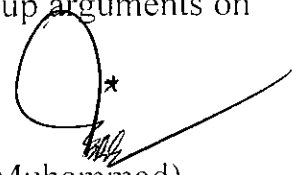


25.11.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.


Learned Member Judicial Mr. Salah-ud-Din is on leave, therefore, bench is incomplete. Adjourned. To come up arguments on 14.02.2023 before the D.B.



(Mian Muhammad)
Member (E)

14.02.2023

Junior of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 17.05.2023 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

SCANNED
KP&T
Peshawar

SCANNED
KP&T
Peshawar

16.05.2022

Junior to counsel for appellant present. Mr. Usman Khan Section Officer alongwith Mr. Kabir Ullah Khattak Additional Advocate General for the respondents present.

Junior to counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not available due to some domestic engagements. Adjourned. To come up for arguments before the D.B on 11.07.2022.



(Rozina Rehman)
Member (J)


(Salah-Ud-Din)
Member (J)

11-7-2022

*Due to Holidays of Eid Ul Azha
the case is adjourned to 14-9-2022*

Reader

14.09.2022

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

Former requested for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 25.11.2022 before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member(J)

P.S

28.07.2021 Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.



Chairman


16.08.2021 Since 16.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 28.09.2021 for the same as before.



Reader

28-9-21

DB is on Tour case to come up
for the same on Dated. 3-2-22



Reader

03.02.2022 Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 16.05.2022 for the same as before.



Reader

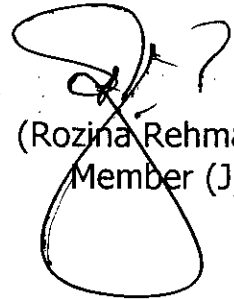
02.04.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days.

Appellant Deposited
Security & Process Fee
5/3/21

Thereafter, notice be issued to the respondents. To come up for written reply/comments on 8/07/2021 before S.B.


(Rozina Rehman)
Member (J)

08.07.2021

Mr. Zartaj Anwar Advocate for appellant present and furnished Wakalatnama which is placed on file. Mr. Kabirullah Khattak, Addl. AG alongwith Kifayatullah, Law Officer for official respondents and counsel for respondent No. 5 present.

After admission of appeal for regular hearing on 02.04.2021, the matter was adjourned for today for written reply/comments. Mr. Kifayatullah, Law Officer states that joint parawise comments/written reply is in the process of preparation. Unless the time is extended on written request by the respondents with valid reason, they shall be bound to file the written reply/comments in office within 10 days from today. File to come up for arguments before the D.B on 16.08.2021.

An application has been submitted on behalf of the appellant for ad interim relief. Be placed on file and notice of the application is hereby given to the respondents for its reply alongwith written reply/comments in main appeal.


Chairman



Stipulated period
has passed, reply has
not been submitted.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 1964 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/01/2021	<p>The appeal of Mr. Ihsanullah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 29/1/2021</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/04/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1964/2021

IHSAN ULLAH

VS GOVT OF KPK: & OTHERS

INDEX

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2.	Appointment order	A	
3.	Seniority list dated 07.12.2016, amendment notification dated 14.09.2018 & order dated 03.10.2018	B,C&D	5-11
4.	Notification dated 16.07.2010	E	12-14
5.	Promotion order dt:25.05.2018	F	15
6.	Notification dated 01.04.2009	G	16
7.	Departmental appeal	H	17
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PETITIONER

THROUGH:

m
**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2021

Mr. Ihsanullah, Deputy Electric Inspector (BPS-18),
Govt; of Khyber Pakhtunkhwa, Energy & Power Department, Peshawar

..... **APPELLANT**

VERSUS

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Energy & Power Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 5- The Electric Inspector, Electric Inspectorate, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974 AGAINST THE IMPUGNED ORDER DATED 25.05.2018 WHEREBY THE APPELLANT HAS BEEN GRANTED PROMOTION TO THE POST OF DEPUTY ELECTRIC INSPECTOR (BPS-18) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT i.e. W.E.F. 28.03.2014 AND AGAINST THE INACTION OF THE RESPONDENTS ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of the is appeal the respondents may very kindly be directed to grant/allow Ante-dated promotion to the appellant to the Post of Deputy Electric Inspector (BPS-18) with retrospective effect i.e. w.e.f. 28.03.2014 to with all back benefits including seniority. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That pithy facts is that initially on the proper recommendation of the Khyber Pakhtunkhwa Public Service Commission vide dated 05.01.2009 the appellant was appointed as Assistant Electric

Inspector (BPS-17) vide order dated 28.03.2009 and is currently serving as Deputy Electric Inspector (BPS-18) and is performing his duty enthusiastically to the best of his superiors. Copy of the recommendation and Appointment order are attached as annexure **A.**

- 2- That during service the respondents issued final seniority list vide dated 07.12.2016 wherein the appellant was placed at the Serial No.2 of the seniority list and later on the respondents issued notification vide dated 14.09.2018 whereby they amended the service rules by creating new post of Deputy Electric Inspector (Technologist) (BPS-18) upon which the colleague of the appellant at Serial.No.1 Namely, Mr. Mumtaz khan was promoted vide order dated 03.10.2018 in accordance with his qualification for the said post. Copy of the final Seniority list dated 07.12.2016 & Amendment Notification dated 14.09.2018 and order dated 03.10.2018 are attached as annexure..... **B, C & D.**
- 3- That consequently the appellant stood at serial No.1 of the seniority list of Assistant Electric Inspector (BPS-17). That the respondent department already had rules amended vide notification dated 16.07.2010 wherein the criteria for the promotion of the Assistant electric Inspector (BPS-17) to the Post of Deputy electric Inspector (BPS-18) at serial No.(ii):1-A, was that the promotion be made on the basis of seniority-cum-fitness from amongst Assistant Electric inspector Having B.Sc Degree in Electric Engineering with five years of service as such to which the appellant was already entitled since 28.03.2014. Copy of the Notification dated 16.07.2010 is attached as annexure **E.**
- 4- That subsequently the appellant was promoted to the post of Deputy Electric Inspector BPS-18 vide dated 25.05.2018 with immediate effect but not w.e.f. retrospective effects i.e. 28.03.2014 by the respondents having no justifiable reason for doing so. Copy of the Promotion order dated 25.05.2018 is attached as annexure **F.**
- 5- That it is pertinent to mention that the posts of the Deputy electric Inspector (BPS-18) became vacant since 01.04.2009 and as such the appellant being at the top of seniority list of Assistant Electric Inspector (BPS-17) and have completed five years of service on 28.03.2014 was perfectly eligible for the ibid post w.e.f. 28.3.2014 but was ignored by the respondents and was later on granted promotion with immediate effect in (BPS-18) i.e. vide order dated

25.5.2018. Copy of the notification dated 01.04.2009 is attached as annexure.....**G.**

6- That the appellant feeling aggrieved from the impugned promotion order dated 25.05.2018 preferred departmental appeal before the appellate authority which is still not answered. Copy of the departmental appeal is attached as annexure..... **H.**

7- That the appellant feeling aggrieved and having no other remedy but to file this appeal on the following grounds amongst others.

GROUND:

A- That the inaction of the respondent department by not granting Ante-dated promotion to appellant to the post of Deputy Electric Inspector (BPS-18) retrospective effect i.e. w.e.f. 28.03.2014 is against law, facts, and norms of natural justice and material on record hence not tenable and liable to be rectified/modified.

B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above as such respondent violated Article 4 and 5 of the Constitution of the Islamic Republic of Pakistan 1973.

C- That the respondent department acted in arbitrary and malafide manner by granting promotion to the appellant to the post of Deputy Electric Inspector (BPS-18) vide dated 25.05.2018 with immediate effect rather than with retrospective effect i.e. w.e.f. 28.03.2014.

D- That the respondents acted in discriminatory manner by not granting promotion to the appellant with retrospective effect i.e. w.e.f. 28.03.2014, therefore the same is against the norms of natural justice.

E- That the action and inaction of the respondents is against the Promotion Policy 2009 that vividly describes that the minimum length of service for promotion to (BPS-18) is five years' service in (BPS-17) which the appellant already completed on dated 28.03.2014.

F- That the posts of Deputy Electric Inspector (BPS-18) was vacant since 2009 and the appellant being at top of the seniority list of Assistant Electric Inspector (BPS-17) and have completed five years' service on 28.03.2014, therefore the appellant is entitled for the

ante-dated promotion to the post Deputy Electric Inspector (BPS-18) w.e.f 28.03.2014 with all back benefits including Seniority.

G- That the inaction of the respondent by not granting ante-dated promotion w.e.f respective effect is against the spirit of Section-8 & 9 of the Civil servant Act-1973 and Rule-7 of the Civil servants (Appointment, Promotion and Transfer) Rules, 1989.

H- That the respondent department acted against the spirit of Article 38(e) of the Constitution of Islamic Republic of Pakistan 1973, states as, that state is bound to reduce disparity in the income and earnings of individual including persons in the various classes of services of Pakistan.

I- That the appellant seeks permission to advance any other ground and proof at the time of regular hearing.

It therefore most humbly prayed that the appeal of the appellant may very kindly accepted as prayed for.

Dated: 22.01.2021

APPELLANT


IHSANULLAH

THROUGH:

**NOOR MUHAMMAD KHATTAK
ADVOCATE**

Telephone: 9213750

A-5

From: **Secretary,**
NWFP Public Service Commission,
Peshawar.

The Secretary to Govt. of NWFP,
Irrigation and Power Department,
Peshawar.

No. NWFP/PSC/SR-VL: 00166

Dated: 5.11.2009

Subject: RECRUITMENT OF TWO POSTS OF ASSISTANT ELECTRIC INSPECTOR (B-17) ADVE
NO.06/2008.

I am directed to refer to our letter No. NWFP/PSC/SR-V/45330-31 dated 08.11.2008 on the subject noted above and to state that the Commission recommends the following to the Govt. for appointment for the subject cited above.

Vacancy Position Block	Allocation	Merit Order	Name with Father's Name	Domicile / one	Adj: one
Vacancy	Merit	01	Ihsan Ullah S/O Hayat Khan	Karak	Merit Quota ✓
Vacancy	Zone-1	02	Arifullah S/O Salim Khan	FR Bannu/1	Own Quota

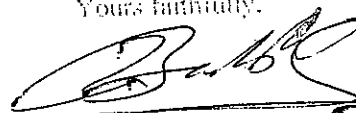
Recommendation in favour of the recommendees are provisional subject to passing the prescribed medical test.

Upto date Zonal State may be as follow:-

	Merit	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total
Share	01	01	-	-	-	-	02
Adjustment	01	01	-	-	-	-	02
Balance	-	-	-	-	-	-	-

4. Original applications (with enclosures) of the above (02) recommendees are enclosed for your record. Please acknowledge receipt

Yours faithfully,



(FAZAL BADSHAH) 5.1.09
Deputy Secretary-II.

PS/Secy: Energy & Power Deptt:

Diary No. 290

Date: 06-01-2009

107-

Electric
Notification No. ROL / I&P / 11-26 / 03, dated 11-06-2003,
Servants (Appointment, Promotion & Transfer) Rules, 1989 and any other
rules / instructions issued by the Government from time to time.



**GOVERNMENT OF N.W.F.P.
ENERGY & POWER DEPARTMENT**

6

House No. 69, Street No. 3, Shami Road, Peshawar
Tel: 091-9212670 Fax 091-9212657

Dated 28 /03/2009

Notification

No. SOG(E&P)/5-1/Vol. II/ 81 . Consequent upon the recommendations of the NWFP Public Service Commission, the Provincial Government is pleased to appoint Mr. Ihsan Ullah S/o Hayat Khan, Resident of Village Warana Zalani Banda, District Karak as Assistant Electric Inspector (BPS-17) in the office of Electric Inspector NWFP Peshawar on the terms & conditions laid down in this department's letter No. SOG(E&P)/5-1/Vol. II/ 58, dated 25-3-2009 duly accepted by him.

Sd/-
Secretary to Govt. of NWFP,
Energy & Power Department,
Peshawar

Endst. No. No. SOG(E&P)/5-1/Vol. II/ 82-89

Dated 28 /03/2009

Copy forwarded for information and necessary action to the:-

1. Accountant General, NWFP Peshawar
2. Electric Inspector, NWFP Peshawar
3. PS to Chief Secretary, NWFP Peshawar
4. Secretary NWFP Public Service Commission w/r to his letter No. NWFP/PSC/SR-V/00166, dated 05-01-2009.
5. PS to Minister for Energy & Power, NWFP
6. Manager Govt. Printing & Stationery Department for Publication in the Government Gazette.
7. Officer concerned.
8. Office order file.

Section Officer (General)
Energy & Power Department,
NWFP

Handwritten notes:
31/3/09
Note and put up
for further scrutinizing
the documents (photocopies)
31/3/09

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

B- (7)

Dated Peshawar, the 05/12/2016/4-9

NOTIFICATION

SO(E)/E&P/5-10/PROMOTION/Aptt:/E.I/Vol-1. In pursuance of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Final Seniority List of Assistant Electric Inspector (BPS-17), Electric Inspectorate, Khyber Pakhtunkhwa is hereby notified for general information and record:

Sr.#	Name & Father's Name	Designation	Qualification	Domicile	Date of Birth	Date of Entry into service	Date of Promotion to Present Post	Permanent/Temporary	Remarks
✓ 1.	Muhammad Mumtaz Khan S/o Taj Muhammad	Assistant Electric Inspector (BPS-17)	B.A, B.Tech (Hons) DAE (Pesh)	Karak	10-05-1962	23-10-1987	23-01-2006	Permanent	By Promotion from Electric Sub-Inspector (BPS-11)
2.	Engr. Ihsanullah S/o Hayat Khan	Assistant Electric Inspector (BPS-17)	B.Sc (Electrical) Engineering	Karak	20-04-1984	28-03-2009	28-03-2009	.....do.....	By Initial recruitment through NWFP (Now K.P) Public Service Commission
3.	Engr. Arifullah S/o Salim Khan	Assistant Electric Inspector (BPS-17)	B.Sc (Electrical) Engineering	FR Bannu	14-03-1985	26-03-2009	27-03-2009	.....do.....	By Initial recruitment through NWFP (Now K.P) Public Service Commission
4.	Mr. Saifullah Khan S/o Noor Khan	Assistant Electric Inspector (BPS-17)	DAE (Electrical Technology) M.A (Political Science)	FR Bannu	20-02-1970	20-02-2005	28-08-2015	.....do.....	By Promotion from Electric Sub-Inspector (BPS-11)

8

**Secretary
Energy & Power Department**

Endst. No. SO(E)/E&P/4-5/S. Matter/Vol-III

Copies forwarded for information to:-

1. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa.
2. The Electric Inspector, Khyber Pakhtunkhwa.
3. PS to Secretary, Energy & Power Department, Khyber Pakhtunkhwa.
4. Office Order file.
5. Officer concerned.

ehar

Section Officer (Establishment)

05
11
07/12/2016

H

(17)

To,

The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED PROMOTION ORDER DATED 25.05.2018 WHEREBY THE APPELLANT HAS BEEN GRANTED PROMOTION TO THE POST OF DEPUTY ELECTRIC INSPECTOR (BPS-18) WITH IMMEDIATE EFFECT.

Respected Sir,

It is therefore most humbly stated that appellant is the employee of your Energy & Power department and is currently serving as Deputy Electric Inspector (BPS-18) and since appointment the appellant is performing his duty quite efficiently and up to the best of his superiors. That initially the on the proper recommendation of the Khyber Pakhtunkhwa Public Service Commission vide dated 05.01.2009 the appellant was appointed as Assistant Electric Inspector (BPS-17) vide order dated 28.03.2009. That during service the respondent department issued final seniority list vide dated 07.12.2016 wherein the appellant was placed at serial No.2 of the seniority list and later on respondent department issued notification vide dated 14.09.2018 whereby they amended the service rules by creating new post of deputy electric inspector (Technologist) (BPS-18) upon which the colleagues of the appellant at serial No.1 Namely Mr.Mumtaz Khan was promoted vide order dated 03.10.2018 in accordance with his qualification for the said post. That appellant was at Serial No.1 of the seniority list of assistant electric inspector (BPS-17) but the respondent department had already rules amended vide notification dated 16.07.2017 wherein the criteria for promotion of the assistant electric inspector to the post of Deputy electric inspector BPS-18 was as such "that promotion be made on the basis of seniority-cum-fitness from amongst Assistant electric inspector having B.Sc degree in electric engineering with five years of service" to which the appellant was already entitled since 28.03.2014. That the post of Deputy Electric inspector BPS-18 was vacant since 01.04.2004 but the appellant was promoted to the post of deputy electric inspector (BPS-18) vided order dated 25.05.2018 with immediate effect ignored by the respondent department deliberately being at the top of the seniority list of assistant electric inspector BPS-17 and have completed five years of service on 28.03.2014 perfectly eligible for the ibid post w.e.f 28.03.2014.

It is therefore most humbly prayed that on acceptance of this departmental appeal the appellant may very kindly be granted/allowed Ante dated promotion to the post of Deputy Electric Inspector BPS-18 with retrospective effect i.e w.e.f 28.03.2014 with all back benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 14.10.2020

APPELLANT


IHSANULLAH

Deputy Electric Inspector (BPS-18)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1964-P/2021

Ihsanullah, Deputy Electric Inspector, Government of Khyber Pakhtunkhwa Energy and Power Department, Peshawar.

Appellant

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Energy and Power Department, Khyber Pakhtunkhwa Peshawar.
3. The Secretary Establishment Department, Khyber Pakhtunkhwa Peshawar.
4. The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
5. The Electric Inspector, Electric Inspectorate, Khyber Pakhtunkhwa Peshawar.

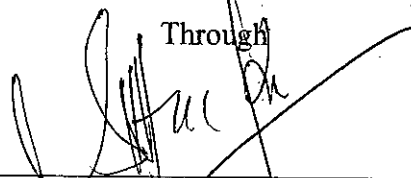
Respondents

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2.	Affidavit & Authority Letter		5-6
3.	Seniority List	A	7-8
4.	Copy of Notification dated 25-05-2018	B	9-9
5.	Copy of notification dated 03-10-2018	C	10
6.	Copy of Notification (without pay) EOL	D	11
7.	Copy of notification dated 23-01-2006	E	12-14
8.	Copy of Notification dated 28-03-2009	F	15
9.	Copy of relevant page No. 58	G	16
10.	Copy of notification dated 01-04-2009	H	17+18
11.	Copy of notification dated 15-12-2010	I-J	19-20
12.	Copy of judgment dated 11-03-2020	K	21-24

Respondents No. 1-5

Through


Section Officer (Litigation)
Energy & Power Deptt. Peshawar.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR
Appeal No 1964 of 2021

Ihsanullah, Deputy Electric Inspector, Government of Khyber Pakhtunkhwa Energy and Power Department, Peshawar.....(Appellant)

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Energy and Power Department, Khyber Pakhtunkhwa Peshawar
3. The Secretary Establishment Department, Khyber Pakhtunkhwa Peshawar
4. The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar
5. The Electric Inspector, Electric Inspectorate, Khyber Pakhtunkhwa Peshawar.....(Respondents)

PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1-5

Respectfully Sheweth:-

Preliminary Objections:

1. That the appellant has got no locus standi to file the instant appeal.
2. That the appeal is barred by law.
3. That the appellant has not come to the Court with clean hands.
4. That the appellant is estopped by his own conduct.
5. That factual controversies are involved in the appeal which cannot be adjudicated upon^{by} this Hon'ble Court.
6. That the instant appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That the appellant has never agitated the seniority list as reflected on Annexure –A of the comments.

ON FACTS

1. Para-01 needs no comments.
2. In reply to Para-2, it is stated that as per final seniority list of the Assistant Electric Inspectors (BPS-17) issued in year, 2016, Mr. Muhammad Mumtaz was at Serial No. 1; whereas, the appellant was at serial No. 2. The former entered into service on 23-10-1985 and was promoted to the post of Assistant Electric Inspector (BPS-17) on 23-01-2006; whereas, the latter (appellant) entered into service on 28-03-2009 as Assistant Electric Inspector (BPS-17) **(Seniority list of Assistant Electric Inspectors is attached as Annexure A).**

Subsequently, both the Assistant Electric Inspectors i.e. Muhammad Mumtaz and the appellant were promoted to the post of Deputy Electric Inspectors (BPS-18) on their respective posts. It is pertinent to mention here that being junior to Mr. Mumtaz, the appellant was promoted by the PSB on his relevant post on 25-05-2018 as Deputy Electric Inspector BS-18, almost five months before Mr. Mumtaz's

promotion due to his (Mr. Mumtaz) relevant qualification / relevant degree issues. It is further added that he was also on Extra Ordinary Leave (EOL) before his promotion to the post of Deputy Electric Inspector BS-18. **(Copies of notifications dated 25-05-2018 & 03-10-2018; EOL Notification dated 26-12-2016 and Minutes of the PSB meeting held on 03-05-2018 are Annexed as B, C, D & E)**

3. Para 03 is denied and is misleading; and that the appellant was not at serial No. 1 of the seniority list, issued in the year 2016, from amongst the Assistant Electric Inspectors (BPS-17), as he was initially appointed as Assistant Electric Inspector (BPS-17) vide Notification dated 28-03-2009; and that Muhammad Mumtaz was at Sr. No. 1, who was initially appointed as Electric Sub-Inspector (BPS-11) on 23-10-1985, and subsequently promoted to the post of Assistant Electric Inspector (BPS-17) vide notification dated 23-01-2006 **(Copy of the Notification Dated 23-01-2006 & 28-03-2009 are Annexed as F&G).**

And that the appellant was not entitled for promotion to the post of Deputy Electric Inspector (BPS-18) on 28-03-2014 under the amended notified service rules dated 16-07-2010, being junior in the seniority list of Assistant Electric Inspector BS-17.

4. Para-04 is admitted to the extent that the appellant was promoted on 25-05-2018 on his relevant post of Deputy Electric Inspector (BPS-18) with immediate effect. The rest of the Para is denied as under the provision VI of the Promotion Policy of the Provincial Government, "promotion will always be notified with immediate effect" and not in ante-dates **(Copy of the relevant page No. 58 is Annexed as H).**

Furthermore, the appellant was appointed as Assistant Electric Inspector BS-17 on 28-03-2009, whereas the post of Deputy Electric Inspector (BPS-18) was upgraded vide notification No SOG (E&P)/5-10/Vol. II/2009 dated 01-04-2009.

It is pertinent to note that Mr. Muhammad Ismail Khan was in-charge of the post of the Electric Inspector BS-19 in BPS-18 capacity at that time. He was, thereafter, promoted to his original post of BPS-19 on regular basis with immediate effect vide Notification No. SO(E)E&P/5-1/E-I/2010/4394 dated 15/12/2010. Therefore, by 15-12-2010, the post of Deputy Electric Inspector BPS-18 was not vacant, and that the appellant is/was thus not eligible for promotion to the post of Deputy Electric Inspector (DEI) on 28-03-2014, as Mr. Mumtaz was the most Senior among Assistant Electric Inspectors BPS-17. **Copies of notifications dated 01-04-2009 & 15-12-2010 are Annexed as I&J).**

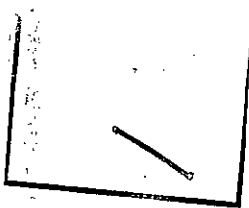
5. Para-05 is wholly denied. Whereas, Para 3 and 4 are repeated. It is added that the post of Deputy Electric Inspector (DEI) BS-18 was not vacant on 01-04-2009.

It is pertinent to mention here that the appellant had filed Writ petition No. 1046-P/2019 in Peshawar High Court, praying for his promotion to BPS-19 by challenging the memo dated 18-01-2019 through which fresh recruitment of Electric Inspector BPS-19, under the same amended Service Rules dated 16-07-2010, was asked from the Public Service Commission. The Hon'ble Court allowed the Writ Petition and directed the Department to consider the "appellant" for the post of Electric Inspector BS-19 by sending his case first to the Provincial Selection Board (PSB) **(Copy of Judgment dated 11-03-2020 in writ petition No. 1046-P/2019 is annexed as K)**. The case is still pending for the PSB for decision—the same forum which has promoted the appellant to the post of Deputy Electric Inspector (BPS-18). It is further added that the appellant is misguiding the court to make himself eligible for the post of Electric Inspector BS-19 with ante-date promotion benefits.

6. Para 06 is denied and is subject to proof.
7. This Para is incorrect, misguiding, based on lies and is against the spirit of the Law and Rules. And that the appellant had not appealed within thirty days to challenge his promotion order dated 25-05-2018 as described under Chapter-II, section 22(i) of the Civil Servants Act 1973, and is thus barred by time/ Law.

GROUND:

- (A) Para A is Incorrect, misleading, baseless and subsequently denied. Para 3 & 4 above are repeated. Under the Promotion Policy of the Provincial Government, Promotion is "always be notified with immediate effect" and not in ante-dates.
- (B) Para B is incorrect and misleading, and that the respondents have acted in accordance with rules/ regulation and law.
- (C) Para C is misleading and misconceived. And that the respondents have not acted in arbitrary and malafide manner. The appellant promotion is made under the prevalent rules and law of the Provincial Government.
- (D) Para D & E are incorrect and baseless. Para 03, 04 & 05 are repeated.
- (E) Para F is misleading and based on malafide intentions. And that the appellant was not on the top of the seniority list of Assistant Electric Inspectors (BS-17) as stated in Para 03 & 04 above.
- (F) Para G, H & I are misconceived, misleading and based on lies. And that the Respondents have not and cannot think about violating any provision of Law and Constitution of the Land.



4

In view of the above, the appeal of the appellant is misleading, baseless, and having no legal standings, as the competent forum PSB has promoted the appellant to the post of Deputy Electric Inspector BS-18 by following all the codal formalities, rules and regulations; and that under the Promotion Policy, as discussed in para-04 above, promotion is always made with immediate effects. Therefore, it is humbly prayed that the same may be dismissed with costs.

Secretary,
Establishment Department
(Respondent No. 3)

Secretary
Energy & Power Department
(Respondent No. 2)
Secretary to Govt.
of Khyber Pakhtunkhwa
Energy & Power Department

Secretary,
Finance Department
(Respondent No. 4)

Electric Inspector,
Electric Inspectorate, Khyber
Pakhtunkhwa, Peshawar
(Respondent No. 5)

ELECTRIC INSPECTOR
Govt. of Khyber Pakhtunkhwa
Energy & Power Deptt.
Peshawar

5

BEFORE THE PESHAWAR HIGH COURT

Service Appeal No. 1964-P/2021

Ihsanullah

Appellant

Versus

Chief Secretary, Govt. of Khyber Pakhtunkhwa & Others

Respondents

AFFIDAVIT

I, Usman Khan, S.O (Litigation) Energy and Power Department do hereby solemnly affirm and declare upon oath that as per instructions of the answering Respondents, the contents of the attached reply to the Service Appeal No. 1964-P/2021 is true and correct to the best of my knowledge and belief, and nothing has been concealed or withheld therefrom.

Identified By:



21-9-21

Deponent

CNIC No: 15305-8682735-1

Cell No: 0345-9177637



(b)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT
1st Floor, Block-A, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

AUTHORITY LETTER

Mr. Usman Khan, Section Officer (Litigation) Energy & Power Department, is hereby authorized to file reply to the Service Appeal No. 1964-P/2021, titled: Ihsanullah VS Govt of Khyber Pakhtunkhwa & Others on behalf of Secretary Energy & Power.


SECRETARY



(7)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

NOTIFICATION

Dated Peshawar, the 05/12/2016/L-9

No. SO(E)/E&P/5-10/PROMOTION/Aptt:/E.I/Vol-1. In pursuance of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Final Seniority List of Assistant Electric Inspector (BPS-17), Electric Inspectorate, Khyber Pakhtunkhwa is hereby notified for general information and record:

Sr.#	Name & Father's Name	Designation	Qualification	Domicile	Date of Birth	Date of Entry into service	Date of Promotion to Present Post	Permanent/ Temporary	Remarks
1.	Muhammad Mumtaz Khan S/o Taj Muhammad	Assistant Electric Inspector (BPS-17)	B.A, B.Tech (Hons) DAE (Pesh)	Karak	10-05-1962	23-10-1987	23-01-2006	Permanent	By Promotion from Electric Sub-Inspector (BPS-11)
2.	Engr. Ihsanullah S/o Hayat Khan	Assistant Electric Inspector (BPS-17)	B.Sc (Electrical) Engineering	Karak	20-04-1984	28-03-2009	28-03-2009	.....do.....	By Initial recruitment through NWFP (Now K.P) Public Service Commission
3.	Engr. Arifullah S/o Salim Khan	Assistant Electric Inspector (BPS-17)	B.Sc (Electrical) Engineering	FR Bannu	14-03-1985	26-03-2009	27-03-2009	.....do.....	By Initial recruitment through NWFP (Now K.P) Public Service Commission
4.	Mr. Saifulah Khan S/o Noor Khan	Assistant Electric Inspector (BPS-17)	DAE (Electrical Technology) M.A (Political Science)	FR Bannu	20-02-1970	20-02-2005	28-08-2015	.....do.....	By Promotion from Electric Sub-Inspector (BPS-11)

(8)

Endst. No. SO(E)/E&P/4-5/S. Matter/Vol-III

Copies forwarded for information to:-

1. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa.
2. The Electric Inspector, Khyber Pakhtunkhwa.
3. PS to Secretary, Energy & Power Department, Khyber Pakhtunkhwa.
4. Office Order file.
5. Officer concerned..

OS
1/12
07/12/16

Secretary
Energy & Power Department

Shan
Section Officer (Establishment)

9

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

1st Floor, Block A, Wall Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223625, Fax No: 091-9223624



Dated Peshawar the, 25-05-2018 / 29

NOTIFICATION

No. SO(Estt)/E&P/ 5-10/APU/Electric Inspector/2018: In pursuance of the provisions under Rules 4 (1) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules, 1989, the Competent Authority on recommendation of the Provincial Selection Board is pleased to promote the following officers of Electric Inspectorate, Khyber Pakhtunkhwa with immediate effect subject to the condition of probation period for one year:-

Sr. No.	Name of the Officer	Promoted	
		From	To
1.	Mr. Ihsanullah	Asstt Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)
2.	Mr. Arifullah	Asstt Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)

**Secretary
Energy & Power Department**

Endst: No & Date Even:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- ✓ 4. Electric Inspector, Electric Inspectorate, Peshawar.
5. P.S to Secretary Energy & Power Department.
6. Officers concerned.

OS / 11/29/5/18

1155
28-5-18
29/05/18

Section Officer (Estt)

9

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

1st Floor, Block A, Wail Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223625, Fax No: 091-9223624

Dated Peshawar the, 25-05-2018 / 29-

NOTIFICATION

No. SO(Estt)/E&P/ 5-10/APU/Electric Inspector/2018: In pursuance of the provisions under Rules 4 (1) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules, 1989, the Competent Authority on recommendation of the Provincial Selection Board is pleased to promote the following officers of Electric Inspectorate, Khyber Pakhtunkhwa with immediate effect subject to the condition of probation period for one year:-

Sr. No.	Name of the Officer	Promoted	
		From	To
1.	Mr. Ihsanullah	Assistant Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)
2.	Mr. Arifullah	Assistant Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)

**Secretary
Energy & Power Department**

Endst: No & Date Even:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- ✓ 4. Electric Inspector, Electric Inspectorate, Peshawar.
5. P.S to Secretary Energy & Power Department.
6. Officers concerned.





(10)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

K A, Wali Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223625, Fax No: 091-9223624

Dated Peshawar the, 03-10-2018

NOTIFICATION

No. SO(Estt)/E&P/ 5-10/APU/Electric Inspector/2018: In pursuance of the provisions under Rules 4 (1) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules, 1989, the Competent Authority on recommendation of the Provincial Selection Board is pleased to promote Mr. Muhammad Mumtaz Khan from Assistant Electric Inspector (BPS-17) to the post of Deputy Electric Inspector (Technologist) (BPS-18), Electric Inspectorate, Khyber Pakhtunkhwa with immediate effect subject to the condition of probation period for one year.

Posting order of the officer will be issued separately.

**Secretary
Energy & Power Department**

Endst: No & Date Even:

Copy forwarded to the:-

- ✓ 1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
4. Electric Inspector, Electric Inspectorate, Peshawar.
5. P.S to Secretary Energy & Power Department.
6. Officer concerned.

Section Officer (Estt) 03/10/18



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

1st Floor, Block A, Wall Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223825, Fax No: 091-922362

Dated Peshawar, the 26/12/2016 (122-1)

Notification

N. SO()/E&P/5-1/S.M/E.I/2016/Vol-II:- Sanction is hereby accorded for the grant of Extra Ordinary Leave for a period of two years (without pay) in respect of the following officers of Electric Inspectoratē with effect from the date of availing.

Engr. Ihsan Ullah,
Assistant Electric Inspector,

Engr. Arif Ullah,
Assistant Electric Inspector,

**Secretary
Energy & Power Department**

Enlistment & Date even as above.

Copy forwarded to the:-

- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Electric Inspector, Khyber Pakhtunkhwa, w/r to his letters No.9074 dated 23-09-2016 and No.9217 dated 28-09-2016.
- Officers concerned.
- PS to Secretary, Energy & Power Department.

Jehan Zeb
(JEHAN ZEB)
Section Officer (Estt:)

F/E (12) 18

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT




SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: APPROVAL OF RECOMMENDATIONS OF PROVINCIAL SELECTION BOARD ON PROMOTIONS.

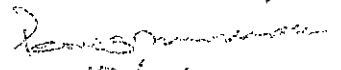
The Provincial Selection Board met on 03.05.2018 at 1000 hours and considered promotion cases of civil servants to BS-17 and above. The PSB cleared and recommended cases of employees of Information, Finance, Mineral, Energy & Power, Home, Excise & Taxation, C&W, Sports & Culture, Environment, Irrigation, Population Welfare, Industries, Agriculture, Higher Education, and Establishment departments. Approved minutes are added as Flag "A"

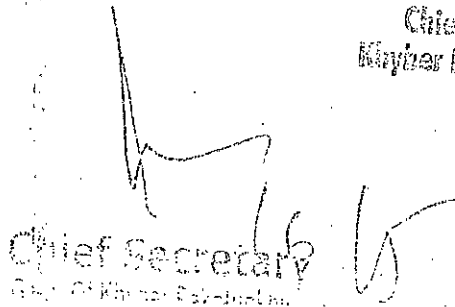
2. The Chief Minister, Khyber Pakhtunkhwa may kindly approve recommendations of the PSB as detailed in its minutes placed below.


(MUHAMMAD AZAM KHAN)
Chief Secretary
Govt of Khyber Pakhtunkhwa

Chief Minister

Approved


15/5/2018
Chief Minister
Khyber Pakhtunkhwa


Chief Secretary
Govt of Khyber Pakhtunkhwa

Office of the PSC
Diary No. 1025
Date: 07/5/18

~~C/S~~

ENERGY & POWER DEPARTMENT

(Meeting of PSB held on 03.05.2018)

SUBJECT: PROMOTION OF ASSISTANT ELECTRIC INSPECTOR BS-17 TO THE POST OF DEPUTY ELECTRIC INSPECTOR BS-18.

Secretary Energy & Power apprised the Board that due to upgradation and creation, five (05) posts of Deputy Electric Inspector BS-18 are lying vacant.

2. According to service rules the post is required to be filled as under:-

By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Electric Inspectors having B.Sc Degree in Electrical Engineering with five years' service as such

Provided that if no suitable candidate is available for promotion then by initial recruitment

3. The service record of the officers included in the panel was discussed as follows:-

S. NAME OF RECOMMENDATIONS OF THE BOARD
NO. OFFICER

1. Mr. Mumtaz Khan His date of birth is 10.05.1962. He joined government service DAE & B. Tech on 02.11.1985 and was promoted to BS-17 on 23.01.2006. (Hon) Electrical & The Board thoroughly discussed his qualification and MS Electrical observed that there is no quota for employees having B. Tech Engg. qualification. Hence, the service rules are required to be amended prescribing quota for employees with B. Tech qualification before holding next PSB meeting.

2. Mr. Ihsanullah His date of birth is 20.04.1984. He joined government service B.Sc Electrical Engineering on 28.03.2009 in BS-17. No enquiry is pending against him. His service record upto 2017 is generally good.

The Board recommended to defer his promotion.

The Board recommended the Officer for promotion to the post of Deputy Electric Inspector BS-18 on regular basis. He will be on probation for a period of one year.

3. Mr. Arifullah His date of birth is 14.03.1985. He joined government service B.Sc Electrical Engineering on 27.03.2009 in BS-17. No enquiry is pending against him. His service record upto 2017 is generally good.

The Board recommended the Officer for promotion to the post of Deputy Electric Inspector BS-18 on regular basis. He will be on probation for a period of one year.

Secretary (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

14

CONFIDENTIAL
IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUKHWA
ESTABLISHMENT DEPARTMENT

No. SO(PSB)ED/1-12/2017/P-54
Dated Peshawar, the 17.05.2018

To
The Secretary to
Government of Khyber Pakhtunkhwa,
ENERGY & POWER DEPARTMENT

SUBJECT: **MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD**
HELD ON 03.05.2018

PROMOTION OF ASSISTANT ELECTRIC INSPECTOR BS-17 TO THE
POST OF DEPUTY ELECTRIC INSPECTOR BS-18

Dear Sir,

I am directed to refer to Energy & Power Department letter No. SO(ED)/E&P/5-10/POA/EL/2017/Vol II dated 16.04.2018 on the subject and to forward herewith an extract of item No (4) of the minutes/recommendations of the meeting of Provincial Selection Board held on 03.05.2018 as well as copy of approved summary wherein the Chief Minister being competent authority in terms of Rules 4 (1) (a) of the Khyber Pakhtunkhwa has approved the recommendation of the PSB for further necessary action.

Yours faithfully

[Handwritten signature]
A-Sp...
W...
21-5-18

[Handwritten signature]
(DAULAT KHAN)
SECTION OFFICER (PSB)

1911
18-5-18
SO (E&P)
22/05/18
7881
21/05/18

PA/Dy. Secy. E&P Deptt
Diary No. 827
22/5/18

15

Dated Peshawar the 23rd January, 2006

NOTIFICATION

NO.E&A/I&P/11-18/05: The Competent Authority, in consultation with the Departmental Promotion Committee, is pleased to promote Mr. Muhammad Mumtaz Khan, Electric Sub-Inspector (BS-11) to the rank of Assistant Electric Inspector (BS-17), on regular basis, in the office of Electric Inspector, NWFP Peshawar with immediate effect.

On promotion, the officer is hereby posted against the vacant post of Assistant Electric Inspector (BS-17) in the Office of the Electric Inspector, NWFP Peshawar, with immediate effect in the public interest.

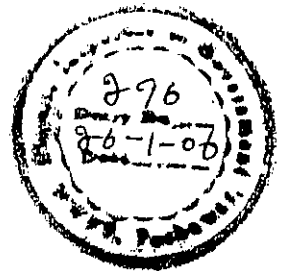
SECRETARY TO GOVT OF NWFP
IRRIGATION & POWER DEPTT.

Endst: No. & date as above.

Copy of the above is forwarded to:-

1. The Accountant General, NWFP, Peshawar.
2. The Secretary to Government of NWFP, Establishment Department Peshawar.
3. The Secretary to Govt of NWFP, Finance Department, Peshawar.
- ✓ 4. The Electric Inspector Govt of NWFP, Peshawar.
5. The Manger, Government Printing Press, Peshawar.
6. PS to Secretary, Irrigation and Power Department, Peshawar.
7. PA to Additional Secretary, Irrigation and Power Department.
8. Officer concerned.


RESEARCH OFFICER (LEGAL)
IRRIGATION & POWER DEPTT.



O.S
Please note, place on
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nalties.

16



**GOVERNMENT OF NWFP
ENERGY & POWER DEPARTMENT**
House No. 68, Street No. 3, Sham Road, Peshawar
Tel. 091-0212670 Fax 091-0212687

25

Notification

Dated: 28 / 03 / 2009

No. SOG(E&P)/5-1/Vol. III / 81 . Consequent upon the recommendations of the NWFP Public Service Commission, the Provincial Government is pleased to appoint Mr. Ihsan Ullah S/o Hayat Khan, Resident of Village Warana Zalani Banda, District Karak as Assistant Electric Inspector (BPS-17) in the office of Electric Inspector NWFP Peshawar on the terms & conditions laid down in this department's letter No. SOG(E&P) 15-1/Vol. III / 82, dated 28 / 03 / 2009 duly accepted by him.

Sd/-
Secretary to Govt. of NWFP,
Energy & Power Department,
Peshawar

Endst. No. No. SOG(E&P)/5-1/Vol. III / 82-89 Dated: 28 / 03 / 2009

Copy forwarded for information and necessary action to the:-

1. Accountant General, NWFP Peshawar
2. Electric Inspector, NWFP Peshawar
3. PS to Chief Secretary, NWFP Peshawar
4. Secretary NWFP Public Service Commission w/r to his letter No. NWFP/PSC/ SR-V/00166, dated 05-01-2009.
5. PS to Minister for Energy & Power, NWFP
6. Manager Govt. Printing & Stationery Department for Publication in the Government Gazette.
7. Officer concerned.
8. Office order file.

[Signature]
Section Officer (General)
Energy & Power Department,
NWFP

*E/S
31/3/09
Note and put up
for further scrutinizing
the documents (photocopies)
28/3/09*

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

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

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

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

IX. Promotion in case of pending investigations by NAB:

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

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

Promotion Policy

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

I. Length of service.

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

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

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

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

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

Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above. or 3 years' service in BS-19.

II. Linking of promotion with training:

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

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20
- National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely



GOVERNMENT OF N.W.F.P.
ENERGY & POWER DEPARTMENT

House No. 69, Street No.3, Shami Road, Peshawar
Tel. 091-9212670 Fax 091-9212657

19

Dated Peshawar the, 01 / 04 / 2009

NOTIFICATION

No. SOG(E&P)/5-10/Vol. II/2009. The Government of NWFP is pleased to accord sanction to the upgradation of the following posts as noted against each in Office of Electric Inspector, NWFP with immediate effect in the public interest :-

S#	Name of Post (Existing)	Name of Post (Upgraded)	No. of Posts	Existing Scale	Upgraded Scale
1	Electric Inspector	Electric Inspector	01	BPS-18	BPS-19
2	Asstt Electric Inspector	Dy Electric Inspector	01	BPS-17	BPS-18

2. Service Rules for the upgraded post of Electric Inspector (BPS-19) have been framed while that of Dy. Electric Inspector (BPS-18) will be framed shortly in light of relevant provisions of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 read with the Civil Servants Act, 1973.

3. The expenditure involved will be debitable to the functional head 04-Economic Affairs, 043-Fuel & Energy, 0437 -Others, 043701-Administration and PR- 5126 Electric inspector provincial, will be met out from the Budget Estimates 2008-09.

Secretary to Govt. of NWFP,
Energy & Power Department

No. FD/SO(FR)/7 -5/2001,

Dated 01 / 04 / 2009.

Copy forwarded to the Accountant General, NWFP Peshawar for information and necessary action.

[Signature]
Section officer (FR)
Finance Department, NWFP

No. SOG(E&P)/5-10/Vol. II/2009/162 -65

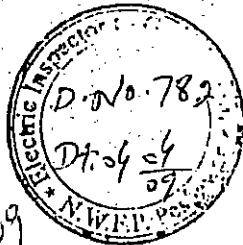
Dated 04 / 04 / 2009.

Copy forwarded for information and necessary action to:

1. Electric Inspector, NWFP Peshawar
2. Section officer (FR), Finance Department, NWFP w/r to his letter No. FD / SO(FR) / 7-5 /2001, dated 12-03-2009.
3. Budget Officer-II, Finance Department, NWFP.
4. PS to Secretary, Energy & Power Department, NWFP.

OS
for further na p...

04/4/09



[Signature]
Section Officer (General)
Energy & Power Department, NWFP



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT

House No: 69, Street No: 3, Shami Road, Peshawar
Tel. 091-9212647 Fax 091-9212657

Dated Peshawar, the 15 /12/2010

Notification

4394

No.SO(E)E&P/5-1/E-1/2010/ The Competent Authority in consultation with the Provincial Selection Board is pleased to promote Mr. Muhammad Ismail Khan Electric Inspector (BPS-18) to the upgraded post of Electric Inspector (BPS-19) on regular basis with immediate effect subject to the condition that he will be on probation period for one year.

(Jamal Ud Din)

Section Officer (Establishment)

Copy forwarded to:-

1. Accountant General Government of Khyber Pakhtunkhwa Peshawar
2. The Secretary Establishment Department Government of Khyber Pakhtunkhwa Peshawar.
3. Secretary Finance Department Government of Khyber Pakhtunkhwa Peshawar.
4. Controller, Government Printing Press Government of Khyber Pakhtunkhwa Peshawar.
5. Manager State Bank Peshawar Cantt.
6. Treasury Officer Government of Khyber Pakhtunkhwa Peshawar.
7. PS to Senior Minister for Energy & Power Department Government of Khyber Pakhtunkhwa Peshawar.
8. PS to Secretary Energy & Power Department Government of Khyber Pakhtunkhwa Peshawar.
9. Electric Inspector, Khyber Pakhtunkhwa, Peshawar
10. Officer Concerned.

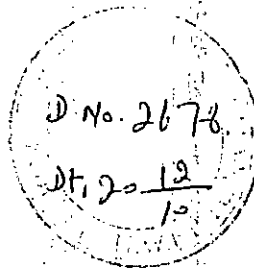
J. Ud Din

15/12/2010

Section Officer (Establishment)

A/ed E/15

15/12/2010



15/12/10

20

26

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 1046-P/2019

Mr. Ihsanullah and others

Vs

The Government of KP through Chief Secretary and others

JUDGMENT.

Date of hearing: 11.03.2020

Petitioner (s):

Respondent (s):

WAQAR AHMAD SETH, CJ:- Petitioners,

Ihsanullah and others, through the instant Writ Petition,
seeks issuance of an appropriate writ with the following
prayer:-

*"It is, therefore, most humbly prayed that
on acceptance of this writ petition, the
Honorable Court may be pleased to:-*

- (1) *Declare the impugned notification dated 18.01.2019 as illegal, unlawful, without lawful authority against the spirit of Recruitment Rules (Annexure-G & H) and Rules-9 of the Khyber Pakhtunkhwa (Appointment Promotion & Transfer) Rules, 1989 as well as against the spirit of Article 2A, 4, 9, 25 & 38 (e) of the Constitution.*
- (2) *Direct the respondents to act as per Recruitment Rules/Khyber Pakhtunkhwa (Appointment Promotion & Transfer) Rules, 1989 for filling the post of Electric Inspector BS-19 and to first determine the suitability of the*

Secretary Khyber Pakhtunkhwa but till date no response

has been received; hence, the instant Writ Petition.

22

3. Respondents No. 1, 2, 4 & 5th have furnished their comments and opposed the writ of petitioners.

4. Arguments heard and record perused.

5. Before proceed with the matter, we would like to reproduce the relevant rules notified on 17.08.2005 and amended vide Notification dated 16.07.2010, which reads as under:-

1. Against serial No. 1 for the existing entries, the following shall be substituted in the respective column, namely,

<p>(a) Master's Degree in Electrical Engineering from a recognized University with seven years experience in the relevant field and registered as professional Engineer with Pakistan Engineering council or</p> <p>(b) Bachelor Degree in Electrical Engineering, from a recognized university with ten years experience in the relevant field and registered as professional in the relevant field and registered as professional Engineer with Pakistan Engineering Council</p>	<p>32-45 years</p>	<p>By promotion, on the basis of seniority cum fitness from amongst Deputy Electric Inspectors having seven years service in BPS-18 or twelve years service in BPS-17 and above as Assistant Electric Inspector.</p> <p>Provided that if no suitable candidate is available for promotion then by initial recruitment.</p>
--	--------------------	--

23

A look at the above rules will make it clear that there is 100% quota for promotion on the basis of seniority-cum-fitness from amongst the Deputy Electric Inspector having seven years in BPS-18 or twelve years service in BPS-17 as Assistant Electric Inspector. The respondents took the stance in their comments that the post of BPS-17 and above exclusively fall within the domain of Public Service Commission and only the Commission is authorized to make the appointments as per provided rules and regulations. Similarly, the petitioners do not fulfil the basic eligibility criteria for the post of Electric Inspector (BPS-19). We are not in agreement with the respondents' stance because the above quota rules provide 100% promotion quota and the respondents were required to convene a PSB meeting in order to ascertain the suitability of available officers (BPS-18) and if none is found suitable, then, the post of Electric Inspector is to be filled through initial recruitment but in the case in hand, no PSB has been conducted in order to ascertain the suitability of petitioners. So, the impugned letter/memo dated 18.01.2019 requisitioning the post of Electric Inspector (BPS-19) to Khyber Pakhtunkhwa Public Service Commission is against law/rules and thus, the same is liable to be set aside.

6. In view of the above, this Writ Petition is allowed, the impugned letter/memo dated 18.01.2019 is set aside and the respondents are directed to consider the petitioners for the post of Electric Inspector (BPS-19) as per above quoted rules.

ANNOUNCED.

Dated: 11.03.2020



Chief Justice



Judge

=====

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

Mr. Ihsanullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KPK & other.

(RESPONDENT)
(DEFENDANT)

I/We Ihsanullah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021



CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK


MIR ZAMAN SAFI


AFRASIAB KHAN WAZIR

&

HAIDER ALI
ADVOCATES

OFFICE:

Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1964-P/2021

Ihsanullah, Deputy Electric Inspector, Government of Khyber Pakhtunkhwa Energy and Power Department, Peshawar.

Appellant.

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Energy and Power Department, Khyber Pakhtunkhwa Peshawar.
3. The Secretary Establishment Department, Khyber Pakhtunkhwa Peshawar.
4. The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
5. The Electric Inspector, Electric Inspectorate, Khyber Pakhtunkhwa Peshawar.

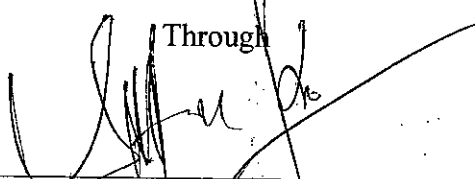
Respondents

INDEX

S. No.	Description of documents	Annexs	Pages
1.	Parawise Comments		1-4
2.	Affidavit & Authority Letter		5-6
3.	Seniority List	A	7-8
4.	Copy of Notification dated 25-05-2018	B	9-9
5.	Copy of notification dated 03-10-2018	C	10
6.	Copy of Notification (without pay) EOL	D	11
7.	Copy of notification dated 23-01-2006	E	12-14
8.	Copy of Notification dated 28-03-2009	F	15
9.	Copy of relevant page No. 58	G	16
10.	Copy of notification dated 01-04-2009	H	17+18
11.	Copy of notification dated 15-12-2010	I-J	19-20
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Respondents No. 1-5

Through


Section Officer (Litigation)
Energy & Power Deptt. Peshawar.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR
Appeal No 1964 of 2021

Ihsanullah, Deputy Electric Inspector, Government of Khyber Pakhtunkhwa Energy and Power Department, Peshawar.....(Appellant)

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Energy and Power Department, Khyber Pakhtunkhwa Peshawar.
3. The Secretary Establishment Department, Khyber Pakhtunkhwa Peshawar
4. The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar
5. The Electric Inspector, Electric Inspectorate, Khyber Pakhtunkhwa Peshawar.....(Respondents)

PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1-5

Respectfully Sheweth:-

Preliminary Objections:

1. That the appellant has got no locus standi to file the instant appeal.
2. That the appeal is barred by law.
3. That the appellant has not come to the Court with clean hands.
4. That the appellant is estopped by his own conduct.
5. That factual controversies are involved in the appeal which cannot be adjudicated upon^{by} this Hon'ble Court.
6. That the instant appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That the appellant has never agitated the seniority list as reflected on Annexure –A of the comments.

ON FACTS

1. Para-01 needs no comments.
2. In reply to Para-2, it is stated that as per final seniority list of the Assistant Electric Inspectors (BPS-17) issued in year, 2016; Mr. Muhammad Mumtaz was at Serial No. 1; whereas, the appellant was at serial No. 2. The former entered into service on 23-10-1985 and was promoted to the post of Assistant Electric Inspector (BPS-17) on 23-01-2006; whereas, the latter (appellant) entered into service on 28-03-2009 as Assistant Electric Inspector (BPS-17) **(Seniority list of Assistant Electric Inspectors is attached as Annexure A).**

Subsequently, both the Assistant Electric Inspectors i.e. Muhammad Mumtaz and the appellant were promoted to the post of Deputy Electric Inspectors (BPS-18) on their respective posts. It is pertinent to mention here that being junior to Mr. Mumtaz, the appellant was promoted by the PSB on his relevant post on 25-05-2018 as Deputy Electric Inspector BS-18, almost five months before Mr. Mumtaz's

②
promotion due to his (Mr. Mumtaz) relevant qualification / relevant degree issues. It is further added that he was also on Extra Ordinary Leave (EOL) before his promotion to the post of Deputy Electric Inspector BS-18. **(Copies of notifications dated 25-05-2018 & 03-10-2018; EOL Notification dated 26-12-2016 and Minutes of the PSB meeting held on 03-05-2018 are Annexed as B, C, D & E)**

3. Para 03 is denied and is misleading; and that the appellant was not at serial No. 1 of the seniority list, issued in the year 2016, from amongst the Assistant Electric Inspectors (BPS-17), as he was initially appointed as Assistant Electric Inspector (BPS-17) vide Notification dated 28-03-2009; and that Muhammad Mumtaz was at Sr. No. 1, who was initially appointed as Electric Sub- Inspector (BPS-11) on 23-10-1985, and subsequently promoted to the post of Assistant Electric Inspector (BPS-17) vide notification dated 23-01-2006 **(Copy of the Notification Dated 23-01-2006 & 28-03-2009 are Annexed as F&G).**

And that the appellant was not entitled for promotion to the post of Deputy Electric Inspector (BPS-18) on 28-03-2014 under the amended notified service rules dated 16-07-2010, being junior in the seniority list of Assistant Electric Inspector BS-17.

4. Para-04 is admitted to the extent that the appellant was promoted on 25-05-2018 on his relevant post of Deputy Electric Inspector (BPS-18) with immediate effect. The rest of the Para is denied as under the provision VI of the Promotion Policy of the Provincial Government, "promotion will always be notified with immediate effect" and not in ante-dates **(Copy of the relevant page No. 58 is Annexed as H).**

Furthermore, the appellant was appointed as Assistant Electric Inspector BS-17 on 28-03-2009, whereas the post of Deputy Electric Inspector (BPS-18) was upgraded vide notification No SOG (E&P)/5-10/Vol. II/2009 dated 01-04-2009.

It is pertinent to note that Mr. Muhammad Ismail Khan was in-charge of the post of the Electric Inspector BS-19 in BPS-18 capacity at that time. He was, thereafter, promoted to his original post of BPS-19 on regular basis with immediate effect vide Notification No. SO(E)E&P/5-1/E-I/2010/4394 dated 15/12/2010. Therefore, by 15-12-2010, the post of Deputy Electric Inspector BPS-18 was not vacant, and that the appellant is/was thus not eligible for promotion to the post of Deputy Electric Inspector (DEI) on 28-03-2014, as Mr. Mumtaz was the most Senior among Assistant Electric Inspectors BPS-17. **Copies of notifications dated 01-04-2009 & 15-12-2010 are Annexed as I&J).**

5. Para-05 is wholly denied. Whereas, Para 3 and 4 are repeated. It is added that the post of Deputy Electric Inspector (DEI) BS-18 was not vacant on 01-04-2009.

It is pertinent to mention here that the appellant had filed Writ petition No. 1046-P/2019 in Peshawar High Court, praying for his promotion to BPS-19 by challenging the memo dated 18-01-2019 through which fresh recruitment of Electric Inspector BPS-19, under the same amended Service Rules dated 16-07-2010, was asked from the Public Service Commission. The Hon'ble Court allowed the Writ Petition and directed the Department to consider the "appellant" for the post of Electric Inspector BS-19 by sending his case first to the Provincial Selection Board (PSB) (Copy of Judgment dated 11-03-2020 in writ petition No. 1046-P/2019 is annexed as K). The case is still pending for the PSB for decision—the same forum which has promoted the appellant to the post of Deputy Electric Inspector (BPS-18). It is further added that the appellant is misguiding the court to make himself eligible for the post of Electric Inspector BS-19 with ante-date promotion benefits.

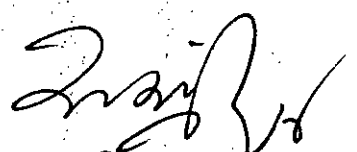
6. Para 06 is denied and is subject to proof.
7. This Para is incorrect, misguiding, based on lies and is against the spirit of the Law and Rules. And that the appellant had not appealed within thirty days to challenge his promotion order dated 25-05-2018 as described under Chapter-II, section 22(i) of the Civil Servants Act 1973, and is thus barred by time/ Law.

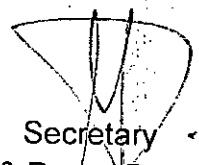

GROUND:


- (A) Para A is Incorrect, misleading, baseless and subsequently denied. Para 3 & 4 above are repeated. Under the Promotion Policy of the Provincial Government, Promotion is "always be notified with immediate effect" and not in ante-dates.
- (B) Para B is incorrect and misleading, and that the respondents have acted in accordance with rules/ regulation and law.
- (C) Para C is misleading and misconceived. And that the respondents have not acted in arbitrary and malafide manner. The appellant promotion is made under the prevalent rules and law of the Provincial Government.
- (D) Para D & E are incorrect and baseless. Para 03, 04 & 05 are repeated.
- (E) Para F is misleading and based on malafide intentions. And that the appellant was not on the top of the seniority list of Assistant Electric Inspectors (BS-17) as stated in Para 03 & 04 above.
- (F) Para G, H & I are misconceived, misleading and based on lies. And that the Respondents have not and cannot think about violating any provision of Law and Constitution of the Land.



In view of the above, the appeal of the appellant is misleading, baseless, and having no legal standings, as the competent forum PSB has promoted the appellant to the post of Deputy Electric Inspector BS-18 by following all the codal formalities, rules and regulations; and that under the Promotion Policy, as discussed in para-04 above, promotion is always made with immediate effects. Therefore, it is humbly prayed that the same may be dismissed with costs.


Secretary,
Establishment Department
(Respondent No. 3)


Secretary
Energy & Power Department
(Respondent No. 2)
Secretary to Govt.
of Khyber Pakhtunkhwa
Energy & Power Department

Secretary,
Finance Department
(Respondent No. 4)


Electric Inspector,
Electric Inspectorate, Khyber
Pakhtunkhwa, Peshawar
(Respondent No. 5)

ELECTRIC INSPECTOR
Govt. of Khyber Pakhtunkhwa
Energy & Power Deptt.
Peshawar

5

BEFORE THE PESHAWAR HIGH COURT

Service Appeal No. 1964-P/2021

Ihsanullah

Appellant

Versus

Chief Secretary, Govt. of Khyber Pakhtunkhwa & Others

Respondents

AFFIDAVIT

I, Usman Khan, S.O (Litigation) Energy and Power Department do hereby solemnly affirm and declare upon oath that as per instructions of the answering Respondents, the contents of the attached reply to the Service Appeal No. 1964-P/2021 is true and correct to the best of my knowledge and belief, and nothing has been concealed or withheld therefrom.

Identified By:



21-9-21

Deponent

CNIC No: 15305-8682735-1

Cell No: 0345-9177637



(b)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT
1st Floor, Block-A, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

AUTHORITY LETTER

Mr. Usman Khan, Section Officer (Litigation) Energy & Power Department, is hereby authorized to file reply to the Service Appeal No. 1964-P/2021, titled: Ihsanullah VS Govt of Khyber Pakhtunkhwa & Others on behalf of Secretary Energy & Power.


SECRETARY



(7)

GOVERNMENT OF KHYBER PAKHTUNKHWA ENERGY & POWER DEPARTMENT

NOTIFICATION

Dated Peshawar, the 05/12/2016/L-9

No. SO(E)/E&P/5-10/PROMOTION/Aptt:/E.I/Vol-1. In pursuance of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Final Seniority List of Assistant Electric Inspector (BPS-17), Electric Inspectorate, Khyber Pakhtunkhwa is hereby notified for general information and record:

Sr.#	Name & Father's Name	Designation	Qualification	Domicile	Date of Birth	Date of Entry into service	Date of Promotion to Present Post	Permanent/Temporary	Remarks
1.	Muhammad Mumtaz Khan S/o Taj Muhammad	Assistant Electric Inspector (BPS-17)	B.A, B.Tech (Hons) DAE (Pesh)	Karak	10-05-1962	23-10-1987	23-01-2006	Permanent	By Promotion from Electric Sub-Inspector (BPS-11)
2.	Engr. Ihsanullah S/o Hayat Khan	Assistant Electric Inspector (BPS-17)	B.Sc (Electrical) Engineering	Karak	20-04-1984	28-03-2009	28-03-2009	.....do.....	By Initial recruitment through NWFP (Now K.P) Public Service Commission
3.	Engr. Arifullah S/o Salim Khan	Assistant Electric Inspector (BPS-17)	B.Sc (Electrical) Engineering	FR Bannu	14-03-1985	26-03-2009	27-03-2009	.....do.....	By Initial recruitment through NWFP (Now K.P) Public Service Commission
4.	Mr. Saifullah Khan S/o Noor Khan	Assistant Electric Inspector (BPS-17)	DAE (Electrical Technology) M.A (Political Science)	FR Bannu	20-02-1970	20-02-2005	28-08-2015	.....do.....	By Promotion from Electric Sub-Inspector (BPS-11)

(8)

Endst. No. SO(E)/E&P/4-5/S. Matter/Vol-III

Copies forwarded for information to:-

1. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa.
2. The Electric Inspector, Khyber Pakhtunkhwa.
3. PS to Secretary, Energy & Power Department, Khyber Pakhtunkhwa.
4. Office Order file.
5. Officer concerned..

OS
1/2
07/12/16

Secretary
Energy & Power Department

eham
Section Officer (Establishment)

9



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

1st Floor, Block A, Wall Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223625, Fax No: 091-9223624

Dated Peshawar the, 25-05-2018 / 29

NOTIFICATION

No. SO(Estt)/E&P/ 5-10/APU/Electric Inspector/2018: In pursuance of the provisions under Rules 4 (1) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules, 1989, the Competent Authority on recommendation of the Provincial Selection Board is pleased to promote the following officers of Electric Inspectorate, Khyber Pakhtunkhwa with immediate effect subject to the condition of probation period for one year:-

Sr. No.	Name of the Officer	Promoted	
		From	To
1.	Mr. Ihsanullah	Assistant Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)
2.	Mr. Arifullah	Assistant Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)

**Secretary
Energy & Power Department**

Endst: No & Date Even:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- ✓ 4. Electric Inspector, Electric Inspectorate, Peshawar.
5. P.S to Secretary Energy & Power Department.
6. Officers concerned.

OS / 29/5/18

1155
25-5-18

EPS / 29/05/18

Section Officer (Estt)

9

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

1st Floor, Block A, Wall Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223625, Fax No: 091-9223624



Dated Peshawar the, 25-05-2018 / 29

NOTIFICATION

No. SO(Estt)/E&P/ 5-10/APU/Electric Inspector/2018: In pursuance of the provisions under Rules 4 (1) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules, 1989, the Competent Authority on recommendation of the Provincial Selection Board is pleased to promote the following officers of Electric Inspectorate, Khyber Pakhtunkhwa with immediate effect subject to the condition of probation period for one year:-

Sr. No.	Name of the Officer	Promoted	
		From	To
1.	Mr. Ihsanullah	Assistant Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)
2.	Mr. Arifullah	Assistant Electric Inspector (BPS-17).	Deputy Electric Inspector (BPS-18)

**Secretary
Energy & Power Department**

Endst: No & Date Even:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- ✓ 4. Electric Inspector, Electric Inspectorate, Peshawar.
5. P.S to Secretary Energy & Power Department.
6. Officers concerned.

OS / 11/2 / 28/5/18

1155
25-5-18

R/S / 29/05/18



Section Officer (Estt)



(10)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT

Block A, Wali Khan, Multiplex, Civil Secretariat, Peshawar
Phone: 091-9223625, Fax No: 091-9223624

Dated Peshawar the, 03-10-2018

NOTIFICATION

No. SO(Estt)/E&P/ 5-10/APU/Electric Inspector/2018: In pursuance of the provisions under Rules 4 (1) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules, 1989, the Competent Authority on recommendation of the Provincial Selection Board is pleased to promote Mr. Muhammad Mumtaz Khan from Assistant Electric Inspector (BPS-17) to the post of Deputy Electric Inspector (Technologist) (BPS-18), Electric Inspectorate, Khyber Pakhtunkhwa with immediate effect subject to the condition of probation period for one year.

Posting order of the officer will be issued separately.

Secretary
Energy & Power Department

Endst: No & Date Even:

Copy forwarded to the:-

- ✓ 1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
4. Electric Inspector, Electric Inspectorate, Peshawar.
5. P.S to Secretary Energy & Power Department.
6. Officer concerned.

Section Officer (Estt) 03/10/18



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT**

1st Floor, Block A, Wall Khan, Multiplex, Civil Secretariat, Peshawar
Tel: 091-9223825, Fax No: 091-922362

Dated Peshawar, the 26/12/2016 (122-1)

Notification

N. No. 9217/E&P/5-1/S.M/E.I/2016/Vol-II:- Sanction is hereby accorded for the grant of Extra Ordinary Leave for a period of two years (without pay) in respect of the following officers of Electric Inspectorate with effect from the date of availing.

Engr. Ihsan Ullah,
Assistant Electric Inspector,

Engr. Arif Ullah,
Assistant Electric Inspector,

**Secretary
Energy & Power Department**

Enlistment No & Date even as above.

Copy forwarded to the:-

- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Electric Inspector, Khyber Pakhtunkhwa, w/r to his letters No.9074 dated 23-09-2016 and No.9217 dated 28-09-2016.
- Officers concerned.
- PS to Secretary, Energy & Power Department.

Jehan Zeb
(JEHAN ZEB)
Section Officer (Estt.)

F/E (12) 18

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT



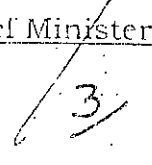
SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: - APPROVAL OF RECOMMENDATIONS OF PROVINCIAL SELECTION BOARD ON PROMOTIONS.

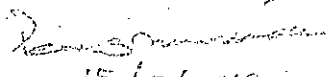
1. The Provincial Selection Board met on 03.05.2018 at 1000 hours and considered promotion cases of civil servants to BS-17 and above. The PSB cleared and recommended cases of employees of Information, Finance, Mineral, Energy & Power, Home, Excise & Taxation, C&W, Sports & Culture, Environment, Irrigation, Population Welfare, Industries, Agriculture, Higher Education, and Establishment departments. Approved minutes are added as Flag "A"

2. The Chief Minister, Khyber Pakhtunkhwa may kindly approve recommendations of the PSB as detailed in its minutes placed below.


(MUHAMMAD AZAM KHAN)
Chief Secretary
Govt of Khyber Pakhtunkhwa

Chief Minister


Approved


15/5/2018
Chief Minister
Khyber Pakhtunkhwa


Chief Secretary
Govt of Khyber Pakhtunkhwa

Office of Chief Secretary
Diry No 1025
Dated 05/05/2018

ENERGY & POWER DEPARTMENT

(Meeting of PSB held on 03.05.2018)

SUBJECT: PROMOTION OF ASSISTANT ELECTRIC INSPECTOR BS-17 TO THE POST OF DEPUTY ELECTRIC INSPECTOR BS-18.

Secretary Energy & Power apprised the Board that due to upgradation and creation, five (05) posts of Deputy Electric Inspector BS-18 are lying vacant.

2. According to service rules the post is required to be filled as under:-

"By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Electric Inspectors having B.Sc Degree in Electrical Engineering with five years' service as such

Provided that if no suitable candidate is available for promotion then by initial recruitment

3. The service record of the officers included in the panel was discussed as follows:

S. NO.	NAME OF OFFICER	OF RECOMMENDATIONS OF THE BOARD
--------	-----------------	---------------------------------

1.	Mr. Mumtaz Khan DAE & B. Tech (Electrical & Engg.)	His date of birth is 10.05.1962. He joined government service on 02.11.1985 and was promoted to BS-17 on 23.01.2006. The Board thoroughly discussed his qualification and observed that there is no quota for employees having B. Tech qualification. Hence, the service rules are required to be amended prescribing quota for employees with B. Tech qualification, before holding next PSB meeting.
----	--	--

2.	Mr. Hisanullah B.Sc Electrical Engineering	His date of birth is 20.04.1984. He joined government service on 28.03.2009 in BS-17. No enquiry is pending against him. His service record upto 2017 is generally good.
----	---	--

The Board recommended to defer his promotion.
The Board recommended the Officer for promotion to the post of Deputy Electric Inspector BS-18 on regular basis. He will be on probation for a period of one year.

3.	Mr. Arifullah B.Sc Electrical Engineering	His date of birth is 14.03.1985. He joined government service on 27.03.2009 in BS-17. No enquiry is pending against him. His service record upto 2017 is generally good.
----	--	--

The Board recommended the Officer for promotion to the post of Deputy Electric Inspector BS-18 on regular basis. He will be on probation for a period of one year.

[Signature]
Section Officer (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

14

CONFIDENTIAL

IMMEDIATE



**GOVERNMENT OF KHYBER PAKHTUKHWA
ESTABLISHMENT DEPARTMENT**

No. SO(PSB)ED/1-12/2017/P-54
Dated Peshawar, the 17.05.2018

To

The Secretary to
Government of Khyber Pakhtunkhwa
ENERGY & POWER DEPARTMENT

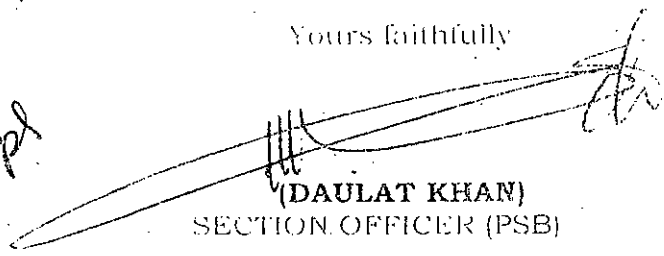
SUBJECT: MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD
HELD ON 03.05.2018

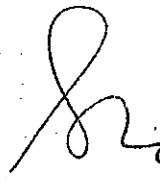
PROMOTION OF ASSISTANT ELECTRIC INSPECTOR BS-17 TO THE
POST OF DEPUTY ELECTRIC INSPECTOR BS-18

Dear Sir

I am directed to refer to Energy & Power Department letter No SO(PSB)ED/1-12/2017/P-54 dated 16.04.2018 on the subject and to forward herewith an extract of item No (4) of the minutes/recommendations of the meeting of Provincial Selection Board held on 03.05.2018 as well as copy of approved summary wherein the Chief Minister being competent authority in terms of Rules 4 (1) (a) of the Khyber Pakhtunkhwa has approved the recommendation of the PSB for further necessary action.

Yours faithfully


(DAULAT KHAN)
SECTION OFFICER (PSB)


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22/05/18

7881
21/05/18

PA To: Secy. E&P Deptt.
Date No: 827
22/5/18

15

Dated Peshawar, the 23rd January, 2006

NOTIFICATION

NO.E&A/I&P/11-18/05: The Competent Authority, in consultation with the Departmental Promotion Committee, is pleased to promote Mr. Muhammad Mumtaz Khan, Electric Sub-Inspector (BS-11) to the rank of Assistant Electric Inspector (BS-17), on regular basis, in the office of Electric Inspector, NWFP Peshawar with immediate effect.

On promotion, the officer is hereby posted against the vacant post of Assistant Electric Inspector (BS-17) in the Office of the Electric Inspector, NWFP Peshawar, with immediate effect in the public interest.

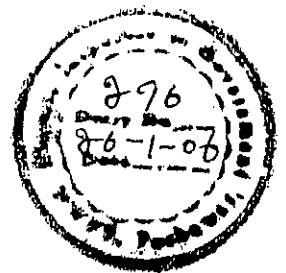
SECRETARY TO GOVT OF NWFP
IRRIGATION & POWER DEPTT.

Endst: No. & date as above.

Copy of the above is forwarded to:-

1. The Accountant General, NWFP, Peshawar.
2. The Secretary to Government of NWFP, Establishment Department Peshawar.
3. The Secretary to Govt of NWFP, Finance Department, Peshawar.
- ✓ 4. The Electric Inspector Govt of NWFP, Peshawar.
5. The Manger, Government Printing Press, Peshawar.
6. PS to Secretary, Irrigation and Power Department, Peshawar.
7. PA to Additional Secretary, Irrigation and Power Department.
8. Officer concerned.


RESEARCH OFFICER (LEGAL)
IRRIGATION & POWER DEPTT.



O.S
Please note, place on
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Asst. Electric
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16



GOVERNMENT OF N.W.F.P.
ENERGY & POWER DEPARTMENT
House No. 69, Street No. 3, Shani Road, Peshawar
Tel: 091-9212670 Fax 091-9212667

28

Notification

Dated 28 / 03 / 2009

No. SOG(E&P)/5-1/Vol. II/ 81 . Consequent upon the recommendations of the NWFP Public Service Commission, the Provincial Government is pleased to appoint Mr. Ihsan Ullah S/o Hayat Khan, Resident of Village Warana Zalahi Banda, District Karak as Assistant Electric Inspector (BPS-17) in the office of Electric Inspector NWFP Peshawar on the terms & conditions laid down in this department's letter No. SOG(E&P) 15-11/Vol. II/ 58 dated 28 / 03 / 2009 duly accepted by him.

Sd/-
Secretary to Govt. of NWFP,
Energy & Power Department,
Peshawar

Endst. No. No. SOG(E&P)/5-1/Vol. II/ 82-89 Dated 28 / 03 / 2009

Copy forwarded for information and necessary action to the:-

1. Accountant General, NWFP Peshawar
2. Electric Inspector, NWFP Peshawar
3. PS to Chief Secretary, NWFP Peshawar
4. Secretary NWFP Public Service Commission w/r to his letter No. NWFP/PSC/ SR-V/00166, dated 05-01-2009.
5. PS to Minister for Energy & Power, NWFP
6. Manager Govt. Printing & Stationery Department for Publication in the Government Gazette.
7. Officer concerned.
8. Office order file.

[Signature]
Section Officer (General)
Energy & Power Department,
NWFP

EC
Note and put up
for further scrutinizing
the documents (photos etc)
12/1
27/3/09

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

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

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

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

IX. Promotion in case of pending investigations by NAB:

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

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

(18)

Promotion Policy

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

I. Length of service.

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

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

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

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

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

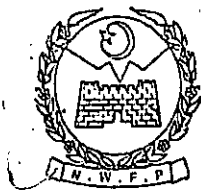
Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above. or 3 years' service in BS-19.

II. Linking of promotion with training:

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

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20
- National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely



GOVERNMENT OF N.W.F.P.
ENERGY & POWER DEPARTMENT

House No. 69, Street No.3, Shami Road, Peshawar
Tel. 091-9212670 Fax 091-9212657

19

NOTIFICATION

Dated Peshawar the, 01/04/2009

No. SOG(E&P)/5-10/Vol. II/2009. The Government of NWFP is pleased to accord sanction to the upgradation of the following posts as noted against each in Office of Electric Inspector, NWFP with immediate effect in the public interest :-

S#	Name of Post (Existing)	Name of Post (Upgraded)	No. of Posts	Existing Scale	Upgraded Scale
1	Electric Inspector	Electric Inspector	01	BPS-18	BPS-19
2	Asstt Electric Inspector	Dy Electric Inspector	01	BPS-17	BPS-18

2. Service Rules for the upgraded post of Electric Inspector (BPS-19) have been framed while that of Dy: Electric Inspector (BPS-18) will be framed shortly in light of relevant provisions of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 read with the Civil Servants Act, 1973.

3. The expenditure involved will be debitable to the functional head 04-Economic Affairs, 043-Fuel & Energy, 0437 -Others, 043701-Administration and PR- 5126 Electric inspector provincial, will be met out from the Budget Estimates 2008-09.

Secretary to Govt. of NWFP,
Energy & Power Department

No. FD/SO(FR)/7 -5/2001,

Dated 01/04/2009.

Copy forwarded to the Accountant General, NWFP Peshawar for information and necessary action.

Section officer (FR)
Finance Department, NWFP

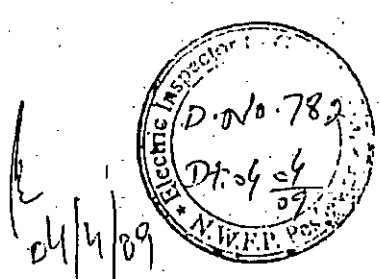
No. SOG(E&P)/5-10/Vol. II/2009/162-65

Dated 04/04/2009.

Copy forwarded for information and necessary action to:

1. Electric Inspector, NWFP Peshawar
2. Section officer (FR), Finance Department, NWFP w/r to his letter No. FD / SO(FR) / 7-5 /2001, dated 12-03-2009.
3. Budget Officer-II, Finance Department, NWFP.
4. PS to Secretary, Energy & Power Department, NWFP.

OS
further wa p/



Section Officer (General)
Energy & Power Department, NWFP



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENERGY & POWER DEPARTMENT

House No. 69, Street No. 3, Shami Road, Peshawar
Tel. 091-9212647 Fax 091-9212657

Dated Peshawar, the 15 /12/2010

Notification

4394

No.SO(E)E&P/5-1/E-1/2010/ The Competent Authority in consultation with the Provincial Selection Board is pleased to promote Mr. Muhammad Ismail Khan Electric Inspector (BPS-18) to the upgraded post of Electric Inspector (BPS-19) on regular basis with immediate effect subject to the condition that he will be on probation period for one year.

(Jamal Ud Din)
Section Officer (Establishment)

Copy forwarded to:-

1. Accountant General Government of Khyber Pakhtunkhwa Peshawar
2. The Secretary Establishment Department Government of Khyber Pakhtunkhwa Peshawar.
3. Secretary Finance Department Government of Khyber Pakhtunkhwa Peshawar.
4. Controller, Government Printing Press Government of Khyber Pakhtunkhwa Peshawar.
5. Manager State Bank Peshawar Cantt.
6. Treasury Officer Government of Khyber Pakhtunkhwa Peshawar.
7. PS to Senior Minister for Energy & Power Department Government of Khyber Pakhtunkhwa Peshawar.
8. PS to Secretary Energy & Power Department Government of Khyber Pakhtunkhwa Peshawar.
- ✓9. Electric Inspector, Khyber Pakhtunkhwa, Peshawar
10. Officer Concerned.

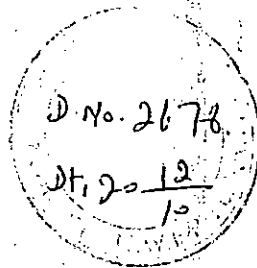
Jamal Ud Din

15/12/2010

Section Officer (Establishment)

A/ed/E/s

15/12/2010



15/12/10

26

(20)

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 1046-P/2019

Mr. Ihsanullah and others

Vs

The Government of KP through Chief Secretary and others

JUDGMENT.

Date of hearing: 11.03.2020

Petitioner (s): By: Muhammad Atif Farooq - Advocate

Respondent (s): By: Chief Justice Peshawar

WAQAR AHMAD SETH, CJ:- Petitioners,

Ihsanullah and others, through the instant Writ Petition, seeks issuance of an appropriate writ with the following prayer:-

"It is, therefore, most humbly prayed that on acceptance of this writ petition, the Honorable Court may be pleased to:-

- (1) *Declare the impugned notification dated 18.01.2019 as illegal, unlawful, without lawful authority against the spirit of Recruitment Rules (Annexure-G & H) and Rules-9 of the Khyber Pakhtunkhwa (Appointment Promotion & Transfer) Rules, 1989 as well as against the spirit of Article 2A, 4, 9, 25 & 38 (e) of the Constitution.*
- (2) *Direct the respondents to act as per Recruitment Rules/Khyber Pakhtunkhwa (Appointment Promotion & Transfer) Rules, 1989 for filling the post of Electric Inspector BS-19 and to first determine the suitability of the*

Secretary Khyber Pakhtunkhwa but till date no response

has been received; hence, the instant Writ Petition.

22

3. Respondents No. 1, 2, 4 & 5 have furnished their comments and opposed the writ of petitioners.

4. Arguments heard and record perused.

5. Before proceed with the matter, we would like to reproduce the relevant rules notified on 17.08.2005 and amended vide Notification dated 16.07.2010, which reads as under:

1. Against serial No. 1 for the existing entries, the following shall be substituted in the respective column, namely,

<p>(a) Master's Degree in Electrical Engineering from a recognized University with seven years experience in the relevant field and registered as professional Engineer with Pakistan Engineering council or (b) Bachelor Degree in Electrical Engineering, from a recognized university with ten years experience in the relevant field and registered as professional in the relevant field and registered as professional Engineer with Pakistan Engineering Council</p>	<p>32-45 years</p>	<p>By promotion, on the basis of seniority cum fitness from amongst Deputy Electric Inspectors having seven years service in BPS-18 or twelve years service in BPS-17 and above as Assistant Electric Inspector. Provided that if no suitable candidate is available for promotion then by initial recruitment.</p>
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h

(23)

A look at the above rules will make it clear that there is 100% quota for promotion on the basis of seniority-cum-fitness from amongst the Deputy Electric Inspector having seven years in BPS-18 or twelve years service in BPS-17 as Assistant Electric Inspector. The respondents took the stance in their comments that the post of BPS-17 and above exclusively fall within the domain of Public Service Commission and only the Commission is authorized to make the appointments as per provided rules and regulations. Similarly, the petitioners do not fulfil the basic eligibility criteria for the post of Electric Inspector (BPS-19). We are not in agreement with the respondents' stance because the above quota rules provide 100% promotion quota and the respondents were required to convene a PSB meeting in order to ascertain the suitability of available officers (BPS-18) and if none is found suitable, then, the post of Electric Inspector is to be filled through initial recruitment but in the case in hand, no PSB has been conducted in order to ascertain the suitability of petitioners. So, the impugned letter/memo dated 18.01.2019 requisitioning the post of Electric Inspector (BPS-19) to Khyber Pakhtunkhwa Public Service Commission is against law/rules and thus, the same is liable to be set aside.

6. In view of the above, this Writ Petition is allowed, the impugned letter/memo dated 18.01.2019 is set aside and the respondents are directed to consider the petitioners for the post of Electric Inspector (BPS-19) as per above quoted rules.

ANNOUNCED.
Dated: 11.03.2020


Chief Justice


Judge

=====

POWER OF ATTORNEY

In the Court of

Khyber Pakhtunkhwa Bench Peshawar
Ihsan Ullah

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

The Chief Society Khyber Pakhtun
Khuzee and others.

} Defendant
} Respondent *No 5*
} Accused

✓
S Appeal/Revision/Suit/Application/Petition/Case No. 1964 of 2021
Fixed for 8/7/2021

I/W. the undersigned, do hereby nominate and appoint

ZARAJ ANWAR & IMRAN KHAN ADVOCATES, my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

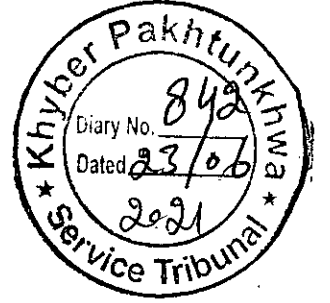
IN WITNESS whereof I/we have hereto signed at CC 07
the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Imran Khan
IMRAN KHAN
Advocate High Court
Mob: 0345-9090648

Zaraj Anwar
ZARAJ ANWAR
Advocate High Courts
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Mobile-0331-9399185
BC-10-9851
CNIC: 17301-1610454-5
Respondent No 5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR



C.M. No. _____/2021

Put up to the court with relevant appeal

IN

APPEAL No.1964/2021

IHSAN ULLAH

VS

GOVT: OF KPK
&
OTHERS

APPLICATION FOR RESTRAINING THE RESPONDENTS NOT TO ISSUE THE COMBINE/JOINT FINAL SENIORITY LIST OF DEPUTY ELECTRIC INSPECTORS (BPS-18) TILL THE DISPOSAL OF THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal is pending adjudication before this august Court which 8.7.2021 date is fixed for hearing.
- 2- That in the above mentioned appeal the appellant is seeking ante dated promotion to the post of deputy electric inspector (BPS-18) i.e. w.e.f 28.3.2014 instead of 25.5.2018 with all back benefits including seniority.
- 3- That during the pendency of the above mentioned appeal the respondents issued joint tentative seniority list of B.tech and B.S degree holder Engineers in utter violation of law and rules. Copy of the seniority list is attached as annexure **A.**
- 4- That feeling aggrieved the appellant also filed objection petition against the ibid tentative seniority list but the respondents are bent to issue joint/combined final seniority list of B.Tech Engineers and B.S Degree Holders. Copy of the application is attached as annexure **B.**
- 5- That all the three ingredients necessary for the stay are in favor of the petitioner.

It is therefore most humbly prayed that on acceptance of this application the respondents may kindly be restrained from issuance of the combine/joint final list of B.Tech & B.S Degree Holder Engineers till the disposal of the above mentioned appeal.

APPLICANT



IHSAN ULLAH

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**



ANNEXURE "A" (3)

**PROVINCIAL OFFICE OF INSPECTION / ELECTRIC INSPECTORATE
GOVERNMENT OF KHYBER PAKHTUNKHWA,
ENERGY AND POWER DEPARTMENT PESHAWAR**

3rd Floor, Benevolent Fund Building, Peshawar Cantt

Phone No. 091-9211343

Email: electricinspectorate@gmail.com / Website: www.ioekp.gov.pk

No. 263

Dated 05/05/2021

To

- i. Mr. Ihsan Ullah
Deputy Electric Inspector Abbottabad
- ii. Mr. Arif Ullah
Deputy Electric Inspector Bannu

Subject: TENTATIVE SENIORITY LIST OF DEPUTY ELECTRIC INSPECTORS (BPS-18) AS STOOD ON 03-05-2021

Reference to the subject noted above and to enclose herewith tentative seniority list of Deputy Electric Inspectors (BPS-18) of Electric Inspectorate Khyber Pakhtunkhwa as stood on 03-05-2021 which is self explanatory and forwarded for your perusal, please.

**ELECTRIC INSPECTOR PROVINCIAL
ENERGY & POWER DEPARTMENT**

Endst No.

Dated Peshawar, the 05/05/2021

A copy of the above is forwarded to Section Officer (E.I) Energy and Power Department Government of Khyber Pakhtunkhwa for information.

**ELECTRIC INSPECTOR PROVINCIAL
ENERGY & POWER DEPARTMENT**



PROVINCIAL OFFICE OF INSPECTION / ELECTRIC INSPECTORATE
 GOVERNMENT OF HYDERABAD
 ENERGY AND POWER DEPARTMENT
 3rd Floor, Pannalokhand Building, Pannalokhand
 Phone No. 081-2511343
 Email: electricinspection@gmail.com / Website: www.lokp.gov.in

Dated 02/08/2021

10. 282

Mr. Anil Ujjah
 Deputy Electric Inspector

ii. Mr. Anil Ujjah
 Deputy Electric Inspector

Subject: TENTATIVE SENIORITY LIST OF DEPUTY ELECTRIC INSPECTORS (DE-18) AS AT 02/08/2021

Reference to the subject noted above and to enclose herewith tentative seniority list of Deputy Electric Inspectors (DE-18) of Electric Inspectorate Hyderabad as stood on 02-08-2021 which is self explanatory and forwarded for your perusal, please.

**ELECTRIC INSPECTOR PROVICIAL
 ENERGY & POWER DEPARTMENT
 Dated Pannalokhand, the 02/08/2021**

Encl No.

A copy of the above is forwarded to Section Officer (E) Energy and Power Department Government of Hyderabad for information.

[Signature]
**ELECTRIC INSPECTOR PROVICIAL
 ENERGY & POWER DEPARTMENT**



4

GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy & Power Department
1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
Tel. 091-9210895 - Fax 091-9223624

No. SO(E-I)/E&P/5-10/UPA/2020-21/
Dated Peshawar the 03rd May, 2021

To

The Electric Inspector Provincial,
Electric Inspectorate, Peshawar.

SUBJECT: TENTATIVE SENIORITY LIST OF DEPUTY ELECTRIC INSPECTORS (BPS-18) AS STOOD ON 03-05-2021

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith tentative Seniority List of Deputy Electric Inspectors (BPS-18) of Electric Inspectorate Provincial, Khyber Pakhtunkhwa as stood on 03-05-2021.

2. Therefore, all the concerned officers may kindly be directed to indicate error/omission (if any) for the purpose of rectification alongwith attested supporting documents **within 15-days** positively. In case of no response by the due date, it would be considered that particulars notified have been accepted as correct.

Encl: As above

Rahmani Gul
Section Officer (E.I)

Endst: No. & Date Even:

Copy forwarded to:-

- 1) PS to Secretary Establishment Department Peshawar
- 2) PS to Secretary, Energy & Power Department Peshawar
- 3) PS to Special Secretary, Energy & Power Department.
- 4) PA to Additional Secretary (Power), Energy & Power Department
- 5) PA to Deputy Secretary (Power), Energy & Power Department
- 6) Master file.

Section Officer (E.I)

E/S
for Compliance N.A. P

1
03/5/21





No SO(E)-VE&P/103PAV2000/214
 Dated Peshawar the 03rd May, 2021

The Electric Inspector, Peshawar
 Electric Inspector, Peshawar

TENTATIVE SENIORITY LIST OF DEPUTY ELECTRIC INSPECTORS
1992-101 AS STOOD ON 03-05-2021

I am directed to refer to the subject noted above and to enclose herewith tentative seniority list of Deputy Electric Inspectors (DE-10) of Electric Inspector, Peshawar, Khyber Pakhtunkhwa as stood on 03-05-2021.

Therefore, all the concerned officers may kindly be directed to inform their respective superior officers for the purpose of rectification alongwith stated conditions within the stipulated time. In case of no response by the due date, it would be considered that particulars notified herein are accepted as correct.

Yours faithfully,
 Section Officer (E-1)

(Signature)
 Section Officer (E-1)

Enclosure - 01

Copy forwarded to:

1. PS to Secretary, Establishment Department Peshawar
2. PS to Secretary, Energy & Power Department Peshawar
3. PS to Section Officer, Energy & Power Department
4. PS to Additional Secretary (Power), Energy & Power Department
5. PS to Deputy Secretary (Power), Energy & Power Department
6. For file

(Signature)
 Section Officer (E-1)



(Handwritten signature)

03/05/21



GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy & Power Department
1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
Tel. 091-9210895 Fax 091-9223624

NOTIFICATION

Dated Peshawar the, 03rd May 2021

NO.SO(E-I)/E&P/5-10/UPA/2021: In pursuance of section-8 of the Khyber Pakhtunkhwa Civil Servant Act 1973 read with Rule-17 of Civil Servant (Appointment, Promotion and Transfer) Rules 1989, the competent Authority is pleased to notify and circulate the final seniority list (*Tentative*) of the Electric Inspectorate of the Energy and Power Department of the Deputy Electric Inspectors (BPS-18) to Government of Khyber Pakhtunkhwa for information of all concerned:-

S.#	Name of Officer	Academic Qualification	Date of Birth and Domicile	Date of 1 st Entry into Govt: Service	Regular appointment/promotion to present post			Present Posting
					Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	8	9
1	Muhammad Mumtaz Khan S/O Taj Muhammad	M.S Electrical Engineering, B-Tech. (Hon) & DAE	10-05-1962	23-10-1985	03-10-2018	18	By Promotion (Permanent)	Deputy Electric Inspector (Holding charge of Electric Inspector Provincial)
2	Engr. Ihsanullah S/O Hayat Khan	B.Sc Electrical Engineering Registered with PEC	20-04-1984	28-03-2009	25-05-2018	18	By Promotion (Permanent)	Deputy Electric Inspector Abbottabad Region
3	Engr. Arifullah S/O Salim Khan	M.Sc Electrical Engineering Registered with PEC	14-03-1985	26-03-2009	25-05-2018	18	By Promotion (Permanent)	Deputy Electric Inspector Bannu Region

SECRETARY
Energy & Power Department

Continue Page-2

Energy and Power Department
SECRETARY

No.	Name of Officer	Qualification	Domestic Birth and Date of Birth	Grade into Civil Service	Date	Age	Method of Appointment	Present Posting
1	Mr. S. S. Sanyal	B.Tech (Hon) & DAE Engg. in Electrical	10-02-1923	53-10-1982	03-10-2018	18	Promotion	Deputy Electric Inspector (In-charge of Electric Inspector Division)
2	Mr. S. S. Sanyal	Registered with PEC Engg. in Electrical	10-02-1923	53-10-1982	03-10-2018	18	Promotion	Deputy Electric Inspector
3	Mr. S. S. Sanyal	Registered with PEC Engg. in Electrical	10-02-1923	53-10-1982	03-10-2018	18	Promotion	Deputy Electric Inspector
4	Mr. S. S. Sanyal	Registered with PEC Engg. in Electrical	10-02-1923	53-10-1982	03-10-2018	18	Promotion	Deputy Electric Inspector

Energy and Power Department of the Deputy Electric Inspector (DEI-18) to Government of Kerala, Kottayam for information of all concerned.
 Promotion and Transfer Rules 1988, the competent authority is pleased to notify and circulate the final selection list (transitive) of the Electric Inspector of the
 in pursuance of section-8 of the Kerala Public Service Act 1973 read with Rule-11 of Civil Service (Appointment)

NOTIFICATION

1505 Year B.D.O. (P) 15/07/2018

SECRETARY
 Energy and Power Department
 GOVERNMENT OF KERALA






Endst: No. & Date Even:

Copy forwarded to the:-

- 1) Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department
- 2) Electric Inspector Provincial, Khyber Pakhtunkhwa Peshawar
- 3) Section Officer (O&M), Establishment and Administration Department (Regulation Wing), Government of Khyber Pakhtunkhwa, Peshawar, with reference to his letter No. SO(O&M)E&AD/8-7/2020 dated 17th March, 2021.
- 4) PS to Secretary Energy & Power Department Peshawar
- 5) PS to Special Secretary Energy & Power Department Peshawar
- 6) PA to Additional Secretary (Power), Energy & Power Department Peshawar
- 7) PA to Deputy Secretary (Power), Energy & Power Department Peshawar
- 8) Officers concerned.
- 9) Master file.


(RAHMANI GHA)
Section Officer (E.I)

- a) Muzika file
- b) Office announced
- 1) BV to Debiti Sekretarij (buzna) Evidenja & Bomer Debitur u Poslovima
- 2) BV to Akcioni Sekretarij (bomer) Evidenja & Bomer Debitur u Poslovima
- 3) BV to Special Sekretarij Evidenja & Bomer Debitur u Poslovima
- 4) BV to Sekretarij Evidenja & Bomer Debitur u Poslovima
- 5) Referat No 8/1081/VEP/DA-9-1/15050 usloq J. M. N. 1984. 2051
- 6) Section Officer (OTM) - Estipizimont iud Administrativni Debituranti (Srednjimotni Mijuni) (Contributors of KAD of Psihologija) for private - in reference to 143
- 7) Efoqun Inspector Promucij, Kijalor Bakijunijuna Poslovima
- 8) Sekretarij to Govt of Kijalor Psihologija Estipizimont Debituranti

Copy forwarded to them

Evidenja & Bomer Evidenja

Section Officer (E U)
 (P. M. N. 1984. 2051)

2051

101 021000000
 101 021000000
 101 021000000

Annexure B

7

To

The Secretary to the Government of Khyber Pakhtunkhwa,
Energy and Power Department,
Peshawar.

Subject:

**APPEAL AGAINST THE TENTATIVE SENIORITY LIST OF
DEPUTY ELECTRIC INSPECTORS (BPS-18) IN ELECTRIC
INSPECTORATE ISSUED VIDE NOTIFICATION No. S.O
(E.I)/E&P/5-10/UPA/2021 DATED 03/05/2021**

Dear Sir,

With due reverence, it is stated that the administrative department of E&P vide notification No. S.O (E.I)/E&P/5-10/UPA/2021 Dated 03/05/2021 has issued a joint seniority list of two distinct disciplines/cadres of Engineers and Technologists in BPS-18 despite having their own distinct nomenclatures as Deputy Electric Inspector (BPS-18) for engineers and Deputy Electric Inspector (Technologist) (BPS-18) for technologists and distinct services rules. In this regard, the following observations are submitted;

(Copy of Subject Notification at Annexure-I)

The notification seems to have been issued on the presumption that these officers have had a joint seniority list in (BPS-17). In this regard, It is clarified that the BPS-17 posts have a common nomenclature as Assistant Electric Inspector (BPS-17) occupied by the Technologists through 50% quota created in violation of the Pakistan Engineering Council (PEC) Act 1976 just for accommodation rather than creation of respective posts, thus encroaching the engineering posts in BPS-17, whereas in case of BPS-18 Posts, the two cadres i.e. engineers and Technologists have been segregated through different/distinct nomenclatures as Deputy Electric Inspector (BPS-18) for engineers and Deputy Electric Inspector (Technologist) (BPS-18) for Technologists through Standing Service Rules Committee (SSRC) in compliance with Pakistan Engineering Council Act 1976 and requirements of National Technology Council respectively. It is further apprised that both the cadres have separate service rules for promotion to their respective posts in BPS-18.

(Copy of Service Rules for BPS-17 & BPS-18 at Annexure-II)

a/c

To

The Secretary to the Government of Khyber Pakhtunkhwa,
Energy and Power Department,
Peshawar.

Subject:

APPEAL AGAINST THE TENTATIVE SENIORITY LIST OF
DEPUTY ELECTRIC INSPECTORS (BP-18) IN ELECTRICAL
INSPECTORATE ISSUED VIDE NOTIFICATION No. S.O.
(E) & P-10/UPA/2021 DATED 03/05/2021

Dear Sir,

With due reverence, it is stated that the administrative department of E&P vide notification No. S.O. (E) & P-10/UPA/2021 Dated 03/05/2021 has issued a joint seniority list of two distinct disciplines i.e. of Engineers and Technologists in BP-18 despite having their own distinct nomenclatures as Deputy Electric Inspector (BP-18) for engineers and Deputy Electric Inspector (Technologist) (BP-18) for technologists and distinct service rules. In this regard, the following observations are submitted:

(Copy of Subject Notification as Annexure-I)

The notification seems to have been issued on the presumption that these officers have had a joint seniority list in (BP-17). In this regard, it is clarified that the BP-17 posts have a common nomenclature as Assistant Electric Inspector (BP-17) occupied by the Technologists through 50% quota created in violation of the Pakistan Engineering Council (PEC) Act 1976 just for accommodation rather than creation of respective posts, thus encroaching the engineering posts in BP-17, whereas in case of BP-18 posts, the two cadres i.e. engineers and Technologists have been segregated through different distinct nomenclatures as Deputy Electric Inspector (BP-18) for engineers and Deputy Electric Inspector (Technologist) (BP-18) for Technologists through Standing Service Rules Committee (SSRC) in compliance with Pakistan Engineering Council Act 1976 and requirements of National Technology Council respectively. It is further apposed that both the cadres have separate service rules for promotion to their respective posts in BP-18.

(Copy of Service Rules for BP-17 & BP-18 as Annexure-II)

8

It is also apprised that engineering and technology are two distinct disciplines of knowledge with separate accreditation councils i.e. Pakistan Engineering Council (PEC) for Engineering whereas National Technology Council (NTC) for Technology as envisaged in Higher Education Commission (HEC) letter No. 8-61/A&A/2017/HEC/3811 dated 04/05/2017 and National Qualification Framework (NFQ) of Pakistan 2015 publicly available at official website www.hec.gov.pk of HEC. In light of which, the non-equivalence has been previously communicated to Mr. Muhammad Mumtaz (officer at S.No.1 of the tentative seniority list) by the administrative department Energy & Power department vide its letter No. SO(E)/E&P/5-10/E.I/Vol-I/2009/199-2 dated 19001-2017 in response to his appeal for promotion from BPS-17 to BPS-18.

(Copy of HEC letter, NQF & E&P dept. letter at Annexure-III).

As per provisions and spirit of Rule-17 under part-VI of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, the inter-se seniority is determined/exists amongst officers of the same cadre. There is no inter-se seniority amongst officers of two different/distinct cadres and inter-se seniority amongst officers of each cadre is determined separately. 2ndly that the Officer at S. No.1 in the subject seniority list was promoted to the Post of Deputy Electric Inspector (Technologist) (BPS-18) as per service rules framed therefore but there is no mention of Technologist in the notification for his identity which has, in contravention to the above, merged the two distinct cadres into one.

(Copy of K.P. Civil Servants Appointment, Promotion & Transfer Rules 1989 at Annexure-IV)

It is also worth noting that after segregation of the two cadres, Engineering and Technology, through framing of separate service rules for the post of Deputy Electric Inspector (Technologist) (BPS-18), a post of this nomenclature was priorly required to be created through Finance department and then the Technologist Mr. Muhammad Mumtaz could have been promoted there against but no such process had been adopted/followed and the officer was promoted against a non-existing/non-available post and is non-available to date. Budget book may please be checked in this regard.

It is also apparent that engineering and technology are two distinct disciplines of knowledge with separate accreditation councils i.e. Pakistan Engineering Council (PEC) for Engineering whereas National Technology Council (NTC) for Technology as envisaged in Higher Education Commission (HEC) letter no. 8-21A&V2017/HEC/3811 dated 04/05/2017 and National Qualification Framework (NQF) of Pakistan 2016 publicly available at official website www.hec.gov.pk of HEC. In light of which, the non-equivalence has been previously communicated to Mr. Muhammad Munir (Officer at S.No.1 of the tentative seniority list) by the administrative department Energy & Power department vide its letter No. SO(E)/E&P/10E/1400099-2 dated 19/01-2017 in response to his appeal for promotion from BPS-17 to BPS-18

(Copy of HEC letter NQF & E&P dept. letter at Annexure-III)

As per provisions and spirit of Rule-17 under part-VI of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, the inter-se seniority is determined amongst officers of the same cadre. There is no inter-se seniority amongst officers of two different distinct cadres and inter-se seniority amongst officers of each cadre is determined separately. So by that the Officer at S.No.1 in the subject seniority list was promoted to the Post of Deputy Electric Inspector (Technologist) (BPS-18) as per service rules framed therefore but there is no mention of the name of the officer for his identity which has in contravention to the above - specified two section rules - one

(Copy of K.P. Civil Servants Appointment, Promotion & Transfer Rules 1989 at Annexure-V)

It is also worth noting that after segregation of the two cadres, Engineering and Technology, through framing of separate service rules for the post of Deputy Electric Inspector (Technologist) (BPS-18), a post of this nomenclature was priority required to be created through Finance department and then the Technologist Mr. Muhammad Munir could have been promoted there against but no such process had been adopted followed and the officer was promoted against a non-existing/non-available post and is non-avilable to date. Budget book may please be checked in this regard.

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(Copy of promotion order of Mr. Mohammad Mumtaz at Annexure-V)

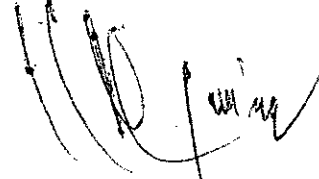
The tentative seniority list contained in the subject notification is not only against the merit, HEC's policy, provisions and spirit of Pakistan Engineering Council (PEC) Act 1976, Supreme Court of Pakistan Judgment SC 2018 SCMR 2098 and Khyber Pakhtunkhwa Civil Servants (Appoint, Promotion & Transfer) Rules 1989 but also in sheer violation of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act 1973, by spirit of which the seniority of each post/cadre should be determined/administered separately and the seniority of a Civil Servant is to be reckoned in relation to the other Civil Servants belonging to the same Cadre.

(Copy of Section-8 of Civil Servants Act 1973 & SC 2018 SCMR 2098 at Annexure-VI)

Keeping in view the above, it is, therefore, very humbly prayed that the Subject notification may be cancelled and revised notifications for each cadre of posts Deputy Electric Inspector (BPS-18) and Deputy Electric Inspector (Technologist) (BPS-18) may be separately issued to honor the laws of the land, please.

15/05/2021

Engr. Ihsan Ulah,
Deputy Electric Inspector (BPS-18),
Officer at S. No.2 of the Seniority List.



Engr. Arif Ullah,
Deputy Electric Inspector (BPS-18),
Officer at S. No.3 of the Seniority List.

Copy to;

1. Special Secretary, Energy and Power Department, Government of Khyber Pakhtunkhwa Peshawar for information, please.
2. Additional Secretary (Power), Energy and Power Department Peshawar for information, please

(Copy of promotion order of Mr. Mohammad Mumtaz at Annexure-V)

The tentative seniority list contained in the subject notification is not only against the merit, HEC's policy, provisions and spirit of Pakistan Engineering Council (PEC) Act 1976, Supreme Court of Pakistan Judgment SC 2018 SCMR 2098 and Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 but also in sheer violation of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act 1973 by spirit of which the seniority of each postholder should be determined/separately and the seniority of a Civil Servant is to be reckoned in relation to the other Civil Servants belonging to the same Cadre

(Copy of Section-8 of Civil Servants Act 1973 & SC 2018 SCMR 2098 at Annexure-VI)

Keeping in view the above it is, therefore, very humbly prayed that the Subject notification may be cancelled and revised notifications for each cadre of posts Deputy Electric Inspector (BPS-18) and Deputy Electric Inspector (Technologist) (BPS-18) may be separately issued to honor the laws of the land, please

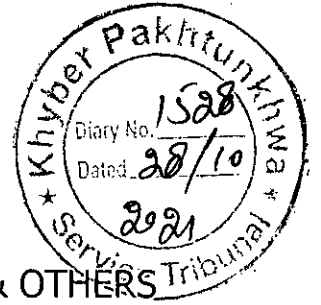
Engr. Amir Ullah,
Deputy Electric Inspector (BPS-18),
Officer at S. No.2 of the Seniority List.

Engr. Ihsan Ullah,
Deputy Electric Inspector (BPS-18),
Officer at S. No.2 of the Seniority List.

Copy to:

1. Special Secretary, Energy and Power Department, Government of Khyber Pakhtunkhwa Peshawar for information, please
2. Additional Secretary (Power), Energy and Power Department Peshawar for information, please

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



CM NO. _____/2021

IN

APPEAL NO.1964 /2021

IHSAN ULLAH

V/S

GOVT:OF KPK & OTHERS

**APPLICATION NO BEHALF OF THE APPELLANT FOR EARLY
HEARING OF THE ABOVE APPEAL**

Respectfully Sheweth:

1. That the above title appeal is pending adjudication before this Honorable Tribunal which fixed for hearing on 03-02-2022.
2. That during the pendency of appeal, the final seniority list of the appellant has been circulated vide notification dated 15-10-2021 in which the regular appointment of the appellant is 25.5.2018 while the regular appointment of the private respondent is 3.10.2018 due to which clearly shows malifidy of the respondents department in response to which appellant is placed at serial no, 2 of the seniority list while junior to the appellant is placed at serial no, 1 by the respondents department which clearly shows the utter violation of law and rules. Copy of final seniority list is attached as annexure.....**A**.
3. That the appellant filed appeal against the final seniority list of Deputy Electric Inspector (BPS-18) to the high ups for the cancellation/set aside of the final seniority list. Copy of the appeal dated 22-10-2021 is attached as annexure**B**.
4. That, valuable rights of the applicant/appellant are involved in the instant appeal therefore, needs to fix at an earlier.

It is, therefore, most humbly prayed that on acceptance of this application the above titled appeal may be fixed at the earliest convenient date for adjudication to meets the ends of justice.

DATED: 27/10/2021

Appellant

Through:

Noor Mohammad Khattak
Advocate High Court, Peshawar

29/10/21
D.B.F

Put up to the monthly
chain - can with appeal

28/10/21

NPA
02/11/2021



'A'

GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy and Power Department
1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
Tel. 091-9210895 - Fax 091-9223624

NOTIFICATION

Dated Peshawar, the 15th October, 2021

NO.SO(E-I)/E&P/5-10/UPA/2021: In pursuance of section-8 of the Khyber Pakhtunkhwa Civil Servant Act 1973 read with Rule-17 of Civil Servant (Appointment, Promotion and Transfer) Rules 1989 and in light of the guidance/advice of Establishment Department received vide No. SO(O&M)E&AD/8-7/2020 dated 23rd September 2021, the competent Authority is pleased to notify and circulate the final seniority list of the Electric Inspectorate of the Energy and Power Department of the Deputy Electric Inspectors (BPS-18) to Government of Khyber Pakhtunkhwa for information of all concerned:-

S.#	Name of Officer	Academic Qualification	Date of Birth and Domicile	Date of 1 st Entry into Govt: Service	Regular appointment/promotion to present post			Present Posting
					Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	8	9
1	Muhammad Mumtaz Khan S/O Taj Muhammad	B-Tech. (Hon) & DAE	10-05-1962	23-10-1985	03-10-2018	18	By Promotion (Permanent)	Deputy Electric Inspector (Holding charge of Electric Inspector Provincial)
2	Engr. Ihsanullah S/O Hayat Khan	B.Sc Electrical Engineering Registered with PEC	20-04-1984	28-03-2009	25-05-2018	18	By Promotion (Permanent)	Deputy Electric Inspector Abbottabad Region
3	Engr. Arifullah S/O Salim Khan	M.Sc Electrical Engineering Registered with PEC	14-03-1985	26-03-2009	25-05-2018	18	By Promotion (Permanent)	Deputy Electric Inspector Bannu Region

-Sd-
SECRETARY
Energy & Power Department

Rahman



GOVERNMENT OF KHYBER PAKHTUNKHWA
Energy and Power Department
1st Floor, Block-A, Abdul Wali Khan Multiplex Civil Secretariat Peshawar
Tel. 091-9210895 - Fax 091-9223624

124-10

Endst: No. & Date Even:

Copy forwarded to the:-

- 1) Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department
- 2) Electric Inspector Provincial, Khyber Pakhtunkhwa Peshawar
- 3) Section Officer (O&M), Establishment and Administration Department (Regulation Wing), Government of Khyber Pakhtunkhwa, Peshawar, with reference to his letter No. SO(O&M)E&AD/8-7/2020 dated 17th March, 2021 and No. SO(O&M)E&AD/8-7/2020 dated 17th March, 2021.
- 4) PS to Secretary Energy & Power Department Peshawar
- 5) PS to Special Secretary Energy & Power Department Peshawar
- 6) PA to Additional Secretary (Power), Energy & Power Department Peshawar
- 7) PA to Deputy Secretary (Power), Energy & Power Department Peshawar
- 8) Officers concerned.
- 9) Master file.


(RAHMANI GUL)
Section Officer (E-1)

3

"B"

④

ANNEXURE "B"

22-10-2021

To

The worthy Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: APPEAL AGAINST THE FINAL SENIORITY LIST OF DEPUTY ELECTRIC INSPECTORS (BPS-18) ISSUED VIDE NOTIFICATION No. S.O (E.I)/E&P/5-10/UPA/2021/184-10 DATED 15/10/2021 IN ELECTRIC INSPECTORATE OF ENERGY & POWER DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA

Dear Sir,

With due reverence, it is submitted that, on advice of the Establishment department, the administrative department of Energy & Power vide notification No. S.O (E.I)/E&P/5-10/UPA/2021/184-10 Dated 15/10/2021 has issued a final joint seniority list of two distinct Posts/Cadres of Engineers and Technologists in BPS-18 despite having their distinct/separate nomenclatures as Deputy Electric Inspector (BPS-18) for engineers and Deputy Electric Inspector (Technologist) (BPS-18) for technologists and having distinct/separate services rules for each.

The subject final notification has been issued without consideration and decision in the appeal submitted against the tentative seniority list within prescribed time period.

Issuance of such notification is against 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 and merging the Technology post/cadre with Engineering posts/cadre violates the Pakistan Engineering Council (PEC) Act 1976 and Article 143 of the Constitution of Pakistan 1973.

(Copies of Subject Notification and previous Appeal at Annexure-I)

Grounds and facts:

5

The following grounds and facts, on the basis of relevant laws/rules/policies, are submitted;

1. The notification has been issued on the presumption that the officers in the subject notification have had a joint seniority list in (BPS-17). In this regard, It is clarified that the BPS-17 posts have a common nomenclature as Assistant Electric Inspector (BPS-17) occupied by the Technologists through 50% quota created in violation of the Pakistan Engineering Council (PEC) Act 1976 thus violating Article 143 of the Constitution of Pakistan 1973 just for accommodation rather than creation of respective posts for Technologists, thus encroaching the engineering positions in BPS-17. Whereas the positions of Engineers and Technologists have been segregated in BPS-18 with distinct nomenclatures as Deputy Electric Inspector (BPS-18) for Engineers and Deputy Electric Inspector (Technologist) (BPS-18) for Technologists through Standing Service Rules Committee (SSRC) to comply with Pakistan Engineering Council Act 1976, Article 143 of the Constitution of Pakistan 1973 and requirements of National Technology Council respectively. It is further clarified that both the posts/cadres/streams in BPS-18 have separate service rules for promotion to each.

(Copied of Service Rules for BPS-17 & BPS-18 at Annexure-II)

2. It is also submitted that engineering and technology are two distinct disciplines of knowledge with separate accreditation councils i.e. Pakistan Engineering Council (PEC) for Engineering whereas National Technology Council (NTC) for Technology as envisaged in Higher Education Commission (HEC) letter No. 8-61/A&A/2017/HEC/3811 dated 04/05/2017 and National Qualification Framework (NFQ) of Pakistan 2015 publicly available at official website www.hec.gov.pk of HEC. In light of which, the non-equivalence has been previously communicated to Mr. Muhammad Mamtaz (officer at S.No.1 of the tentative seniority list) by the administrative department Energy & Power department vide its letter No. SO (E.I)/E&P/5-10/E.I/Vol-I/2009/199-2 dated 19/01/2017 in reply to his appeal for promotion. Based on these laws and policies of PEC and HEC, the two cadres have been segregated into the above mentioned two separate nomenclature posts in BPS-18, i.e. DEI (BPS-18) for Engineers and

6

DEI(Technologist)(BPS-18) for Technologists, through Standing Service Rules Committee (SSRC).

(Copy of HEC letter at Annexure-III).

3. As per provisions and spirit of Rule-17 under part-VI of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, the inter-se seniority is determined/exists amongst officers of the same post/cadre. There is no inter-se seniority amongst officers of two different/distinct posts/cadres and that inter-se seniority amongst officers of each post/cadre is determined separately. In contravention to the Rule *ibid*, the two different/distinct Cadres/ Posts have been malafidely merged into one to favour the officer at S. No. 1 of the seniority list for his unlawful promotion to BPS-19 which requires an engineer registered with Pakistan Engineering Council under Section 27(5A) of the PEC Act 1976 and the existing service rules for BPS-19.

Merging the Technologist with Engineers invariably means violation of Section 27(5A) of PEC Act 1976 (Act of the Parliament) which is also violation of Article 143 of the Constitution of Pakistan 1973 which provides that law of the Parliament shall prevail in case of repugnancy in laws of the Province/Provincial Assembly and the Parliament. Hence, no provincial law/rule can be enacted/framed in repugnancy to the PEC Act 1976.

(Copy of K.P. Civil Servants Appointment, Promotion & Transfer Rules 1989 at Annexure-IV)

4. The subject final seniority list is not only against the merit, HEC's policy, provisions and spirit of Pakistan Engineering Council (PEC) Act 1976, spirit of Supreme Court of Pakistan Judgment SC 2018 SCMR 2098 and Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 but also in sheer violation of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act 1973, by spirit of which the seniority of each post/cadre should be determined/administered separately and the seniority of a Civil Servant is to be reckoned in relation to the other Civil Servants belonging to the same post/cadre.

D

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(Copies of Section-8 of Civil Servants Act 1973 & SC 2018 SCMR 2098 at Annexure-V)

Keeping in view the above, it is, therefore, very humbly prayed that the Subject notification may be cancelled/set aside as this will set a bad precedence for future and that revised notifications for each post/cadre i.e. Deputy Electric Inspector (BPS-18) and Deputy Electric Inspector (Technologist) (BPS-18) may be separately issued to honor the laws/rules of the land, please.

22/10/2021

**Engr. Ihsan Ulah,
Deputy Electric Inspector (BPS-18),
Officer at S. No.2 of the Seniority List.**

20-10-2021

**Engr. Arif Ullah,
Deputy Electric Inspector (BPS-18),
Officer at S. No.3 of the Seniority List.**

Copy to:

The Secretary Energy and Power department to intervene into the matter for necessary action, please.