civil)	01.08.1981 Abbottabad	17.05.2012	17.05.2012	17	By initial recruitment	Working as SDO
23.	Mr. Abdul Sadiq, B.E (Civil)	02.01.1969 Dir	28.03.1992	05.05.2020	17	By promotion	-do-
24.	Mr. Aftab Alam, B.E (Civil)	01.01.1981 Charsadda	17.11.2006	01.10.2020	17	By promotion	Working as XEN (OPS)

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S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre			Remarks
				Date	BPS	Method of recruitment	
1		2	3	4	5	6	7
25.	Mr. Zeeshan Ullah, B.S (Civil)	16.10.1994 Mardan	13.10.2021	13.10.2020	17	By Initial recruitment	Working as SDO
26.	Mr. Faisal Pervez, B.S (Civil)	01.04.1995 Charsadda	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
27.	Mr. Salman Ahmad, B.S (Civil)	04.09.1996 Swabi	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
28.	Mr. Naveed Ullah, M.S (Construction & Engineering Management)	21.04.1990 Karak	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
29.	Mr. Amjad Ali, B.S (Civil)	01.09.1995 Dir Lower	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
30.	Syed Atiq Ahmad, B.Sc (Civil)	20.08.1994 Charsadda	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
31.	Mr. Noor Yaseen, B.Sc (Civil)	01.01.1997 S. Waziristan	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
32.	Mr. Manzoor Elahi, M.Sc (Civil)	01.04.1992 Peshawar	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
33.	Mr. Siddique Umar, B.S (Civil)	05.04.1997 Kohat	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
34.	Mr. Farhan Alam, B.S (Civil)	04.04.1995 Malakand	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
35.	Mr. Babar Saani, B.E (Civil)	07.02.1996 Charsadda	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
36.	Muhammad Suhail Khan, B.E (Civil)	05.08.1992 Dir Lower	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
37.	Mr. Riaz Ud Din, B.E (Civil)	12.03.1995 Kurram	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
38.	Mr. Sadiq Ali, B.Sc (Mechanical)	02.04.1996 Mardan	13.10.2021	13.10.2020	17	By Initial recruitment	-do-

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S.No.	Name of officer and Education Qualification	Date of birth with Domicile	Date of entry into Govt Service on regular basis.	First Regular Appointment to the Service/Cadre			Remarks
				Date	BPS	Method of recruitment	
	1	2	3	4	5	6	7
39.	M. Mustajab Khan, B.Sc (Civil)	25.04.1998 Haripur	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
40.	M. Wajahat Ali Khan, B.S (Civil)	16.03.1995 Haripur	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
41.	Mr. Saif Ur Rehman, B.Sc (Mechanical)	04.03.1993 Orakzai	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
42.	Miss. Shazia Batool, B.E (Civil)	28.10.1993 Kurrani	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
43.	Miss. Hafsa Wadood, B.Sc (Civil)	28.12.1994 Malakand	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
44.	Miss. Aman Afridi, B.S (Civil)	12.11.1997 Khyber	13.10.2021	13.10.2020	17	By Initial recruitment	-do-
45.	Mr. Arif Gul, B.E (Civil)	01.11.1992 Swat	13.10.2021	13.10.2020	17	By Initial recruitment	-do-

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Amir H.



IRRIGATION DEPARTMENT

No. SO(E)/Irr/2-1/2006/Seniority/Vol-IX
Dated Peshawar the 29th November, 2022

To

1. The Chief Engineer (South),
Irrigation Department,
Peshawar.
2. The Chief Engineer (North),
Irrigation Department,
Peshawar.
3. The Chief Engineer (Merged Areas),
Irrigation Department,
Peshawar.
4. The Director General (Small Dams),
Irrigation Department,
Peshawar.

Subject: FINAL/UN-DISPUTED SENIORITY LIST OF ASSISTANT ENGINEERS (BS-17) (GRADUATE, B-TECH AND D.A.E) IRRIGATION DEPARTMENT AS STOOD ON 27.10.2022.

I am directed to refer to the subject noted above and to enclose herewith a copy of Final/un-disputed seniority list of Assistant Engineers/Sub Divisional Officer/Assistant Director (BS-17) (Graduate, B-Tech and D.A.E) Irrigation Department as stood on 27.10.2022 for information and record, please.

Encl: as above

(Maqsood Khan)
Section Officer (Estt:)

Endst: Even No. and Date.
Copy forwarded for information to: -

1. PS to Secretary Irrigation Department.
2. PA to Additional Secretary, Irrigation Department.
3. PA to Deputy Secretary (Admn) Irrigation Department.

Section Officer (Estt:)

3806 30/11

SECRET	30/11/22
ASST. SECY	
SECRETARY	
DEPT. SECY	
ASST. DIR.	
DIR.	
OFFICE	

Maqsood

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(ESTABLISHMENT SECTION)

Dated Peshawar the 29th November, 2022

NOTIFICATION:

NO. SO(E) IRR/2-1/2006/VOL-IX: In pursuance of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule- 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Final/Un-disputed Seniority list of Assistant Engineers/ Sub Divisional Officers/Assistant Directors (BS-17) (Graduate) as stood on 27.10.2022, Irrigation Department, Khyber Pakhtunkhwa is hereby circulated/ notified for general information.

S.No.	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of 1st Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre			Remarks
					Date	BPS	Method of recruitment	
1		2	3	4	5	6	7	8
1.	Engr. Amir Mohammad, B.E (Civil)	26.11.1963 Lakki Marwat	27.11.2023	12.12.1990	25.03.2003	17	By Promotion	Working as XEN (OPS)
2.	Engr. Khushal Khan, B.E (Civil)	12.04.1965 South Waziristan	11.04.2025	10.01.1989	01.11.2004	17	By promotion	-do-
3.	Engr. Masood Ahmed, B.E (Civil)	23.07.1979 Lakki Marwat	22.07.2039	18.02.2010	18.02.2010	17	By initial recruitment	-do-
4.	Engr. Sohail Khan, B.E (Civil)	03.03.1982 Swabi	02.03.2042	02.02.2010	02.02.2010	17	By initial recruitment	-do-
5.	Engr. Imtiaz Khan, M.Sc (Civil)	25.09.1984 Kohat	24.09.2044	05.02.2010	05.02.2010	17	By initial recruitment	-do-
6.	Engr. Ali Ahmad, B.E (Civil)	03.03.1985 Chitral	02.03.2045	01.02.2010	01.02.2010	17	By initial recruitment	-do-
7.	Engr. Tabinda Nousheen, B.E (Civil)	05.01.1987 Charsadda	04.01.2047	09.02.2010	09.02.2010	17	By initial recruitment	Working as S.O (Operation), Irrigation Department
8.	Engr. Tajmoor Zahid, B.E (Mech)	11.02.1985 Swabi	10.02.2045	08.02.2010	08.02.2010	17	By initial recruitment	Working as XEN (OPS)
9.	Engr. Fazli Maula, B. Sc (Civil)	20.01.1969 Malakand	19.01.2029	19.01.1995	15.08.2011	17	By promotion	-do-
10.	Engr. Anwar Ullah Khan, B.E (Civil)	05.01.1979 North Waziristan	04.01.2039	17.05.2012	17.05.2012	17	By initial recruitment	-do-

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S. #	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of 1st Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre			Remarks
					Date	BPS	Method of recruitment	
1		2	3	4	5	6	7	8
11.	Engr. Syed Ahmad Amin Shah, B. Sc (Civil)	<u>12.03.1988</u> Charsadda	11.03.2048	17.05.2012	17.05.2012	17	By initial recruitment	-do-
12.	Engr. Mamriz Khan, B. Sc (Civil)	<u>03.03.1986</u> Peshawar	02.03.2046	17.05.2012	17.05.2012	17	By initial recruitment	-do-
13.	Engr. Ayisha Amir, B. Sc (Civil)/MS	<u>26.05.1988</u> Peshawar	25.05.2048	17.05.2012	17.05.2012	17	By initial recruitment	Section Officer (Dev.), Irrigation Department.
14.	Engr. Mustafa Ali, B.E (Civil)	<u>10.04.1987</u> Kurram	09.04.2047	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)
15.	Engr. Hassan Khan, B. Sc (Civil)	<u>03.04.1988</u> Swabi	02.04.2048	17.05.2012	17.05.2012	17	By initial recruitment	-do-
16.	Engr. Mazhar Hussain, B. Sc (Civil)	<u>14.04.1985</u> Kohat	13.04.2045	17.05.2012	17.05.2012	17	By initial recruitment	-do-
17.	Engr. Sherin Khan, B. Sc (Civil)	<u>10.02.1989</u> Mohmand	09.02.2049	17.05.2012	17.05.2012	17	By initial recruitment	Working as XEN (OPS)
18.	Engr. Qamar Shehzad Hussain, B. Sc (Civil)	<u>15.04.1983</u> Abbottabad	14.04.2043	17.05.2012	17.05.2012	17	By initial recruitment	-do-
19.	Engr. Syed Suliman, B.E (Civil)	<u>25.02.1988</u> Swat	24.02.2048	17.05.2012	17.05.2012	17	By initial recruitment	-do-
20.	Engr. Rajab Ali, B. Sc (Civil)	<u>11.03.1985</u> Swat	10.03.2045	17.05.2012	17.05.2012	17	By initial recruitment	-do-
21.	Engr. Rabia Abbasi, M. Sc (Environmental Engineering)	<u>01.03.1989</u> Manshra	28.02.2049	17.05.2012	17.05.2012	17	By initial recruitment	-do-
22.	Engr. Abdul Shakoor, B.E (Civil)	<u>01.08.1981</u> Abbottabad	31.07.2041	17.05.2012	17.05.2012	17	By initial recruitment	Working as SDO
23.	Engr. Abdul Sadiq, B.E (Civil)	<u>02.01.1969</u> Dir	01.01.2029	28.03.1992	05.05.2020	17	By promotion	Working as XEN (OPS)
24.	Engr. Aftab Alam, B.E (Civil)	<u>01.01.1981</u> Charsadda	31.12.2040	17.11.2006	01.10.2020	17	By promotion	Working as XEN (OPS)
25.	Engr. Inamullah, BSc (Civil)	<u>15.01.1982</u> Swat	14.01.1942	19.11.2011	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.

Attested
10/11/22

S.#	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of 1st Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre			Remarks
					Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	8	
26.	Engr. Shahid Ali Khan, BSc (Civil)	14.03.1983 Dir Lower	13.03.2043	16.09.2013	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.
27.	Engr. Rizwan, BSc (Civil)	12.03.1988 D.I.Khan	11.03.2048	16.09.2013	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.
28.	Engr. Javed Ullah Khan, BSc (Civil)	09.08.1984 Bannu	08.08.2044	19.10.2010	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.
29.	Engr. Wajahat Hussain, BSc (Civil)	14.08.1990 Hangu	13.08.2050	19.10.2010	26.08.2022	17	By Promotion	Working as SDO. Inter-se-seniority restored, in light of Para-V (d) of the promotion policy.
30.	Engr. Zeeshan Ullah, B.S (Civil)	16.10.1994 Mardan	15.10.2054	24.09.2021	24.09.2021	17	By Initial recruitment	Working as SDO
31.	Engr. Faisal Pervez, B.S (Civil)	01.04.1995 Charsadda	31.03.2055	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
32.	Engr. Salman Ahmad, B.S (Civil)	04.09.1996 Swabi	03.09.2056	27.09.2021	27.09.2021	17	By Initial recruitment	-do-
33.	Engr. Navced Ullah, M.S (Construction & Engineering Management)	21.04.1990 Karak	20.04.2050	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
34.	Mr. Amjad Ali, B.S (Civil)	01.09.1995 Dir Lower	31.08.2055	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
35.	Engr. Syed Atiq Ahmad, B.Sc (Civil)	20.08.1994 Charsadda	19.08.2054	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
36.	Engr. Noor Yaseen, B.Sc (Civil)	01.01.1997 South Waziristan	31.12.2056	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
37.	Engr. Manzoor Elahi, M.Sc (Civil)	01.04.1992 Peshawar	31.03.2052	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
38.	Engr. Siddique Umar, B.S (Civil)	05.04.1997 Kohat	04.04.2057	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
39.	Engr. Farhan Alam, B.S (Civil)	04.04.1995 Malakand	03.04.2055	24.09.2021	24.09.2021	17	By Initial recruitment	-do-

10/09/2021
10/09/2021
32

S.#.	Name of Officer and Education Qualification	Date of Birth with Domicile	Date of Retirement	Date of 1st Entry into Govt Service on Regular Basis.	First Regular Appointment to the Service/Cadre			Remarks
					Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	8	
40.	Engr. Babar Saani, E.E (Civil)	07.02.1996 Charsadda	06.02.2056	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
41.	Engr. Muhammad Suhail Khan, M.Sc (Civil)	05.08.1992 Dir Lower	04.08.2052	01.10.2021	01.10.2021	17	By Initial recruitment	-do-
42.	Engr. Riaz Ud Din, B.E (Civil)	12.03.1995 Kurram	11.03.2055	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
43.	Engr. Sadiq Ali, B.Sc (Mechanical)	02.04.1996 Mardan	01.04.2056	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
44.	Engr. Muhammad Mustajab Khan, B.Sc (Civil)	25.04.1998 Haripur	24.04.2058	27.09.2021	27.09.2021	17	By Initial recruitment	-do-
45.	Engr. Muhammad Wajahat Ali Khan, B.S (Civil)	16.03.1995 Haripur	15.03.2055	27.09.2021	27.09.2021	17	By Initial recruitment	-do-
46.	Engr. Saif Ur Rehman, B.Sc (Mechanical)	04.03.1993 Orakzai	03.03.2053	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
47.	Engr. Shazia Batool, B.E (Civil)	26.10.1993 Kurram	27.10.2053	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
48.	Engr. Hafsa Wadood, B.Sc (Civil)	29.12.1994 Malakand	27.12.2054	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
49.	Engr. Aiman Afridi, B.S (Civil)	12.11.1997 Khyber	11.11.2057	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
50.	Engr. Arif Gul, E.E (Civil)	01.11.1992 Swat	31.10.2052	24.09.2021	24.09.2021	17	By Initial recruitment	-do-
51.	Engr. Bakhtiar BSc (Civil)	07.05.1964 Swat	06.05.2024	19.03.1992	28.03.2022	17	By Promotion	Working as XEN (OPS)

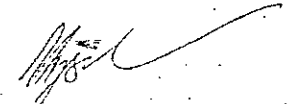
Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Amended
to be true
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Endst: No. SO(E) IRR/2-1/2006/Vol-VII

Copy of the above is forwarded to: -

1. The Chief Engineers (South/North/Merged Areas) Irrigation Department.
2. The Director General, Small Dams, Peshawar.
3. The Director General, Jabba Dam Project, Khyber.
4. The Project Director, Ground Water, Peshawar.
5. The Project Director, Raising of Baran Dam, Bannu.
6. All Superintendent Engineers of Irrigation Department, Peshawar.
7. All Executive Engineers of Irrigation Department, Peshawar.
8. The Web Developer, Irrigation Department.
9. PS to Secretary Irrigation Department, Peshawar.
10. PA to Additional Secretary, Irrigation Department.
11. PA to Deputy Secretary (Admn.) Irrigation Department.


(Maqsood Khan)
Section Officer (Estt.)

SECRETARY
IRRIGATION DEPARTMENT
PESHAWAR
52

Annex - J

Date: 26-12-2022

To

The Hon'ble Chief Secretary
Government of Punjab
Lahore

Subject: DEPARTMENTAL REPRESENTATION AGAINST THE IMPUGNED SENIORITY LIST OF ASSISTANT ENGINEERS (BS-17) IRRIGATION DEPARTMENT ISSUED ON DATED 29-11-2022. WHERE BY SENIORITY OF THE APPELLANT WAS DISTURB FROM THE POSITION NO. 25 THROUGH AN ILLEGAL ORDER, WHICH IS AN UTTER VIOLATION OF THE PRINCIPLE OF SENIORITY AND JUDGEMENT OF SUPERIOR COURT.

Respected Sir,

That the appellant was appointed as Assistant Engineer (BS-17) on Notification No. SOE/IRRI/4-14-21 PSC Vol-V/br/4/21-09-2021 and posted as Assistant Engineer (BS-17) O/O C. E. Engineer (North) on Notification No. SOE/IRRI/4-14-21 PSC Vol-V/br/4/21-09-2021 on the recommendation of KPPSC through competitive examination under the recruitment recommendation letter issued on dated 11-08-2021 read in continuation to recommendation letter No. PSC SR-H 008878 on dated 09-07-2021.

That the appellant has been performing his duties to the entire satisfaction of his superior officer without any complaints from any quarter concerning the appellant's performance of duties, efficiency, competency and laborious hard work is always appreciated by the superiors of our Department.

That the original seniority of the appellant as mentioned in tentative seniority list issued by the Government of Punjab (SOE) br/2/21-09-2021 Seniority Vol-V/4/21 on dated 20 January, 2022 is disturb without taken into consideration the relevant laws of the subject and remedy laid down by giving antedated seniority to the 05 no's respondent because seniority should take effect from date of regular appointment, and the seniority with retrospect is not the power of government.

That the said seniority list is issued without justicially justification because seniority should be granted and would take effect from the date of regular appointment and the making of such seniority list affect the rights of the appellant because the respondents are placed below to the appellant haven't performed their duties on the post of

regular Assistant Engineers (BS-17) and their non-performance of regular duties on the post of regular Assistant Engineer (BS-17) have no rights of antedated seniority, because the said impugned seniority list would also affect the future promotion of the appellant to the next higher grades.

That before issuing the said impugned seniority list, not only provision of Section 8 of Civil Service Act but also Article 1 of the Constitution has also been violated and also has amended board, which is utter and great violation of the principle of natural justice (Anti-Vidua Pattern).

Now it is submitted with great regards that due to the above stated facts principle of fair play, natural justice and rule of propriety demands, the impugned seniority list vide Notification No. SO(E)4rr: 2-1/2006/Seniority Vol-IX on dated Peshawar the 29th November, 2022 may kindly corrected to their original status, and the appellant may have relegated to their original position No.25 of the seniority list.

Eng. Zeeshan Ali
Assistant Engineer (SIDO (BPS-17))
Irrigation Department Khyber Pakhtunkhwa

1. E. No. A 10 B 3.

2. For information and necessary action please:

1. Secretary Irrigation, Irrigation Department, Govt of Khyber Pakhtunkhwa.
2. Additional Secretary Irrigation, Irrigation Department, Govt of Khyber Pakhtunkhwa
3. Chief Engineers (South, North, Merged Areas) and Director General Small Dams
4. SO to Hon. S. G. Minister, Govt of Khyber Pakhtunkhwa.
5. PS to Minister for Irrigation, Govt of Khyber Pakhtunkhwa.
6. PS to Secretary Establishment Department, Govt of Khyber Pakhtunkhwa.
7. Section Officer (Establishment), Irrigation Department, Govt of Khyber Pakhtunkhwa.

Eng. Zeeshan Ali
Assistant Engineer (SIDO (BPS-17))
Irrigation Department Khyber Pakhtunkhwa

WAKALATNAMA

IN THE COURT OF Service Tribunal

Erg Zeshan Akbar
(Petitioner), (Plaintiff), (Appellant), (Complainant)

VERSUS

Chie O Sechof
(Respondent), (Defendant), (Accused)

Case FIR No

Dated: / /

Police Station

WVs

The above noted petitioner do hereby
appoint and authorize ZIA-UR-REHMAN ADVOCATE
Supreme Court of Pakistan to compromise, withdraw or refer to
arbitration for matter in my/our Court in the above noted matter, I/we
also authorize the said Counsel to file appeal, Remand, review,
Application for Restoration, compromise, withdraw, refer the matter for
arbitration and make any Miscellaneous Application in the matter or
arising out of matter and to withdraw and receive in my/our behalf all
sums and amount deposited in my/our account in the above noted
matter.

ACCEPTED

Zia-ur-Rehman Tajik

L.L.B, L.L.M, Diploma in sharia Law
Advocate Supreme Court of Pakistan
Office- Flat No. 01, 4th Floor, Cantonment Staff
Fakhr-e-Alam Road, Peshawar Cantt
Cell: 9300-9337937
Email: ziaurrehman.tajik@psc.gov.pk
CNIC No. 15302-0893388-1

CLIENT

CNIC: 16101-7620871-1

Jabir Khan Advocate

BC-21-372-6